

By: Representatives Felsher, Ford (73rd),
Haney, Stamps

To: Judiciary B

HOUSE BILL NO. 626

1 AN ACT TO AMEND SECTION 97-17-71, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE PENALTIES FOR VIOLATIONS OF PURCHASE TRANSACTIONS
3 FOR SCRAP METAL; AND FOR RELATED PURPOSES.

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

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

7 97-17-71. (1) For the purposes of this section, the
8 following terms shall have the meanings ascribed in this section:

9 (a) "Railroad materials" means any materials, equipment
10 and parts used in the construction, operation, protection and
11 maintenance of a railroad.

12 (b) "Copper materials" means any copper wire, bars,
13 rods or tubing, including copper wire or cable or coaxial cable of
14 the type used by public utilities, common carriers or
15 communication services providers, whether wireless or wire line,
16 copper air conditioner evaporator coil or condenser, aluminum
17 copper radiators not attached to a motor vehicle, or any
18 combination of these.



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

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

34 (e) "Metal property" means materials as defined in this
35 section as railroad track materials, copper materials and aluminum
36 materials and electrical, communications or utility brass, metal
37 covers for service access and entrances to sewers and storm
38 drains, metal bridge pilings, irrigation wiring and other metal
39 property attached to or part of center pivots, grain bins,
40 stainless steel sinks, catalytic converters not attached to a
41 motor vehicle and metal beer kegs. Metal property does not
42 include ferrous materials not listed in this section.



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

46 (g) "Personal identification card" means any government
47 issued photographic identification card including a valid
48 identification card issued by a federally recognized Indian tribe
49 that contains a color photograph of the card holder and the card
50 holder's legal name, residence address and date of birth.

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

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

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

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

61 (l) "Scrap metal dealer" means any person who is
62 engaged, from a fixed location or otherwise, in the business of
63 paying compensation for metal property that has served its
64 original economic purpose, whether or not the person is engaged in
65 the business of performing the manufacturing process by which
66 metals are converted into raw material products consisting of



67 prepared grades and having an existing or potential economic
68 value.

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

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

75 (b) The date and place of each acquisition of the metal
76 property;

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

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

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

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

89 (g) A signed statement from the person receiving
90 consideration in the purchase transaction stating that he is the



91 rightful owner of the metal property or is entitled to sell the
92 metal property being sold;

93 (h) (i) A scanned copy or a photocopy of the personal
94 identification card of the person receiving consideration in the
95 purchase transaction; or

96 (ii) If a person other than the seller delivers
97 the metal property to the purchaser, a scanned copy or a photocopy
98 of the personal identification card of the person delivering the
99 metal property to the purchaser; and

100 (i) A photograph, videotape or similar likeness of the
101 person receiving consideration or any person other than the seller
102 who delivers the metal property to the purchaser in which the
103 person's facial features are clearly visible and in which the
104 metal property the person is selling or delivering is clearly
105 visible.

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

111 (3) The purchaser of metal property must hold the metal
112 property separate and identifiable from other purchases for not
113 less than three (3) business days from the date of purchase. The
114 purchaser shall also photographically capture the metal property
115 in the same form, without change, in which the metal property was



116 acquired, and maintain the photograph for a period of not less
117 than two (2) years. The time and date shall be digitally recorded
118 on the photograph, and the identity of the person taking the
119 photograph shall be recorded. The purchaser shall permit any law
120 enforcement officer to make an inspection of the metal property
121 during the holding period, and of all photographs of the metal
122 property. Any photograph of metal property taken and maintained
123 pursuant to this subsection shall be admissible in any civil or
124 criminal proceeding.

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

130 (5) (a) Whenever a law enforcement officer has reasonable
131 cause to believe that any item of metal property in the possession
132 of a scrap metal dealer or other purchaser has been stolen, a law
133 enforcement officer who has an affidavit from the alleged rightful
134 owner of the property identifying the property with specificity,
135 including any identifying markings, may issue and deliver a
136 written hold notice to the scrap metal dealer or other purchaser.
137 The hold notice shall specifically identify those items of metal
138 property that are believed to have been stolen and that are
139 subject to the hold notice. Upon receipt of the notice, the scrap
140 metal dealer or other purchaser may not process or remove the



141 metal property identified in the notice from the place of business
142 of the scrap metal dealer or purchaser for fifteen (15) calendar
143 days after receipt of the notice, unless sooner released by a law
144 enforcement officer.

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

158 (c) At the expiration of the hold period or, if
159 extended in accordance with this subsection, at the expiration of
160 the extended hold period, the hold is automatically released, then
161 the scrap metal dealer or purchaser may dispose of the metal
162 property unless other disposition has been ordered by a court of
163 competent jurisdiction.

164 (d) If the scrap metal dealer or other purchaser
165 contests the identification or ownership of the metal property,



166 the party other than the scrap metal dealer or other purchaser
167 claiming ownership of any metal property in the possession of a
168 scrap metal dealer or other purchaser, provided that a timely
169 report of the theft of the metal property was made to the proper
170 authorities, may bring a civil action in the circuit court of the
171 county in which the scrap metal dealer or purchaser is located.
172 The petition for the action shall include the means of
173 identification of the metal property utilized by the petitioner to
174 determine ownership of the metal property in the possession of the
175 scrap metal dealer or other purchaser.

176 (e) When a lawful owner recovers stolen metal property
177 from a scrap metal dealer or other purchaser who has complied with
178 this section, and the person who sold the metal property to the
179 scrap metal dealer or other purchaser is convicted of a violation
180 of this section, or theft by receiving stolen property under
181 Section 97-17-70, the court shall order the convicted person to
182 make full restitution to the scrap metal dealer or other
183 purchaser, including, without limitation, attorney's fees, court
184 costs and other expenses.

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

187 (a) A law enforcement officer acting in an official
188 capacity;



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

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

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

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

200 (7) It shall be unlawful for any person to give a false
201 statement of ownership or to give a false or altered
202 identification or vehicle tag number and receive money or other
203 consideration from a scrap metal dealer or other purchaser in
204 return for metal property.

205 (8) A scrap metal dealer or other purchaser shall not enter
206 into any cash transactions in payment for the purchase of metal
207 property. Payment shall be made by check issued to the seller of
208 the metal, made payable to the name and address of the seller and
209 mailed to the recorded address of the seller, or by electronic
210 funds transfer. Payment shall not be made for a period of three
211 (3) days after the purchase transaction.

212 (9) If a person acquiring metal property fails to maintain
213 the records or to hold such materials for the period of time



214 prescribed by this section, such failure shall be prima facie
215 evidence that the person receiving the metal property received it
216 knowing it to be stolen in violation of Section 97-17-70.

217 (10) It shall be unlawful for any person to transport or
218 cause to be transported for himself or another from any point
219 within this state to any point outside this state any metal
220 property, unless the person or entity first reports to the sheriff
221 of the county from which he departs this state transporting such
222 materials the same information that a purchaser in this state
223 would be required to obtain and keep in a record as set forth in
224 subsection (2) of this section. In such a case the sheriff
225 receiving the report shall keep the information in records
226 maintained in his office as a public record available for
227 inspection by any person at all reasonable times. This section
228 shall not apply to a public utility, as that term is defined in
229 Section 77-3-3, engaged in carrying on utility operations; to a
230 railroad, as that term is defined in Section 77-9-5; to a
231 communications service provider, whether wireless or wire line; to
232 a scrap metal dealer; or to a person identified in subsection (6)
233 as being exempt from the provisions of this section.

234 (11) It shall be unlawful for a scrap metal dealer or other
235 purchaser to knowingly purchase or possess a metal beer keg, or a
236 metal syrup tank generally used by the soft drink industry,
237 whether damaged or undamaged, or any reasonably recognizable part
238 thereof, on any premises that the dealer uses to buy, sell, store,



239 shred, melt, cut or otherwise alter scrap metal. However, it
240 shall not be unlawful to purchase or possess a metal syrup tank
241 generally used by the soft drink industry if the scrap metal
242 dealer or other purchaser obtains a bill of sale at the time of
243 purchase from a seller if the seller is a manufacturer of such
244 tanks, a soft drink company or a soft drink distributor.

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

257 (13) It shall be unlawful for any scrap metal dealer to
258 purchase any manhole cover and other similar types of utility
259 access covers, including storm drain covers, or any metal property
260 clearly identified as belonging to a political subdivision of the
261 state or a municipality, unless that metal property is purchased
262 from the political subdivision, the municipal utility or the
263 manufacturer of the metal. Any purchaser who purchases metal



264 property in bulk shall be allowed twenty-four (24) hours to
265 determine if any metal property prohibited by this subsection is
266 included in a bulk purchase. If such prohibited metal property is
267 included in a bulk purchase, the purchaser shall notify law
268 enforcement no later than twenty-four (24) hours after the
269 purchase.

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

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

275 (16) Except as provided in this subsection, any person
276 willfully or knowingly violating the provisions of this section
277 shall, upon conviction thereof, be deemed guilty of a misdemeanor,
278 and shall be punished by a fine not to exceed One Thousand Dollars
279 (\$1,000.00) per offense, unless the purchase transaction or
280 transactions related to the violation, in addition to any costs
281 which are, or would be, incurred in repairing or in the attempt to
282 recover any property damaged in the theft of or removal of the
283 metal property, are in aggregate an amount which exceeds One
284 Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars
285 (\$5,000.00), in which case the person shall be guilty of a felony
286 and shall be imprisoned in the custody of the Department of
287 Corrections for a term not less than two (2) years, not to exceed
288 five (5) years, fined not more than Ten Thousand Dollars



289 (\$10,000.00), or both. Any person found guilty of stealing metal
290 property or receiving metal property, knowing it to be stolen in
291 violation of Section 97-17-70, shall be ordered to make full
292 restitution to the victim, including, without limitation,
293 restitution for property damage that resulted from the theft of
294 the property.

295 (17) If the purchase transaction or transactions related to
296 the violation, in addition to any costs which are, or would be,
297 incurred in repairing or in the attempt to recover any property
298 damaged in the theft of or removal of the metal property, are in
299 aggregate an amount which exceeds * * * One Thousand Dollars
300 (\$1,000.00) but less than Twenty-five Thousand Dollars
301 (\$25,000.00), the person shall be guilty of a felony and shall be
302 imprisoned in the custody of the Department of Corrections for a
303 term not less than two (2) years, but not to exceed ten (10)
304 years, fined not more than Ten Thousand Dollars (\$10,000.00), or
305 both.

306 (18) 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 Twenty-five Thousand Dollars
311 (\$25,000.00), the person shall be guilty of a felony and shall be
312 imprisoned in the custody of the Department of Corrections for a



313 term not to exceed twenty (20) years, fined not more than Ten
314 Thousand Dollars (\$10,000.00), or both.

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

319 (20) This section shall apply to all businesses regulated
320 under this section without regard to the location within the State
321 of Mississippi.

322 (21) This section shall not be construed to prohibit
323 municipalities and counties from enacting and implementing
324 ordinances, rules and regulations that impose stricter
325 requirements relating to purchase transactions.

326 **SECTION 2.** This act shall take effect and be in force from
327 and after July 1, 2022.

