

By: Senator(s) McLendon, Blackwell, Parker,  
Hill

To: Judiciary, Division B

SENATE BILL NO. 2135  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,  
2 TO MODIFY THE EVIDENTIARY STANDARD FOR IMPOSING A PENALTY OF  
3 IMPRISONMENT FOR THE CRIME OF SHOPLIFTING BY DELETING THE  
4 REQUIREMENT THAT A COURT FINDS SUBSTANTIAL AND COMPELLING REASONS  
5 FOR A REQUIRED FINDING UNDER THIS SECTION; 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 willfully and unlawfully  
11 take possession of any merchandise owned or held by and offered or  
12 displayed for sale by any merchant, store or other mercantile  
13 establishment with the intention and purpose of converting such  
14 merchandise to his own use without paying the merchant's stated  
15 price therefor shall be guilty of the crime of shoplifting and,  
16 upon conviction, shall be punished as is provided in this section.

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



- 21 (a) Conceals the unpurchased merchandise;
- 22 (b) Removes or causes the removal of unpurchased  
23 merchandise from a store or other mercantile establishment;
- 24 (c) Alters, transfers or removes any price-marking, any  
25 other marking which aids in determining value affixed to the  
26 unpurchased merchandise, or any tag or device used in electronic  
27 surveillance of unpurchased merchandise;
- 28 (d) Transfers the unpurchased merchandise from one (1)  
29 container to another; or
- 30 (e) Causes the cash register or other sales recording  
31 device to reflect less than the merchant's stated price for the  
32 unpurchased merchandise.
- 33 (3) Evidence of stated price or ownership of merchandise may  
34 include, but is not limited to:
- 35 (a) The actual merchandise or the container which held  
36 the merchandise alleged to have been shoplifted; or
- 37 (b) The content of the price tag or marking from such  
38 merchandise; or
- 39 (c) Properly identified photographs of such  
40 merchandise.
- 41 (4) Any merchant or his agent or employee may testify at a  
42 trial as to the stated price or ownership of merchandise.
- 43 (5) A person convicted of shoplifting merchandise for which  
44 the total price of all items shoplifted in violation of this



45 section is less than or equal to One Thousand Dollars (\$1,000.00)  
46 shall be punished as follows:

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

58           (b) Upon a second shoplifting conviction the defendant  
59 shall be guilty of a misdemeanor and fined not more than Two  
60 Thousand Five Hundred Dollars (\$2,500.00) or punished by  
61 imprisonment in the county jail for a term not less than  
62 forty-eight (48) hours, not to exceed six (6) months, or by both,  
63 if the court finds \*\*\* the offender cannot be safely and  
64 effectively supervised in the community, is not amenable to  
65 community-based treatment, or poses a significant risk to public  
66 safety. If such a finding is not made, the court shall suspend  
67 the sentence of imprisonment and impose a period of probation not  
68 exceeding one (1) year or a fine of not more than One Thousand  
69 Dollars (\$1,000.00), or both.



70 (6) Upon a third or subsequent shoplifting conviction where  
71 the total price of all shoplifted merchandise is not less than  
72 Five Hundred Dollars (\$500.00) or greater than One Thousand  
73 Dollars (\$1,000.00), the defendant shall be guilty of a felony and  
74 fined not more than Three Thousand Dollars (\$3,000.00), or  
75 imprisoned for a term not to exceed three (3) years, or by both  
76 such fine and imprisonment.

77 (7) A person convicted of shoplifting merchandise for which  
78 the total price of all items shoplifted in violation of this  
79 section exceeds One Thousand Dollars (\$1,000.00) shall be guilty  
80 of a felony and, upon conviction, punished as provided in Section  
81 97-17-41 for the offense of grand larceny.

82 (8) In determining the number of prior shoplifting  
83 convictions for purposes of imposing punishment under this  
84 section, the court shall disregard all such convictions occurring  
85 more than seven (7) years prior to the shoplifting offense in  
86 question.

87 (9) For the purpose of determining the gravity of the  
88 offense under subsection (7) of this section, the prosecutor may  
89 aggregate the total price of merchandise shoplifted from the same  
90 or separate mercantile establishments within the same legal  
91 jurisdiction over a period of thirty (30) or fewer days.

92 **SECTION 2.** This act shall take effect and be in force from  
93 and after July 1, 2024.

