

By: Representative Hobgood-Wilkes

To: Judiciary B

HOUSE BILL NO. 795
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,
2 TO REVISE HOW THE FINES FOR THE CRIME OF SHOPLIFTING ARE
3 CALCULATED; TO REQUIRE THAT FINES BE BASED ON TOTAL PRICE OF ALL
4 SHOPLIFTED ITEMS; AND FOR RELATED PURPOSES.

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

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

8 97-23-93. (1) Any person who shall willfully and unlawfully
9 take possession of any merchandise owned or held by and offered or
10 displayed for sale by any merchant, store or other mercantile
11 establishment with the intention and purpose of converting such
12 merchandise to his own use without paying the merchant's stated
13 price therefor shall be guilty of the crime of shoplifting and,
14 upon conviction, shall be punished as is provided in this section.

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

19 (a) Conceals the unpurchased merchandise;



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

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

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

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

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

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

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

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

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

41 (5) A person convicted of shoplifting merchandise for which
42 the * * * total price of all items shoplifted in violation of this
43 act is less than or equal to One Thousand Dollars (\$1,000.00)

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

68 (6) Upon a third or subsequent shoplifting conviction where
69 the * * * total price of all shoplifted merchandise is not less



70 than Five Hundred Dollars (\$500.00) or greater than One Thousand
71 Dollars (\$1,000.00), the defendant shall be guilty of a felony and
72 fined not more than * * * Three Thousand Dollars (\$3,000.00), or
73 imprisoned for a term not * * * to exceed three (3) years, or by
74 both such fine and imprisonment.

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

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

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

91 **SECTION 2.** This act shall take effect and be in force from
92 and after July 1, 2023.

