MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Representative Mayo

To: Judiciary B

# HOUSE BILL NO. 206

AN ACT TO CLARIFY THE CRIMINALITY OF THEFT OF RENTAL PROPERTY; TO AMEND SECTIONS 97-17-41 AND 97-17-43, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

**SECTION 1.** (1) Whoever, with the intent to defraud the owner or any person lawfully possessing any personal property or equipment, obtains the custody of such personal property or equipment by trick, deceit, or fraudulent or willful false representation shall be guilty of a misdemeanor, punishable as provided in Section 97-17-43, unless the value of the personal property or equipment is of a value of Five Hundred Dollars ($500.00) or more; in that event the violation constitutes a felony, punishable as provided in Section 97-17-41.

(2) Whoever, with intent to defraud the owner or any person lawfully possessing any personal property or equipment of the rental thereof, hires or leases said personal property or equipment from such owner or such owner's agents or any person in lawful possession thereof shall, upon conviction, be guilty of a misdemeanor, punishable as provided in Section 97-17-43, unless the value of the personal property or equipment is of a value of Five Hundred Dollars ($500.00) or more; in that event the violation constitutes a felony, punishable as provided in Section 97-17-41.

(3) Whoever, after hiring or leasing any personal property or equipment under an agreement to redeliver the same to the person letting such personal property or equipment or his agent at the termination of the period for which it was let, shall, without

the consent of such person or persons and with the intent to defraud, abandon or willfully refuse to redeliver such personal property or equipment as agreed, shall, upon conviction, be guilty of a misdemeanor, punishable as provided in Section 97-17-43, unless the value of the personal property or equipment is of a value of Five Hundred Dollars ($500.00) or more; in that event the violation constitutes a felony, punishable as provided in Section 97-17-41.

(4) (a) In prosecutions under this section, obtaining the property or equipment under false pretenses; absconding without payment; or removing or attempting to remove the property or equipment from the county without the express written consent of the lessor, is prima facie evidence of fraudulent intent.

(b) In a prosecution under subsection (3), failure to redeliver the property or equipment within five (5) days after receipt of, or within five (5) days after return receipt from, the certified mailing of the demand for return is prima facie evidence of fraudulent intent. Notice mailed by certified mail, return receipt requested, to the address given by the renter at the time of rental shall be deemed sufficient and equivalent to notice having been received by the renter, should the notice be returned undelivered.

(c) In a prosecution under subsection (3), failure to pay any amount due which is incurred as the result of the failure to redeliver property after the rental period expires, and after the demand for return is made, is prima facie evidence of fraudulent intent. Amounts due include unpaid rental for the time period during which the property or equipment was not returned and include the lessor of the cost of repairing or replacing the property or equipment if it has been damaged.

(5) Demand for return of overdue property or equipment and for payment of amounts due may be made in person, by hand

delivery, or by certified mail, return receipt requested, addressed to the lessee's address shown in the rental contract.

**SECTION 2.** Section 97-17-41, Mississippi Code of 1972, is amended as follows:

97-17-41. (1) Every person who shall be convicted of taking and carrying away, feloniously, the personal property of another, of the value of Five Hundred Dollars ($500.00) or more, or a violation of Section 1 of House Bill No. 206, 2007 Regular Session, shall be guilty of grand larceny, and shall be imprisoned in the Penitentiary for a term not exceeding ten (10) years; or shall be fined not more than Ten Thousand Dollars ($10,000.00), or both. The total value of property taken and carried away by the person from a single victim shall be aggregated in determining the gravity of the offense.

(2) Every person who shall be convicted of taking and carrying away, feloniously, the property of a church, synagogue, temple or other established place of worship, of the value of Five Hundred Dollars ($500.00) or more, shall be guilty of grand larceny, and shall be imprisoned in the Penitentiary for a term not exceeding ten (10) years, or shall be fined not more than Ten Thousand Dollars ($10,000.00), or both.

**SECTION 3.** Section 97-17-43, Mississippi Code of 1972, is amended as follows:

97-17-43. (1) If any person shall feloniously take, steal and carry away any personal property of another under the value of Five Hundred Dollars ($500.00), or a violation of Section 1 of House Bill No. 206, 2007 Regular Session, he shall be guilty of petit larceny and, upon conviction, shall be punished by imprisonment in the county jail not exceeding six (6) months or by fine not exceeding One Thousand Dollars ($1,000.00), or both. The total value of property taken, stolen or carried away by the person from a single victim shall be aggregated in determining the gravity of the offense.

(2) If any person shall feloniously take, steal and carry away any property of a church, synagogue, temple or other established place of worship under the value of Five Hundred Dollars ($500.00), he shall be guilty of petit larceny and, upon conviction, shall be punished by imprisonment in the county jail not exceeding one (1) year or by fine not exceeding Two Thousand Dollars ($2,000.00), or both.

(3) Any person who leaves the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of a motor vehicle by driving away in that motor vehicle without having made due payment or authorized charge for the motor fuel so dispensed, with intent to defraud the retail establishment, shall be guilty of petit larceny and punished as provided in subsection (1) of this section and, upon any second or subsequent such offense, the driver's license of the person shall be suspended as follows:

(a) The person shall submit the driver's license to the court upon conviction and the court shall forward the driver's license to the Department of Public Safety.

(b) The first suspension of a driver's license under this subsection shall be for a period of six (6) months.

(c) A second or subsequent suspension of a driver's license under this subsection shall be for a period of one (1) year.

(d) At the expiration of the suspension period, and upon payment of a restoration fee of Twenty-five Dollars ($25.00), the suspension shall terminate and the Department of Public Safety shall return the person's driver's license to the person. The restoration fee shall be in addition to the fees provided for in Title 63, Chapter 1, and shall be deposited into the State General Fund in accordance with Section 45-1-23.

**SECTION 4.** This act shall take effect and be in force from and after July 1, 2007.