

By: Ford

To: Judiciary B

HOUSE BILL NO. 251
(As Passed the House)

1 AN ACT TO AMEND SECTION 97-17-64, MISSISSIPPI CODE OF 1972,
2 TO INCLUDE SERVICES IN THE CRIME OF THEFT ARISING UNDER LEASE OR
3 RENTAL AGREEMENTS; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 97-17-64, Mississippi Code of 1972, is
6 amended as follows:[LH1]

7 97-17-64. (1) (a) A person who obtains personal property
8 or services of another under a lease or rental agreement is guilty
9 of theft if he exercises unlawful or unauthorized control over the
10 property or obtains the use of the services with purpose to
11 deprive the owner thereof.

12 (b) As used in this section, the word "deprive" means
13 to withhold property of another permanently or for so extended a
14 period that a significant portion of its economic value, or the
15 use or benefit thereof, is lost to the owner; or to withhold the
16 property with intent to restore it to the owner only upon payment
17 of a reward or other compensation; or to conceal, abandon or
18 dispose of the property so as to make it unlikely that the owner
19 will recover it; or to sell, give, pledge, or otherwise transfer
20 any interest in the property.

21 (c) As used in this section, "services" includes but is
22 not limited to:

23 (i) Labor;

24 (ii) Professional services;

25 (iii) Transportation by common carriers; and

26 (iv) Personal property rental.

27 (2) It shall be prima facie evidence of purpose to deprive
28 when a person:

29 (a) In obtaining such property or services presents
30 identification or information which is materially false,
31 fictitious, misleading or not current, with respect to such
32 person's name, address, place of employment, or any other material
33 matter; or

34 (b) Fails to return such property to the owner or his
35 representative within ten (10) days after proper notice following
36 the expiration of the term for which such person's use, possession
37 or control of the property is authorized; or

38 (c) Fails to contact the owner or his representative to
39 make arrangements to return such property within ten (10) days
40 after proper notice following the expiration of the term for which
41 such person's use, possession or control of such property is
42 authorized; or

43 (d) Returns the property to the owner or lessor at the
44 end of the lease on rental term, plus agreed upon extensions, but
45 does not pay the lease or rental charges agreed upon in the
46 written instrument after proper notice with intent to wrongfully
47 deprive the owner or lessor of the agreed upon charges.

48 (3) For the purpose of this section, "proper notice" means
49 either actual notification as may be otherwise proven beyond a
50 reasonable doubt or a written demand for return of the property or
51 written demand for payment for the services mailed to the
52 defendant, which satisfies the following procedure:

53 (a) The written demand must be mailed to the defendant
54 by certified or registered mail with return receipt attached,
55 which return receipt by its terms must be signed by the defendant
56 personally and not by his representative;

57 (b) The written demand must be mailed to the defendant
58 at either the address given at the time he obtained the property
59 or services or the defendant's last known address if later

60 furnished in writing by the defendant to the owner or his
61 representative; and

62 (c) The return receipt bearing the defendant's
63 signature must be returned to the owner or his representative.

64 (4) It shall be an affirmative defense to prosecution under
65 this section that:

66 (a) The defendant was unaware that the property or
67 services was that of another; or

68 (b) The defendant acted under an honest claim of right
69 to the property or services involved or that he had a right to
70 acquire or dispose of it as he did; or

71 (c) The defendant was physically incapacitated and
72 unable to request or obtain permission of the owner to retain the
73 property; or

74 (d) The property was in such a condition, through no
75 fault of the defendant, that it could not be returned within the
76 requisite time after receipt of proper notice.

77 (5) Any person convicted of the offense of theft under this
78 section shall be:

79 (a) Guilty of a misdemeanor when the value of the
80 personal property is less than Two Hundred Fifty Dollars (\$250.00)
81 and punished by a fine of not more than Two Hundred Fifty Dollars
82 (\$250.00), or by imprisonment in the county jail for a term of not
83 more than six (6) months, or by both such fine and imprisonment;
84 or

85 (b) Guilty of a felony when the value of the personal
86 property is Two Hundred Fifty Dollars (\$250.00) or more and
87 punished by a fine of not more than One Thousand Dollars
88 (\$1,000.00), or by imprisonment in the State Penitentiary for a
89 term of not more than three (3) years, or by both such fine and
90 imprisonment.

91 SECTION 2. This act shall take effect and be in force from
92 and after July 1, 2000.