

By: Representatives Massengill, Arnold,
Bain, Bell (21st), Evans (45th), Lamar,
Steverson, White, Ladner

To: Judiciary B

HOUSE BILL NO. 595

1 AN ACT TO AMEND SECTION 97-17-42, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR THE CRIME OF CARGO THEFT; TO PROVIDE FOR CERTAIN
3 DEFINITIONS; TO PROVIDE PENALTIES; TO PROVIDE FOR THE CRIME OF
4 UNLAWFUL POSSESSION OR USE OF A FIFTH WHEEL; TO AMEND SECTION
5 97-25-25, IN CONFORMITY WITH THIS ACT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 97-17-42, Mississippi Code of 1972, is
8 amended as follows:

9 97-17-42. (1) (a) Any person who shall, willfully and
10 without authority, take possession of or take away a motor vehicle
11 of any value belonging to another, with intent to either
12 permanently or temporarily convert it or to permanently or
13 temporarily deprive the owner of possession or ownership, and any
14 person who knowingly shall aid and abet in the taking possession
15 or taking away of the motor vehicle, shall be guilty of larceny
16 and shall be punished based on the value of the motor vehicle
17 involved according to the schedule in Section 97-17-41. If the
18 value of the motor vehicle involved is One Thousand Dollars



19 (\$1,000.00) or less, the person shall be punished according to the
20 schedule in Section 97-17-43.

21 (* * *b) Any person convicted under this subsection
22 who causes damage to any motor vehicle shall be ordered by the
23 court to pay restitution to the owner or owners of the motor
24 vehicle or vehicles damaged.

25 (* * *c) This subsection shall not apply to the
26 enforcement of a security interest in a motor vehicle.

27 (* * *d) Any person who shall be convicted for a
28 second or subsequent offense under this subsection shall be
29 imprisoned in the Penitentiary for a term not exceeding twice the
30 term authorized based on the value of the motor vehicle involved
31 in the subsequent offense according to the schedule in Section
32 97-17-41 or shall be fined not more than Ten Thousand Dollars
33 (\$10,000.00), or both.

34 (2) (a) For purposes of this subsection, the term "vehicle"
35 includes, without limitation, any railcar and locomotive.

36 (b) Notwithstanding any provision of this section to
37 the contrary, a person commits the offense of cargo theft when he
38 or she unlawfully takes or, being in lawful possession thereof,
39 unlawfully appropriates:

40 (i) Any vehicle engaged in commercial
41 transportation of cargo or any appurtenance thereto, including,
42 without limitation, any trailer, semitrailer, container, or other
43 associated equipment, or the cargo being transported therein or



44 thereon, which is the property of another with the intention of
45 depriving such other person of the property, regardless of the
46 manner in which the property is taken or appropriated; or

47 (ii) Any trailer, semitrailer, container, or other
48 associated equipment, or the cargo being transported therein or
49 thereon, which is deployed by or used by a law enforcement agency,
50 which is the property of another with the intention of depriving
51 such other person of the property, regardless of the manner in
52 which the property is taken or appropriated.

53 (c) The value of a vehicle engaged in commercial
54 transportation of cargo and any appurtenance thereto and the cargo
55 being transported which is taken or unlawfully appropriated shall
56 be based on the fair market value of such vehicle, appurtenances
57 and cargo taken or unlawfully appropriated.

58 (d) (i) If the property taken is one or more
59 controlled substances as defined in Section 41-29-105 with a
60 collective value of less than Ten Thousand Dollars (\$10,000.00), a
61 person convicted of a violation of this subsection shall be
62 punished by imprisonment for not less than one (1) nor more than
63 ten (10) years, a fine of not less than Ten Thousand Dollars
64 (\$10,000.00) nor more than One Hundred Thousand Dollars
65 (\$100,000.00), or both.

66 (ii) If the property taken is one or more
67 controlled substances as defined in Section 41-29-105 with a
68 collective value of at least Ten Thousand Dollars (\$10,000.00) but



69 less than One Million Dollars (\$1,000,000.00), a person convicted
70 of a violation of this subsection shall be punished by
71 imprisonment for not less than five (5) nor more than twenty-five
72 (25) years, a fine of not less than Fifty Thousand Dollars
73 (\$50,000.00) nor more than One Million Dollars (\$1,000,000.00), or
74 both.

75 (iii) If the property taken is one or more
76 controlled substances as defined in Section 41-29-105 with a
77 collective value of One Million Dollars (\$1,000,000.00) or more, a
78 person convicted of a violation of this subsection shall be
79 punished by imprisonment for not less than ten (10) nor more than
80 thirty (30) years, a fine of not less than One Hundred Thousand
81 Dollars (\$100,000.00) nor more than One Million Dollars
82 (\$1,000,000.00), or both.

83 (e) (i) Except as otherwise provided in paragraph (d)
84 of this subsection, if the property taken has a collective value
85 of One Thousand Dollars (\$1,000.00) or less, a person convicted of
86 a violation of this section shall be punished as a misdemeanor.

87 (ii) Except as otherwise provided in paragraph (d)
88 of this subsection, if the property taken has a collective value
89 of more than One Thousand Dollars (\$1,000.00) but less than Ten
90 Thousand Dollars (\$10,000.00), a person convicted of a violation
91 of this subsection shall be punished by imprisonment for not less
92 than one (1) nor more than ten (10) years, a fine of not less than



93 Ten Thousand Dollars (\$10,000.00) nor more than One Hundred
94 Thousand Dollars (\$100,000.00), or both.

95 (iii) Except as otherwise provided in paragraph
96 (d) of this subsection, if the property taken has a collective
97 value of at least Ten Thousand Dollars (\$10,000.00) but less than
98 One Million Dollars (\$1,000,000.00), a person convicted of a
99 violation of this subsection shall be punished by imprisonment for
100 not less than five (5) nor more than twenty (20) years, a fine of
101 not less than Fifty Thousand Dollars (\$50,000.00) nor more than
102 One Million Dollars (\$1,000,000.00), or both.

103 (iv) Except as otherwise provided in paragraph (d)
104 of this subsection, if the property taken has a collective value
105 of One Million Dollars (\$1,000,000.00) or more, a person convicted
106 of a violation of this subsection shall be punished by
107 imprisonment for not less than ten (10) nor more than twenty (20)
108 years, a fine of not less than One Hundred Thousand Dollars
109 (\$100,000.00) nor more than One Million Dollars (\$1,000,000.00),
110 or both.

111 (f) Notwithstanding paragraphs (d) and (e) of this
112 subsection, if the property taken is a trailer, semitrailer,
113 container, or other associated equipment, or the cargo being
114 transported therein or thereon, which is deployed by or used by a
115 law enforcement agency, regardless of its value, a person
116 convicted of a violation of this section shall be punished by
117 imprisonment for not less than one (1) nor more than ten (10)



118 years, a fine of not less than Ten Thousand Dollars (\$10,000.00)
119 nor more than One Hundred Thousand Dollars (\$100,000.00), or both.

120 (g) A person convicted of a violation of this
121 subsection may also be punished by, if applicable, the suspension
122 of the defendant's commercial driver's license in accordance with
123 Section 63-1-216.

124 (3) (a) For the purposes of this subsection, the term
125 "fifth wheel" means a device mounted on a truck tractor or similar
126 towing vehicle, including, but not limited to, a converter dolly,
127 which interfaces with and couples to the upper coupler assembly of
128 a semitrailer.

129 (b) It shall be unlawful for any person to modify,
130 alter, attempt to alter, and, if altered, sell, possess, offer for
131 sale, move, or cause to be moved on the highways of this state a
132 device known as a fifth wheel or the antitheft locking device
133 attached to the fifth wheel with the intent to use the fifth wheel
134 to commit or attempt to commit cargo theft as defined in this
135 section.

136 (c) A person convicted of a violation of this
137 subsection shall be punished by imprisonment for not less than one
138 (1) nor more than ten (10) years, a fine of not less than Ten
139 Thousand Dollars (\$10,000.00) nor more than One Hundred Thousand
140 Dollars (\$100,000.00), or both.

141 **SECTION 2.** Section 97-25-25, Mississippi Code of 1972, is
142 amended as follows:



143 97-25-25. (1) If any person shall unlawfully seize upon any
144 locomotive and run it away, or shall aid, abet or procure the
145 doing of the same, he shall, upon conviction, be fined not less
146 than Five Hundred Dollars (\$500.00) nor more than One Thousand
147 Dollars (\$1,000.00), or imprisoned in the county jail not
148 exceeding six (6) months, or both.

149 (2) If any person shall unlawfully seize upon any locomotive
150 that is engaged in commercial transportation of cargo or any
151 appurtenance thereto, they shall be punished as provided in
152 Section 1 of this act.

153 **SECTION 3.** This act shall take effect and be in force from
154 and after July 1, 2016.

