

By: Representatives Morgan, Bain, Carpenter, To: Judiciary B
Pigott, Sanford, Scoggin, Staples, Steverson

HOUSE BILL NO. 956

1 AN ACT TO PROHIBIT THE REMOVAL OR ASSISTED REMOVAL OF STREET,
2 ROAD OR HIGHWAY SIGNS; TO PROVIDE PENALTIES FOR SUCH REMOVAL; TO
3 AMEND SECTION 97-17-71, MISSISSIPPI CODE OF 1972, TO ADD STREET,
4 ROAD AND HIGHWAY SIGNS TO THE LIST OF METALS PROHIBITED FROM
5 PURCHASE BY SCRAP METAL DEALERS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Any person who shall remove, or cause to be
8 removed, or aid or assist in removing any street, road or highway
9 sign, upon conviction, shall be guilty of a misdemeanor, and shall
10 be punished by a fine not to exceed One Thousand Dollars
11 (\$1,000.00) per offense unless the aggregate value of such exceeds
12 One Thousand Dollars (\$1,000.00) but less than Five Thousand
13 Dollars (\$5,000.00), in which case the person shall be guilty of a
14 felony and shall be imprisoned in the custody of the Department of
15 Corrections for a term not to exceed five (5) years, fined not
16 more than Ten Thousand Dollars (\$10,000.00), or both.

17 **SECTION 2.** Section 97-17-71, Mississippi Code of 1972, is
18 amended as follows:



19 97-17-71. (1) For the purposes of this section, the
20 following terms shall have the meanings ascribed in this section:

21 (a) "Railroad materials" means any materials, equipment
22 and parts used in the construction, operation, protection and
23 maintenance of a railroad.

24 (b) "Copper materials" means any copper wire, bars,
25 rods or tubing, including copper wire or cable or coaxial cable of
26 the type used by public utilities, common carriers or
27 communication services providers, whether wireless or wire line,
28 copper air conditioner evaporator coil or condenser, aluminum
29 copper radiators not attached to a motor vehicle, or any
30 combination of these.

31 (c) "Aluminum materials" means any aluminum cable,
32 bars, rods or tubing of the type used to construct utility,
33 communication or broadcasting towers, aluminum utility wire and
34 aluminum irrigation pipes or tubing. "Aluminum materials" does
35 not include aluminum cans that have served their original economic
36 purpose.

37 (d) "Law enforcement officer" means any person
38 appointed or employed full time by the state or any political
39 subdivision thereof, or by the state military department as
40 provided in Section 33-1-33, who is duly sworn and vested with
41 authority to bear arms and make arrests, and whose primary
42 responsibility is the prevention and detection of crime, the
43 apprehension of criminals and the enforcement of the criminal



44 traffic laws of this state or the ordinances of any political
45 subdivision thereof.

46 (e) "Metal property" means materials as defined in this
47 section as railroad track materials, copper materials and aluminum
48 materials and electrical, communications or utility brass, metal
49 covers for service access and entrances to sewers and storm
50 drains, metal bridge pilings, irrigation wiring and other metal
51 property attached to or part of center pivots, grain bins,
52 stainless steel sinks, catalytic converters not attached to a
53 motor vehicle and metal beer kegs. Metal property does not
54 include ferrous materials not listed in this section.

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

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

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

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

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



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

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

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

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

84 (b) The date and place of each acquisition of the metal
85 property;

86 (c) The weight, quantity or volume and a general
87 physical description of the type of metal property, such as wire,
88 tubing, extrusions or casting, purchased in a purchase
89 transaction;

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



92 (e) The vehicle license tag number, state of issue and
93 the make and type of the vehicle used to deliver the metal
94 property to the purchaser;

95 (f) If a person other than the seller delivers the
96 metal property to the purchaser, the name, address and age of the
97 person who delivers the metal property;

98 (g) A signed statement from the person receiving
99 consideration in the purchase transaction stating that he is the
100 rightful owner of the metal property or is entitled to sell the
101 metal property being sold;

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

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

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

115 Such records shall be maintained by the scrap metal dealer or
116 purchaser for not less than two (2) years from the date of the



purchase transaction, and such records shall be made available to any law enforcement officer during usual and customary business hours.

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

(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



142 enforcement officer who has an affidavit from the alleged rightful
143 owner of the property identifying the property with specificity,
144 including any identifying markings, may issue and deliver a
145 written hold notice to the scrap metal dealer or other purchaser.
146 The hold notice shall specifically identify those items of metal
147 property that are believed to have been stolen and that are
148 subject to the hold notice. Upon receipt of the notice, the scrap
149 metal dealer or other purchaser may not process or remove the
150 metal property identified in the notice from the place of business
151 of the scrap metal dealer or purchaser for fifteen (15) calendar
152 days after receipt of the notice, unless sooner released by a law
153 enforcement officer.

154 (b) No later than the expiration of the fifteen-day
155 period, a law enforcement officer, after receiving additional
156 substantive evidence beyond the initial affidavit, may issue and
157 deliver a second written hold notice, which shall be an extended
158 hold notice. The extended hold notice shall specifically identify
159 those items of metal property that are believed to have been
160 stolen and that are subject to the extended hold notice. Upon
161 receipt of the extended hold notice, the scrap metal dealer or
162 purchaser may not process or remove the items of metal property
163 identified in the notice from the place of business of the scrap
164 metal dealer or purchaser for fifteen (15) calendar days after
165 receipt of the extended hold notice, unless sooner released by a
166 law enforcement officer.



167 (c) At the expiration of the hold period or, if
168 extended in accordance with this subsection, at the expiration of
169 the extended hold period, the hold is automatically released, then
170 the scrap metal dealer or purchaser may dispose of the metal
171 property unless other disposition has been ordered by a court of
172 competent jurisdiction.

173 (d) If the scrap metal dealer or other purchaser
174 contests the identification or ownership of the metal property,
175 the party other than the scrap metal dealer or other purchaser
176 claiming ownership of any metal property in the possession of a
177 scrap metal dealer or other purchaser, provided that a timely
178 report of the theft of the metal property was made to the proper
179 authorities, may bring a civil action in the circuit court of the
180 county in which the scrap metal dealer or purchaser is located.
181 The petition for the action shall include the means of
182 identification of the metal property utilized by the petitioner to
183 determine ownership of the metal property in the possession of the
184 scrap metal dealer or other purchaser.

185 (e) When a lawful owner recovers stolen metal property
186 from a scrap metal dealer or other purchaser who has complied with
187 this section, and the person who sold the metal property to the
188 scrap metal dealer or other purchaser is convicted of a violation
189 of this section, or theft by receiving stolen property under
190 Section 97-17-70, the court shall order the convicted person to
191 make full restitution to the scrap metal dealer or other



192 purchaser, including, without limitation, attorney's fees, court
193 costs and other expenses.

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

196 (a) A law enforcement officer acting in an official
197 capacity;

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

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

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

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

209 (7) It shall be unlawful for any person to give a false
210 statement of ownership or to give a false or altered
211 identification or vehicle tag number and receive money or other
212 consideration from a scrap metal dealer or other purchaser in
213 return for metal property.

214 (8) A scrap metal dealer or other purchaser shall not enter
215 into any cash transactions in payment for the purchase of metal
216 property. Payment shall be made by check issued to the seller of



the metal, made payable to the name and address of the seller and mailed to the recorded address of the seller, or by electronic funds transfer. Payment shall not be made for a period of three (3) days after the purchase transaction.

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

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



a scrap metal dealer; or to a person identified in subsection (6) as being exempt from the provisions of this section.

(11) It shall be unlawful for a scrap metal dealer or other purchaser to knowingly purchase or possess a metal beer keg, or a metal syrup tank generally used by the soft drink industry, whether damaged or undamaged, or any reasonably recognizable part thereof, on any premises that the dealer uses to buy, sell, store, shred, melt, cut or otherwise alter scrap metal. However, it shall not be unlawful to purchase or possess a metal syrup tank 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, or any street, road or highway sign unless that metal property is purchased from the state, 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 included in a bulk purchase, the purchaser shall notify law enforcement no later than twenty-four (24) hours after the purchase.

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

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

(16) Except as provided in this subsection, any person willfully or knowingly violating the provisions of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) per offense, unless 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



291 recover any property damaged in the theft of or removal of the
292 metal property, are in aggregate an amount which exceeds One
293 Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars
294 (\$5,000.00), in which case the person shall be guilty of a felony
295 and shall be imprisoned in the custody of the Department of
296 Corrections for a term not to exceed five (5) years, fined not
297 more than Ten Thousand Dollars (\$10,000.00), or both. Any person
298 found guilty of stealing metal property or receiving metal
299 property, knowing it to be stolen in violation of Section
300 97-17-70, shall be ordered to make full restitution to the victim,
301 including, without limitation, restitution for property damage
302 that resulted from the theft of the property.

303 (17) If the purchase transaction or transactions related to
304 the violation, in addition to any costs which are, or would be,
305 incurred in repairing or in the attempt to recover any property
306 damaged in the theft of or removal of the metal property, are in
307 aggregate an amount which exceeds Five Thousand Dollars
308 (\$5,000.00) but less than Twenty-five Thousand Dollars
309 (\$25,000.00), the person shall be guilty of a felony and shall be
310 imprisoned in the custody of the Department of Corrections for a
311 term not to exceed ten (10) years, fined not more than Ten
312 Thousand Dollars (\$10,000.00), or both.

313 (18) If the purchase transaction or transactions related to
314 the violation, in addition to any costs which are, or would be,
315 incurred in repairing or in the attempt to recover any property



316 damaged in the theft of or removal of the metal property, are in
317 aggregate an amount which exceeds Twenty-five Thousand Dollars
318 (\$25,000.00), the person shall be guilty of a felony and shall be
319 imprisoned in the custody of the Department of Corrections for a
320 term not to exceed twenty (20) years, fined not more than Ten
321 Thousand Dollars (\$10,000.00), or both.

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

326 (20) This section shall apply to all businesses regulated
327 under this section without regard to the location within the State
328 of Mississippi.

329 (21) This section shall not be construed to prohibit
330 municipalities and counties from enacting and implementing
331 ordinances, rules and regulations that impose stricter
332 requirements relating to purchase transactions.

333 **SECTION 3.** This act shall take effect and be in force from
334 and after July 1, 2019.

