

By: Representatives Zuber, Gipson

To: Judiciary B

HOUSE BILL NO. 574

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,
2 TO CHANGE THE VALUE OF SHOPLIFTED MERCHANDISE REQUIRED FOR CERTAIN
3 PENALTIES UNDER THE SHOPLIFTING LAW; TO PROVIDE THAT A PROSECUTOR
4 MAY AGGREGATE THE VALUE OF MERCHANDISE SHOPLIFTED WITHIN THE SAME
5 LEGAL JURISDICTION; AND FOR RELATED PURPOSES.

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

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

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

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



20 (a) Conceals the unpurchased merchandise;

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

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

27 (d) Transfers the unpurchased merchandise from one (1)
28 container to another; or

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

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

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

36 (b) The content of the price tag or marking from such
37 merchandise; or

38 (c) Properly identified photographs of such
39 merchandise.

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

42 (5) A person convicted of shoplifting merchandise for which
43 the merchant's stated price is less than or equal to * * * Five
44 Hundred Dollars (\$500.00) shall be punished as follows:



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

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

67 (6) Upon a third or subsequent shoplifting conviction * * *
68 the defendant shall be guilty of a felony and, upon conviction,



69 fined not more than Five Thousand Dollars (\$5,000.00) or
70 imprisoned for a term not to exceed five (5) years, or both.

71 (7) A person convicted of shoplifting merchandise for which
72 the merchant's stated price exceeds * * * Five Hundred Dollars
73 (\$500.00) shall be guilty of a felony and, upon conviction, * * *
74 fined not more than Five Thousand Dollars (\$5,000.00) or
75 imprisoned for a term not to exceed five (5) years, or both.

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

81 (9) For the purpose of determining the gravity of the
82 offense under subsection (7) of this section, the prosecutor may
83 aggregate the value of merchandise shoplifted * * * within the
84 same legal jurisdiction over a period of thirty (30) or fewer
85 days.

86 **SECTION 2.** This act shall take effect and be in force from
87 and after July 1, 2016.

