

By: Representatives Newman, Ford (73rd),
Hall

To: Judiciary B

HOUSE BILL NO. 438
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE REQUIREMENT THAT A COURT FINDS SUBSTANTIAL AND
3 COMPELLING REASONS WHY AN OFFENDER CANNOT BE SAFELY AND
4 EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO
5 COMMUNITY BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC
6 SAFETY BEFORE IMPOSING A TERM OF IMPRISONMENT; TO PROVIDE THAT A
7 PERSON CONVICTED OF SHOPLIFTING MERCHANDISE, ACTING IN CONCERT
8 WITH, AIDING, ABETTING, OR ENCOURAGING ONE OR MORE PERSONS TO
9 COMMIT SUCH CRIME, REGARDLESS OF WHETHER SUCH OTHERS ARE
10 PROSECUTED FOR SUCH CRIME, FOR WHICH THE TOTAL PRICE OF ALL ITEMS
11 SHOPLIFTED IN VIOLATION OF THIS SECTION EXCEEDS \$1,000.00 SHALL BE
12 GUILTY OF A FELONY; AND FOR RELATED PURPOSES.

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

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

16 97-23-93. (1) Any person who shall willfully and unlawfully
17 take possession of any merchandise owned or held by and offered or
18 displayed for sale by any merchant, store or other mercantile
19 establishment with the intention and purpose of converting such
20 merchandise to his own use without paying the merchant's stated
21 price therefor shall be guilty of the crime of shoplifting and,
22 upon conviction, shall be punished as is provided in this section.



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

27 (a) Conceals the unpurchased merchandise;

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

30 (c) Alters, transfers or removes any price-marking, any
31 other marking which aids in determining value affixed to the
32 unpurchased merchandise, or any tag or device used in electronic
33 surveillance of unpurchased merchandise;

34 (d) Transfers the unpurchased merchandise from one (1)
35 container to another; or

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

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

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

43 (b) The content of the price tag or marking from such
44 merchandise; or

45 (c) Properly identified photographs of such
46 merchandise.



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

49 (5) A person convicted of shoplifting merchandise for which
50 the total price of all items shoplifted in violation of this
51 section is less than or equal to One Thousand Dollars (\$1,000.00)
52 shall be punished as follows:

53 (a) Upon a first shoplifting conviction the defendant
54 shall be guilty of a misdemeanor and fined not more than One
55 Thousand Dollars (\$1,000.00), or punished by imprisonment in the
56 county jail not to exceed six (6) months, or * * * both * * *.

57 (b) Upon a second shoplifting conviction the defendant
58 shall be guilty of a misdemeanor and fined not more than Two
59 Thousand Five Hundred Dollars (\$2,500.00) or punished by
60 imprisonment in the county jail for a term not less than
61 forty-eight (48) hours, not to exceed six (6) months, or by
62 both * * *.

63 (6) Upon a third or subsequent shoplifting conviction where
64 the total price of all shoplifted merchandise is not less than
65 Five Hundred Dollars (\$500.00) or greater than One Thousand
66 Dollars (\$1,000.00), the defendant shall be guilty of a felony and
67 fined not more than Three Thousand Dollars (\$3,000.00), or
68 imprisoned for a term not to exceed three (3) years, or by both
69 such fine and imprisonment.

70 (7) A person convicted of shoplifting merchandise for which
71 the total price of all items shoplifted in violation of this



72 section exceeds One Thousand Dollars (\$1,000.00) shall be guilty
73 of a felony and, upon conviction, punished as provided in Section
74 97-17-41 for the offense of grand larceny.

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

80 (9) For the purpose of determining the gravity of the
81 offense under subsection (7) of this section, the prosecutor may
82 aggregate the total price of merchandise shoplifted from the same
83 or separate mercantile establishments within the same legal
84 jurisdiction over a period of thirty (30) or fewer days.

85 (10) A person convicted of shoplifting merchandise, acting
86 in concert with, aiding, abetting, or encouraging one or more
87 persons to commit such crime, regardless of whether such others
88 are prosecuted for such crime, for which the total price of all
89 items shoplifted in violation of this section exceeds One Thousand
90 Dollars (\$1,000.00), shall be guilty of a felony and, upon
91 conviction, punished as provided in Section 97-17-41 for the
92 offense of grand larceny.

93 **SECTION 2.** This act shall take effect and be in force from
94 and after July 1, 2024.

