

By: Representative Morgan

To: Judiciary B

HOUSE BILL NO. 257

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 including a valid  
60 identification card issued by a federally recognized Indian tribe  
61 that contains a color photograph of the card holder and the card  
62 holder's legal name, residence address and date of birth.

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

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



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

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

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

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

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

87           (b) The date and place of each acquisition of the metal  
88 property;

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



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

95 (e) The vehicle license tag number, state of issue and  
96 the make and type of the vehicle used to deliver the metal  
97 property to the purchaser;

98 (f) If a person other than the seller delivers the  
99 metal property to the purchaser, the name, address and age of the  
100 person who delivers the metal property;

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

105 (h) (i) A scanned copy or a photocopy of the personal  
106 identification card of the person receiving consideration in the  
107 purchase transaction; or

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

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



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

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

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



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

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



167 metal dealer or purchaser for fifteen (15) calendar days after  
168 receipt of the extended hold notice, unless sooner released by a  
169 law enforcement officer.

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

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

188 (e) When a lawful owner recovers stolen metal property  
189 from a scrap metal dealer or other purchaser who has complied with  
190 this section, and the person who sold the metal property to the  
191 scrap metal dealer or other purchaser is convicted of a violation





192 of this section, or theft by receiving stolen property under  
193 Section 97-17-70, the court shall order the convicted person to  
194 make full restitution to the scrap metal dealer or other  
195 purchaser, including, without limitation, attorney's fees, court  
196 costs and other expenses.

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

199 (a) A law enforcement officer acting in an official  
200 capacity;

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

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

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

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

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



217 (8) A scrap metal dealer or other purchaser shall not enter  
218 into any cash transactions in payment for the purchase of metal  
219 property. Payment shall be made by check issued to the seller of  
220 the metal, made payable to the name and address of the seller and  
221 mailed to the recorded address of the seller, or by electronic  
222 funds transfer. Payment shall not be made for a period of three  
223 (3) days after the purchase transaction.

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

229 (10) It shall be unlawful for any person to transport or  
230 cause to be transported for himself or another from any point  
231 within this state to any point outside this state any metal  
232 property, unless the person or entity first reports to the sheriff  
233 of the county from which he departs this state transporting such  
234 materials the same information that a purchaser in this state  
235 would be required to obtain and keep in a record as set forth in  
236 subsection (2) of this section. In such a case the sheriff  
237 receiving the report shall keep the information in records  
238 maintained in his office as a public record available for  
239 inspection by any person at all reasonable times. This section  
240 shall not apply to a public utility, as that term is defined in  
241 Section 77-3-3, engaged in carrying on utility operations; to a



242 railroad, as that term is defined in Section 77-9-5; to a  
243 communications service provider, whether wireless or wire line; to  
244 a scrap metal dealer; or to a person identified in subsection (6)  
245 as being exempt from the provisions of this section.

246 (11) It shall be unlawful for a scrap metal dealer or other  
247 purchaser to knowingly purchase or possess a metal beer keg, or a  
248 metal syrup tank generally used by the soft drink industry,  
249 whether damaged or undamaged, or any reasonably recognizable part  
250 thereof, on any premises that the dealer uses to buy, sell, store,  
251 shred, melt, cut or otherwise alter scrap metal. However, it  
252 shall not be unlawful to purchase or possess a metal syrup tank  
253 generally used by the soft drink industry if the scrap metal  
254 dealer or other purchaser obtains a bill of sale at the time of  
255 purchase from a seller if the seller is a manufacturer of such  
256 tanks, a soft drink company or a soft drink distributor.

257 (12) It shall be unlawful to sell to a scrap metal dealer  
258 any bronze vase and/or marker, memorial, statue, plaque, or other  
259 bronze object used at a cemetery or other location where deceased  
260 persons are interred or memorialized, or for any such dealer to  
261 purchase those objects, unless the source of the bronze is known  
262 and notice is provided to the municipal or county law enforcement  
263 agency where the dealer is located. The notice shall identify all  
264 names, letters, dates and symbols on the bronze and a photograph  
265 of the bronze shall be attached thereto. Written permission from  
266 the cemetery and the appropriate law enforcement agency must be



267 received before any type of bronze described in this subsection  
268 may be purchased, processed, sold or melted.

269 (13) It shall be unlawful for any scrap metal dealer to  
270 purchase any manhole cover and other similar types of utility  
271 access covers, including storm drain covers, or any metal property  
272 clearly identified as belonging to a political subdivision of the  
273 state or a municipality, or any street, road or highway sign  
274 unless that metal property is purchased from the state, or the  
275 political subdivision, the municipal utility or the manufacturer  
276 of the metal. Any purchaser who purchases metal property in bulk  
277 shall be allowed twenty-four (24) hours to determine if any metal  
278 property prohibited by this subsection is included in a bulk  
279 purchase. If such prohibited metal property is included in a bulk  
280 purchase, the purchaser shall notify law enforcement no later than  
281 twenty-four (24) hours after the purchase.

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

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

287 (16) Except as provided in this subsection, any person  
288 willfully or knowingly violating the provisions of this section  
289 shall, upon conviction thereof, be deemed guilty of a misdemeanor,  
290 and shall be punished by a fine not to exceed One Thousand Dollars  
291 (\$1,000.00) per offense, unless the purchase transaction or



292 transactions related to the violation, in addition to any costs  
293 which are, or would be, incurred in repairing or in the attempt to  
294 recover any property damaged in the theft of or removal of the  
295 metal property, are in aggregate an amount which exceeds One  
296 Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars  
297 (\$5,000.00), in which case the person shall be guilty of a felony  
298 and shall be imprisoned in the custody of the Department of  
299 Corrections for a term not to exceed five (5) years, fined not  
300 more than Ten Thousand Dollars (\$10,000.00), or both. Any person  
301 found guilty of stealing metal property or receiving metal  
302 property, knowing it to be stolen in violation of Section  
303 97-17-70, shall be ordered to make full restitution to the victim,  
304 including, without limitation, restitution for property damage  
305 that resulted from the theft of the property.

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



316 (18) If the purchase transaction or transactions related to  
317 the violation, in addition to any costs which are, or would be,  
318 incurred in repairing or in the attempt to recover any property  
319 damaged in the theft of or removal of the metal property, are in  
320 aggregate an amount which exceeds Twenty-five Thousand Dollars  
321 (\$25,000.00), the person shall be guilty of a felony and shall be  
322 imprisoned in the custody of the Department of Corrections for a  
323 term not to exceed twenty (20) years, fined not more than Ten  
324 Thousand Dollars (\$10,000.00), or both.

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

329 (20) This section shall apply to all businesses regulated  
330 under this section without regard to the location within the State  
331 of Mississippi.

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

336 **SECTION 3.** This act shall take effect and be in force from  
337 and after July 1, 2022.

