

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 438: Shoplifting; revise penalties for crime of.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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.

CONFEREES FOR THE HOUSE

X (SIGNED)  
Horan

X (SIGNED)  
Newman

(NOT SIGNED)  
Porter

CONFEREES FOR THE SENATE

X (SIGNED)  
Fillingane

X (SIGNED)  
Sparks

X (SIGNED)  
McLendon

