

Senate Amendments to House Bill No. 795

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

7 97-23-93. (1) Any person who shall willfully and unlawfully
8 take possession of any merchandise owned or held by and offered or
9 displayed for sale by any merchant, store or other mercantile
10 establishment with the intention and purpose of converting such
11 merchandise to his own use without paying the merchant's stated
12 price therefor shall be guilty of the crime of shoplifting and,
13 upon conviction, shall be punished as is provided in this section.

14 (2) The requisite intention to convert merchandise without
15 paying the merchant's stated price for the merchandise is
16 presumed, and shall be prima facie evidence thereof, when such
17 person, alone or in concert with another person, willfully:

18 (a) Conceals the unpurchased merchandise;

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

21 (c) Alters, transfers or removes any price-marking, any
22 other marking which aids in determining value affixed to the
23 unpurchased merchandise, or any tag or device used in electronic
24 surveillance of unpurchased merchandise;

25 (d) Transfers the unpurchased merchandise from one (1)
26 container to another; or

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

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

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

34 (b) The content of the price tag or marking from such
35 merchandise; or

36 (c) Properly identified photographs of such
37 merchandise.

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

40 (5) A person convicted of shoplifting merchandise for which
41 the merchant's stated price is less than or equal to One Thousand
42 Dollars (\$1,000.00) shall be punished as follows:

43 (a) Upon a first shoplifting conviction the defendant
44 shall be guilty of a misdemeanor and fined not more than One
45 Thousand Dollars (\$1,000.00), or punished by imprisonment in the
46 county jail not to exceed six (6) months, or by both, if the court

47 finds substantial and compelling reasons why the offender cannot
48 be safely and effectively supervised in the community, is not
49 amenable to community-based treatment, or poses a significant risk
50 to public safety. If such a finding is not made, the court shall
51 suspend the sentence of imprisonment and impose a period of
52 probation not exceeding one (1) year or a fine of not more than
53 One Thousand Dollars (\$1,000.00).

54 (b) Upon a second shoplifting conviction the defendant
55 shall be guilty of a misdemeanor and fined not more than One
56 Thousand Dollars (\$1,000.00) or punished by imprisonment in the
57 county jail for a term not to exceed six (6) months, or by both,
58 if the court finds substantial and compelling reasons why the
59 offender cannot be safely and effectively supervised in the
60 community, is not amenable to community-based treatment, or poses
61 a significant risk to public safety. If such a finding is not
62 made, the court shall suspend the sentence of imprisonment and
63 impose a period of probation not exceeding one (1) year or a fine
64 of not more than One Thousand Dollars (\$1,000.00), or both.

65 (6) Upon a third or subsequent shoplifting conviction * * *,
66 the defendant shall be guilty of a felony and fined not more than
67 One Thousand Dollars (\$1,000.00), or imprisoned for a term not
68 exceeding three (3) years, or by both such fine and imprisonment.

69 (7) A person convicted of shoplifting merchandise for which
70 the merchant's stated price exceeds One Thousand Dollars
71 (\$1,000.00) shall be guilty of a felony and, upon conviction,

72 punished as provided in Section 97-17-41 for the offense of grand
73 larceny.

74 (8) In determining the number of prior shoplifting
75 convictions for purposes of imposing punishment under this
76 section, the court shall disregard all such convictions occurring
77 more than seven (7) years prior to the shoplifting offense in
78 question.

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

84 **SECTION 2.** This act shall take effect and be in force from
85 and after July 1, 2023 and shall stand repealed on June 30, 2023.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A THIRD OR SUBSEQUENT CONVICTION FOR SHOPLIFTING
3 SHALL BE A FELONY; AND FOR RELATED PURPOSES.

SS36\HB795A.1J

Eugene S. Clarke
Secretary of the Senate