

By: Senator(s) Hill

To: Judiciary, Division B

SENATE BILL NO. 2409

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT A SECOND OFFENSE OF SHOPLIFTING WITHIN FIVE YEARS  
3 OF THE FIRST CONVICTION OF SHOPLIFTING SHALL BE A FELONY WHERE THE  
4 MERCHANT'S STATED PRICE FOR THE MERCHANDISE STOLEN FROM BOTH  
5 CRIMES AGGREGATED IS MORE THAN \$1,000.00; AND FOR RELATED  
6 PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 97-23-93, Mississippi Code of 1972, is  
9 amended as follows:

10 97-23-93. (1) Any person who shall \* \* \* purposely,  
11 knowingly or recklessly take possession of any merchandise owned  
12 or held by and offered or displayed for sale by any merchant,  
13 store or other mercantile establishment with the intention and  
14 purpose of converting such merchandise to his own use without  
15 paying the merchant's stated price therefor shall be guilty of the  
16 crime of shoplifting and, upon conviction, shall be punished as is  
17 provided in this section.

18 (2) The requisite intention to convert merchandise without  
19 paying the merchant's stated price for the merchandise is  
20 presumed, and shall be prima facie evidence thereof, when such



21 person, alone or in concert with another person, \* \* \* purposely,  
22 knowingly or recklessly:

23 (a) Conceals the unpurchased merchandise;

24 (b) Removes or causes the removal of unpurchased  
25 merchandise from a store or other mercantile establishment;

26 (c) Alters, transfers or removes any price-marking, any  
27 other marking which aids in determining value affixed to the  
28 unpurchased merchandise, or any tag or device used in electronic  
29 surveillance of unpurchased merchandise;

30 (d) Transfers the unpurchased merchandise from one (1)  
31 container to another; or

32 (e) Causes the cash register or other sales recording  
33 device to reflect less than the merchant's stated price for the  
34 unpurchased merchandise.

35 (3) Evidence of stated price or ownership of merchandise may  
36 include, but is not limited to:

37 (a) The actual merchandise or the container which held  
38 the merchandise alleged to have been shoplifted; or

39 (b) The content of the price tag or marking from such  
40 merchandise; or

41 (c) Properly identified photographs of such  
42 merchandise.

43 (4) Any merchant or his agent or employee may testify at a  
44 trial as to the stated price or ownership of merchandise.



45           (5) \* \* \* (a) Upon a first shoplifting conviction for which  
46 the merchant's stated price of the merchandise is less than or  
47 equal to One Thousand Dollars (\$1,000.00) the defendant shall be  
48 guilty of a misdemeanor and fined not more than One Thousand  
49 Dollars (\$1,000.00), or punished by imprisonment in the county  
50 jail not to exceed six (6) months, or by both, if the court finds  
51 substantial and compelling reasons why the offender cannot be  
52 safely and effectively supervised in the community, is not  
53 amenable to community-based treatment, or poses a significant risk  
54 to public safety. If such a finding is not made, the court shall  
55 suspend the sentence of imprisonment and impose a period of  
56 probation not exceeding one (1) year or a fine of not more than  
57 One Thousand Dollars (\$1,000.00).

58           (b) (i) Upon a second shoplifting conviction within  
59 five (5) years of the first conviction and for which the  
60 merchant's stated price of the merchandise from both crimes  
61 aggregated is less than or equal to One Thousand Dollars  
62 (\$1,000.00), the defendant shall be guilty of a misdemeanor and  
63 fined not more than One Thousand Dollars (\$1,000.00) or punished  
64 by imprisonment in the county jail for a term not to exceed six  
65 (6) months, or by both, if the court finds substantial and  
66 compelling reasons why the offender cannot be safely and  
67 effectively supervised in the community, is not amenable to  
68 community-based treatment, or poses a significant risk to public  
69 safety. If such a finding is not made, the court shall suspend



70 the sentence of imprisonment and impose a period of probation not  
71 exceeding one (1) year or a fine of not more than One Thousand  
72 Dollars (\$1,000.00), or both.

73 (ii) Upon a second shoplifting conviction within  
74 five (5) years of the first conviction and for which the  
75 merchant's stated price of the merchandise from both crimes  
76 aggregated is more than One Thousand Dollars (\$1,000.00), the  
77 defendant shall be guilty of a felony and fined not more than One  
78 Thousand Dollars (\$1,000.00), or imprisoned for a term not  
79 exceeding two (2) years, or by both such fine and imprisonment.

80 (6) Upon a third or subsequent shoplifting conviction where  
81 the value of the shoplifted merchandise is not \* \* \* greater than  
82 One Thousand Dollars (\$1,000.00), the defendant shall be guilty of  
83 a felony and fined not more than \* \* \* Two Thousand Dollars  
84 (\$2,000.00), or imprisoned for a term not exceeding three (3)  
85 years, or by both such fine and imprisonment.

86 (7) Except as provided under subsection (5)(b)(ii) of this  
87 section, a person convicted of shoplifting merchandise for which  
88 the merchant's stated price exceeds One Thousand Dollars  
89 (\$1,000.00) shall be guilty of a felony and, upon conviction,  
90 punished as provided in Section 97-17-41 for the offense of grand  
91 larceny.

92 (8) In determining the number of prior shoplifting  
93 convictions for purposes of imposing punishment under this  
94 section, the court shall disregard all such convictions occurring



95 more than seven (7) years prior to the shoplifting offense in  
96 question.

97 (9) For the purpose of determining the gravity of the  
98 offense under subsection (7) of this section, the prosecutor may  
99 aggregate the value of merchandise shoplifted from three (3) or  
100 more separate mercantile establishments within the same legal  
101 jurisdiction over a period of thirty (30) or fewer days.

102 **SECTION 2.** This act shall take effect and be in force from  
103 and after July 1, 2023.

