

By: Representative Shirley

To: Judiciary B

## HOUSE BILL NO. 1454

1 AN ACT TO AMEND SECTION 97-17-71, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE PURCHASERS OF METAL PROPERTY TO VERIFY CLEAR TITLE TO A  
3 MOTOR VEHICLE BEFORE PURCHASE OF THE VEHICLE; TO REGULATE RECEIPT  
4 OF MOTOR VEHICLES BY PURCHASERS OF METAL PROPERTY; TO PROVIDE THAT  
5 A PURCHASER OF METAL PROPERTY SHALL BE LIABLE TO A LIEN HOLDER FOR  
6 THE TOTAL AMOUNT OF ANY LIEN AGAINST A MOTOR VEHICLE, IF THE  
7 VERIFICATION PROCEDURES OF THIS ACT ARE NOT FOLLOWED; AND FOR  
8 RELATED PURPOSES.

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

10 **SECTION 1.** Section 97-17-71, Mississippi Code of 1972, is  
11 amended as follows:

12 97-17-71. (1) For the purposes of this section, the  
13 following terms shall have the meanings ascribed in this section:

14 (a) "Railroad materials" means any materials, equipment  
15 and parts used in the construction, operation, protection and  
16 maintenance of a railroad.

17 (b) "Copper materials" means any copper wire, bars,  
18 rods or tubing, including copper wire or cable or coaxial cable of  
19 the type used by public utilities, common carriers or  
20 communication services providers, whether wireless or wire line,  
21 copper air conditioner evaporator coil or condenser, aluminum



22 copper radiators not attached to a motor vehicle, or any  
23 combination of these.

24 (c) "Aluminum materials" means any aluminum cable,  
25 bars, rods or tubing of the type used to construct utility,  
26 communication or broadcasting towers, aluminum utility wire and  
27 aluminum irrigation pipes or tubing. "Aluminum materials" does  
28 not include aluminum cans that have served their original economic  
29 purpose.

30 (d) "Law enforcement officer" means any person  
31 appointed or employed full time by the state or any political  
32 subdivision thereof, or by the state military department as  
33 provided in Section 33-1-33, who is duly sworn and vested with  
34 authority to bear arms and make arrests, and whose primary  
35 responsibility is the prevention and detection of crime, the  
36 apprehension of criminals and the enforcement of the criminal  
37 traffic laws of this state or the ordinances of any political  
38 subdivision thereof.

39 (e) "Metal property" means materials as defined in this  
40 section as railroad track materials, copper materials and aluminum  
41 materials and electrical, communications or utility brass, metal  
42 covers for service access and entrances to sewers and storm  
43 drains, metal bridge pilings, irrigation wiring and other metal  
44 property attached to or part of center pivots, grain bins,  
45 stainless steel sinks, catalytic converters not attached to a



motor vehicle and metal beer kegs. Metal property does not include ferrous materials not listed in this section.

(f) "Person" means an individual, partnership, corporation, joint venture, trust, limited liability company, association or any other legal or commercial entity.

(g) "Personal identification card" means any government issued photographic identification card.

(h) "Photograph" or "photographically" means a still photographic image, including images captured in digital format, that are of such quality that the persons and objects depicted are clearly identifiable.

(i) "Purchase transaction" means a transaction in which a person gives consideration in exchange for metal property.

(j) "Purchaser" means a person who gives consideration in exchange for metal property.

(k) "Record" or "records" means a paper, electronic or other method of storing information.

(l) "Scrap metal dealer" means any person who is engaged, from a fixed location or otherwise, in the business of paying compensation for metal property that has served its original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.



71           (2) Every scrap metal dealer or other purchaser shall keep  
72 an accurate and legible record in which he shall enter the  
73 following information for each purchase transaction:

74           (a) The name, address and age of the person from whom  
75 the metal property is purchased as obtained from the seller's  
76 personal identification card;

77           (b) The date and place of each acquisition of the metal  
78 property;

79           (c) The weight, quantity or volume and a general  
80 physical description of the type of metal property, such as wire,  
81 tubing, extrusions or casting, purchased in a purchase  
82 transaction;

83           (d) The amount of consideration given in a purchase  
84 transaction for the metal property;

85           (e) The vehicle license tag number, state of issue and  
86 the make and type of the vehicle used to deliver the metal  
87 property to the purchaser;

88           (f) If a person other than the seller delivers the  
89 metal property to the purchaser, the name, address and age of the  
90 person who delivers the metal property;

91           (g) (i) A signed statement from the person receiving  
92 consideration in the purchase transaction stating that he is the  
93 rightful owner of the metal property or is entitled to sell the  
94 metal property being sold;



95                   (ii) If the metal property is a motor vehicle, in  
96 addition to the statement required in subparagraph (i) of this  
97 paragraph (g), either a copy of clear motor vehicle title that  
98 shows no lien exists against the motor vehicle, or a statement  
99 obtained by the scrap metal dealer from the Department of Revenue  
100 stating that no lien exists against the motor vehicle;

101               (h) (i) A scanned copy or a photocopy of the personal  
102 identification card of the person receiving consideration in the  
103 purchase transaction; or

104                   (ii) If a person other than the seller delivers  
105 the metal property to the purchaser, a scanned copy or a photocopy  
106 of the personal identification card of the person delivering the  
107 metal property to the purchaser; and

108               (i) A photograph, videotape or similar likeness of the  
109 person receiving consideration or any person other than the seller  
110 who delivers the metal property to the purchaser in which the  
111 person's facial features are clearly visible and in which the  
112 metal property the person is selling or delivering is clearly  
113 visible.

114               Such records shall be maintained by the scrap metal dealer or  
115 purchaser for not less than two (2) years from the date of the  
116 purchase transaction, and such records shall be made available to  
117 any law enforcement officer during usual and customary business  
118 hours.



119           (3) (a) The purchaser of metal property must hold the metal  
120 property separate and identifiable from other purchases for not  
121 less than three (3) business days from the date of purchase. The  
122 purchaser shall also photographically capture the metal property  
123 in the same form, without change, in which the metal property was  
124 acquired, and maintain the photograph for a period of not less  
125 than two (2) years. The time and date shall be digitally recorded  
126 on the photograph, and the identity of the person taking the  
127 photograph shall be recorded. The purchaser shall permit any law  
128 enforcement officer to make an inspection of the metal property  
129 during the holding period, and of all photographs of the metal  
130 property. Any photograph of metal property taken and maintained  
131 pursuant to this subsection shall be admissible in any civil or  
132 criminal proceeding.

133           (b) If the purchaser of metal property is purchasing a  
134 motor vehicle, in addition to the requirements of paragraph (a) of  
135 this subsection (3), the purchaser shall obtain a copy of clear  
136 motor vehicle title or contact the Department of Revenue to obtain  
137 proof of clear motor vehicle title. If the purchaser of metal  
138 property fails to obtain proof of clear motor vehicle title, the  
139 motor vehicle shall be returned to the person attempting to sell  
140 the motor vehicle within ten (10) working days from receipt of the  
141 motor vehicle. If the purchaser of metal property is unable to  
142 return the motor vehicle as provided in this paragraph, the



purchaser shall contact law enforcement and provide all known  
information to the law enforcement.

(4) During the usual and customary business hours of a scrap metal dealer or other purchaser, a law enforcement officer, after proper identification as a law enforcement officer, shall have the right to inspect all purchased metal property in the possession of the scrap metal dealer or purchaser.

(5) (a) Whenever a law enforcement officer has reasonable cause to believe that any item of metal property in the possession of a scrap metal dealer or other purchaser has been stolen, a law enforcement officer who has an affidavit from the alleged rightful owner of the property identifying the property with specificity, including any identifying markings, may issue and deliver a written hold notice to the scrap metal dealer or other purchaser. The hold notice shall specifically identify those items of metal property that are believed to have been stolen and that are subject to the hold notice. Upon receipt of the notice, the scrap metal dealer or other purchaser may not process or remove the metal property identified in the notice from the place of business of the scrap metal dealer or purchaser for fifteen (15) calendar days after receipt of the notice, unless sooner released by a law enforcement officer.

(b) No later than the expiration of the fifteen-day period, a law enforcement officer, after receiving additional substantive evidence beyond the initial affidavit, may issue and



168 deliver a second written hold notice, which shall be an extended  
169 hold notice. The extended hold notice shall specifically identify  
170 those items of metal property that are believed to have been  
171 stolen and that are subject to the extended hold notice. Upon  
172 receipt of the extended hold notice, the scrap metal dealer or  
173 purchaser may not process or remove the items of metal property  
174 identified in the notice from the place of business of the scrap  
175 metal dealer or purchaser for fifteen (15) calendar days after  
176 receipt of the extended hold notice, unless sooner released by a  
177 law enforcement officer.

178 (c) At the expiration of the hold period or, if  
179 extended in accordance with this subsection, at the expiration of  
180 the extended hold period, the hold is automatically released, then  
181 the scrap metal dealer or purchaser may dispose of the metal  
182 property unless other disposition has been ordered by a court of  
183 competent jurisdiction.

184 (d) If the scrap metal dealer or other purchaser  
185 contests the identification or ownership of the metal property,  
186 the party other than the scrap metal dealer or other purchaser  
187 claiming ownership of any metal property in the possession of a  
188 scrap metal dealer or other purchaser, provided that a timely  
189 report of the theft of the metal property was made to the proper  
190 authorities, may bring a civil action in the circuit court of the  
191 county in which the scrap metal dealer or purchaser is located.  
192 The petition for the action shall include the means of





193 identification of the metal property utilized by the petitioner to  
194 determine ownership of the metal property in the possession of the  
195 scrap metal dealer or other purchaser.

196 (e) When a lawful owner recovers stolen metal property  
197 from a scrap metal dealer or other purchaser who has complied with  
198 this section, and the person who sold the metal property to the  
199 scrap metal dealer or other purchaser is convicted of a violation  
200 of this section, or theft by receiving stolen property under  
201 Section 97-17-70, the court shall order the convicted person to  
202 make full restitution to the scrap metal dealer or other  
203 purchaser, including, without limitation, attorney's fees, court  
204 costs and other expenses.

205 (6) This section shall not apply to purchases of metal  
206 property from any of the following:

207 (a) A law enforcement officer acting in an official  
208 capacity;

209 (b) A trustee in bankruptcy, executor, administrator or  
210 receiver who has presented proof of such status to the scrap metal  
211 dealer;

212 (c) Any public official acting under a court order who  
213 has presented proof of such status to the scrap metal dealer;

214 (d) A sale on the execution, or by virtue of any  
215 process issued by a court, if proof thereof has been presented to  
216 the scrap metal dealer; or



217 (e) A manufacturing, industrial or other commercial  
218 vendor that generates or sells regulated metal property in the  
219 ordinary course of its business.

220 (7) It shall be unlawful for any person to give a false  
221 statement of ownership or to give a false or altered  
222 identification \* \* \*, vehicle tag number or motor vehicle title  
223 and receive money or other consideration from a scrap metal dealer  
224 or other purchaser in return for metal property.

225 (8) A scrap metal dealer or other purchaser shall not enter  
226 into any cash transactions in payment for the purchase of metal  
227 property. Payment shall be made by check issued to the seller of  
228 the metal, made payable to the name and address of the seller and  
229 mailed to the recorded address of the seller, or by electronic  
230 funds transfer. Payment shall not be made for a period of three  
231 (3) days after the purchase transaction.

232 (9) (a) If a person acquiring metal property fails to  
233 maintain the records or to hold such materials for the period of  
234 time prescribed by this section, such failure shall be prima facie  
235 evidence that the person receiving the metal property received it  
236 knowing it to be stolen in violation of Section 97-17-70.

237 (b) If a person acquiring metal property fails to  
238 maintain the motor vehicle title information required by this  
239 section, such person shall be liable to the lien holder for the  
240 total amount of any lien owed on the motor vehicle.



241           (10) It shall be unlawful for any person to transport or  
242 cause to be transported for himself or another from any point  
243 within this state to any point outside this state any metal  
244 property, unless the person or entity first reports to the sheriff  
245 of the county from which he departs this state transporting such  
246 materials the same information that a purchaser in this state  
247 would be required to obtain and keep in a record as set forth in  
248 subsection (2) of this section. In such a case the sheriff  
249 receiving the report shall keep the information in records  
250 maintained in his office as a public record available for  
251 inspection by any person at all reasonable times. This section  
252 shall not apply to a public utility, as that term is defined in  
253 Section 77-3-3, engaged in carrying on utility operations; to a  
254 railroad, as that term is defined in Section 77-9-5; to a  
255 communications service provider, whether wireless or wire line; to  
256 a scrap metal dealer; or to a person identified in subsection (6)  
257 as being exempt from the provisions of this section.

258           (11) It shall be unlawful for a scrap metal dealer or other  
259 purchaser to knowingly purchase or possess a metal beer keg, or a  
260 metal syrup tank generally used by the soft drink industry,  
261 whether damaged or undamaged, or any reasonably recognizable part  
262 thereof, on any premises that the dealer uses to buy, sell, store,  
263 shred, melt, cut or otherwise alter scrap metal. However, it  
264 shall not be unlawful to purchase or possess a metal syrup tank  
265 generally used by the soft drink industry if the scrap metal



dealer or other purchaser obtains a bill of sale at the time of purchase from a seller if the seller is a manufacturer of such tanks, a soft drink company or a soft drink distributor.

(12) It shall be unlawful to sell to a scrap metal dealer any bronze vase and/or marker, memorial, statue, plaque, or other bronze object used at a cemetery or other location where deceased persons are interred or memorialized, or for any such dealer to purchase those objects, unless the source of the bronze is known and notice is provided to the municipal or county law enforcement agency where the dealer is located. The notice shall identify all names, letters, dates and symbols on the bronze and a photograph of the bronze shall be attached thereto. Written permission from the cemetery and the appropriate law enforcement agency must be received before any type of bronze described in this subsection may be purchased, processed, sold or melted.

(13) It shall be unlawful for any scrap metal dealer to purchase any manhole cover and other similar types of utility access covers, including storm drain covers, or any metal property clearly identified as belonging to a political subdivision of the state or a municipality, unless that metal property is purchased from the political subdivision, the municipal utility or the manufacturer of the metal. Any purchaser who purchases metal property in bulk shall be allowed twenty-four (24) hours to determine if any metal property prohibited by this subsection is included in a bulk purchase. If such prohibited metal property is



291 included in a bulk purchase, the purchaser shall notify law  
292 enforcement no later than twenty-four (24) hours after the  
293 purchase.

294 (14) It shall be unlawful for a scrap metal dealer or other  
295 purchaser to purchase metal property from a person younger than  
296 eighteen (18) years of age.

297 (15) Metal property may not be purchased, acquired or  
298 collected between the hours of 9:00 p.m. and 6:00 a.m.

299 (16) Except as provided in this subsection, any person  
300 willfully or knowingly violating the provisions of this section  
301 shall, upon conviction thereof, be deemed guilty of a misdemeanor,  
302 and shall be punished by a fine not to exceed One Thousand Dollars  
303 (\$1,000.00) per offense, unless the purchase transaction or  
304 transactions related to the violation, in addition to any costs  
305 which are, or would be, incurred in repairing or in the attempt to  
306 recover any property damaged in the theft of or removal of the  
307 metal property, are in aggregate an amount which exceeds One  
308 Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars  
309 (\$5,000.00), in which case the person shall be guilty of a felony  
310 and shall be imprisoned in the custody of the Department of  
311 Corrections for a term not to exceed five (5) years, fined not  
312 more than Ten Thousand Dollars (\$10,000.00), or both. Any person  
313 found guilty of stealing metal property or receiving metal  
314 property, knowing it to be stolen in violation of Section  
315 97-17-70, shall be ordered to make full restitution to the victim,



including, without limitation, restitution for property damage that resulted from the theft of the property.

(17) If the purchase transaction or transactions related to the violation, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft of or removal of the metal property, are in aggregate an amount which exceeds Five Thousand Dollars (\$5,000.00) but less than Twenty-five Thousand Dollars (\$25,000.00), the person shall be guilty of a felony and shall be imprisoned in the custody of the Department of Corrections for a term not to exceed ten (10) years, fined not more than Ten Thousand Dollars (\$10,000.00), or both.

(18) If the purchase transaction or transactions related to the violation, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft of or removal of the metal property, are in aggregate an amount which exceeds Twenty-five Thousand Dollars (\$25,000.00), the person shall be guilty of a felony and shall be imprisoned in the custody of the Department of Corrections for a term not to exceed twenty (20) years, fined not more than Ten Thousand Dollars (\$10,000.00), or both.

(19) This section shall not be construed to repeal other criminal laws. Whenever conduct proscribed by any provision of this section is also proscribed by any other provision of law, the provision which carries the more serious penalty shall be applied.



341           (20) This section shall apply to all businesses regulated  
342 under this section without regard to the location within the State  
343 of Mississippi.

344           (21) This section shall not be construed to prohibit  
345 municipalities and counties from enacting and implementing  
346 ordinances, rules and regulations that impose stricter  
347 requirements relating to purchase transactions.

348           **SECTION 2.** This act shall take effect and be in force from  
349 and after July 1, 2018.

