

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

To: Judiciary B

HOUSE BILL NO. 438

1 AN ACT TO AMEND SECTION 97-23-93, MISSISSIPPI CODE OF 1972,
2 TO REVISE PENALTIES FOR SHOPLIFTING; AND FOR RELATED PURPOSES.

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

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

6 97-23-93. (1) Any person who shall willfully and unlawfully
7 take possession of any merchandise owned or held by and offered or
8 displayed for sale by any merchant, store or other mercantile
9 establishment with the intention and purpose of converting such
10 merchandise to his own use without paying the merchant's stated
11 price therefor shall be guilty of the crime of shoplifting and,
12 upon conviction, shall be punished as is provided in this section.

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

17 (a) Conceals the unpurchased merchandise;



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

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

24 (d) Transfers the unpurchased merchandise from one (1)
25 container to another; or

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

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

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

33 (b) The content of the price tag or marking from such
34 merchandise; or

35 (c) Properly identified photographs of such
36 merchandise.

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

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



43 (a) Upon a first shoplifting conviction the defendant
44 shall be guilty of a misdemeanor and fined not more than * * * One
45 Thousand Five Hundred Dollars (\$1,500.00), or punished by
46 imprisonment in the county jail not to exceed six (6) months, or
47 by both, if the court finds substantial and compelling reasons why
48 the offender cannot be safely and effectively supervised in the
49 community, is not amenable to community-based treatment, or poses
50 a significant risk to public safety. If such a finding is not
51 made, the court shall suspend the sentence of imprisonment and
52 impose a period of probation not exceeding one (1) year or a fine
53 of not more than * * * One Thousand Five Hundred Dollars
54 (\$1,500.00).

55 (b) Upon a second shoplifting conviction the defendant
56 shall be guilty of a misdemeanor and fined not more than * * *
57 Three Thousand Dollars (\$3,000.00) or punished by imprisonment in
58 the county jail for a term not less than forty-eight (48) hours,
59 not to exceed six (6) months, or by both, if the court finds
60 substantial and compelling reasons why the offender cannot be
61 safely and effectively supervised in the community, is not
62 amenable to community-based treatment, or poses a significant risk
63 to public safety. If such a finding is not made, the court shall
64 suspend the sentence of imprisonment and impose a period of
65 probation not exceeding one (1) year or a fine of not more
66 than * * * Three Thousand Dollars (\$3,000.00), or both.



67 (6) Upon a third or subsequent shoplifting conviction where
68 the total price of all shoplifted merchandise is not less than
69 Five Hundred Dollars (\$500.00) or greater than One Thousand
70 Dollars (\$1,000.00), the defendant shall be guilty of a felony and
71 fined not more than * * * Four Thousand Dollars (\$4,000.00), or
72 imprisoned for a term not to exceed three (3) years, or by both
73 such fine and imprisonment.

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

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

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

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

