

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 1063

1 AN ACT TO CREATE NEW SECTION 97-17-301, MISSISSIPPI CODE OF
2 1972, TO CREATE THE "MISSISSIPPI SCRAP METAL ACT" AS A
3 RECODIFICATION, WITH REVISIONS, OF EXISTING STATUTES; TO CREATE
4 NEW SECTION 97-17-303, MISSISSIPPI CODE OF 1972, TO DEFINE CERTAIN
5 TERMS; TO CREATE NEW SECTION 97-17-305, MISSISSIPPI CODE OF 1972,
6 TO REQUIRE SCRAP METAL DEALERS TO KEEP RECORDS OF TRANSACTIONS; TO
7 CREATE NEW SECTION 97-17-307, MISSISSIPPI CODE OF 1972, TO REQUIRE
8 SCRAP METAL PURCHASERS TO PHOTOGRAPH METAL PROPERTY AS IT IS WHEN
9 ACQUIRED; TO CREATE NEW SECTION 97-17-309, MISSISSIPPI CODE OF
10 1972, TO AUTHORIZE LAW ENFORCEMENT OFFICERS AND SECRETARY OF STATE
11 EXAMINERS TO INSPECT METAL PROPERTY PURCHASED AND RELATED RECORDS;
12 TO CREATE NEW SECTION 97-17-311, MISSISSIPPI CODE OF 1972, TO
13 AUTHORIZE LAW ENFORCEMENT OFFICERS TO DELIVER A HOLD NOTICE TO A
14 SCRAP METAL DEALER WHENEVER THE OFFICER HAS REASONABLE CAUSE TO
15 BELIEVE THE METAL PROPERTY MAY HAVE BEEN STOLEN; TO CREATE NEW
16 SECTION 97-17-313, MISSISSIPPI CODE OF 1972, TO REQUIRE CERTAIN
17 RECORDS TO BE KEPT FOR DEALER TO DEALER TRANSACTIONS; TO CREATE
18 NEW SECTION 97-17-315, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
19 IT IS UNLAWFUL TO GIVE A FALSE STATEMENT OF OWNERSHIP OR ALTERED
20 IDENTIFICATION OR VEHICLE TAG NUMBER; TO CREATE NEW SECTION
21 97-17-317, MISSISSIPPI CODE OF 1972, TO PROHIBIT CERTAIN SCRAP
22 METAL DEALERS FROM ENTERING INTO CASH TRANSACTIONS; TO CREATE NEW
23 SECTION 97-17-319, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A
24 FAILURE TO KEEP RECORDS IS PRIMA FACIE EVIDENCE THAT A PERSON
25 RECEIVING STOLEN METAL PROPERTY KNEW IT WAS STOLEN; TO CREATE NEW
26 SECTION 97-17-321, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IT IS
27 UNLAWFUL FOR A SCRAP METAL DEALER TO PURCHASE BEER KEGS OR METAL
28 SYRUP TANKS; TO CREATE NEW SECTION 97-17-323, MISSISSIPPI CODE OF
29 1972, TO PROVIDE THAT IT IS UNLAWFUL FOR SCRAP METAL DEALERS TO
30 SELL BRONZE VASES AND CEMETERY MARKERS; TO CREATE NEW SECTION
31 97-17-325, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IT IS
32 UNLAWFUL FOR SCRAP METAL DEALERS TO PURCHASE MANHOLE COVERS; TO
33 CREATE NEW SECTION 97-17-327, MISSISSIPPI CODE OF 1972, TO PROVIDE
34 THAT IT IS UNLAWFUL FOR A SCRAP METAL DEALER TO PURCHASE FROM A



35 PERSON YOUNGER THAN 18 YEARS OF AGE; TO CREATE NEW SECTION
36 97-17-329, MISSISSIPPI CODE OF 1972, TO ESTABLISH PENALTIES FOR
37 VIOLATIONS OF THIS ACT INVOLVING PROPERTY LESS THAN \$5,000.00 IN
38 REPAIR AND REPLACEMENT LOSSES; TO CREATE NEW SECTION 97-17-331,
39 MISSISSIPPI CODE OF 1972, TO ESTABLISH PENALTIES FOR VIOLATIONS OF
40 THIS ACT INVOLVING MORE THAN \$5,000.00 IN REPAIR AND REPLACEMENT
41 LOSSES; TO CREATE NEW SECTION 97-17-333, MISSISSIPPI CODE OF 1972,
42 TO ESTABLISH PENALTIES FOR VIOLATIONS OF THIS ACT INVOLVING MORE
43 THAN \$5,000.00 IN REPAIR AND REPLACEMENT LOSSES; TO CREATE NEW
44 SECTION 97 17 335, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
45 WHENEVER OTHER LAWS PROVIDE MORE SERIOUS PENALTIES FOR ACTIONS
46 PROSCRIBED UNDER THE SCRAP METAL ACT, THE MORE SERIOUS PENALTIES
47 APPLY; TO CREATE NEW SECTION 97-17-337, MISSISSIPPI CODE OF 1972,
48 TO PROVIDE THAT THIS ACT APPLIES TO ALL BUSINESSES IN MISSISSIPPI;
49 TO CREATE NEW SECTION 97-13-339, MISSISSIPPI CODE OF 1972, TO
50 PROVIDE THAT THIS ACT TAKES PRECEDENCE OVER LOCAL ORDINANCES; TO
51 CREATE NEW SECTION 97-17-341, MISSISSIPPI CODE OF 1972, TO REQUIRE
52 SCRAP METAL DEALERS TO REGISTER WITH THE SECRETARY OF STATE WITHIN
53 60 DAYS AFTER PASSAGE OF THIS ACT; TO CREATE NEW SECTION
54 97-17-343, MISSISSIPPI CODE OF 1972, TO AUTHORIZE PERSONS
55 AGGRIEVED BY A FINAL ORDER OF THE SECRETARY OF STATE TO SEEK
56 JUDICIAL REVIEW; TO CREATE NEW SECTION 97-17-345, MISSISSIPPI CODE
57 OF 1972, TO PROVIDE THAT IT IS UNLAWFUL FOR SCRAP METAL DEALERS TO
58 PAY CASH FOR AIR CONDITIONER COILS AND CONDENSERS; TO CREATE NEW
59 SECTION 97-17-347, MISSISSIPPI CODE OF 1972, TO REQUIRE A PERSON
60 PURCHASING CATALYTIC CONVERTERS TO REGISTER AS A SCRAP METAL
61 DEALER; TO REPEAL SECTION 97-17-71, MISSISSIPPI CODE OF 1972,
62 WHICH ESTABLISHES THE CRIME OF RECEIVING STOLEN PROPERTY AS IT
63 RELATES TO SCRAP METAL; TO REPEAL SECTION 97-17-71.1, MISSISSIPPI
64 CODE OF 1972, WHICH REQUIRES SCRAP METAL DEALERS TO REGISTER WITH
65 THE OFFICE OF THE SECRETARY OF STATE; TO REPEAL SECTION
66 97-17-71.2, MISSISSIPPI CODE OF 1972, WHICH PROHIBITS SCRAP METAL
67 DEALERS FROM PAYING CASH OR MAKING PAYMENT OF ANY KIND AT THE TIME
68 OF TRANSACTION FOR AIR CONDITIONER EVAPORATOR COILS OR CONDENSERS;
69 AND FOR RELATED PURPOSES.

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

71 **SECTION 1.** The following shall be codified as Section
72 97-17-301, Mississippi Code of 1972:

73 **97-17-301.** Sections 97-17-301 through 97-17-347 shall be
74 known and may be cited as the "Mississippi Scrap Metal Act."

75 **SECTION 2.** The following shall be codified as Section
76 97-17-303, Mississippi Code of 1972:



77 97-17-303. For the purposes of this act, the following words
78 and phrases have the meanings ascribed in this section:

79 (a) "Railroad materials" means any materials, equipment
80 and parts used in the construction, operation, protection and
81 maintenance of a railroad.

82 (b) "Copper materials" means any copper wire, bars,
83 rods or tubing, including copper wire or cable or coaxial cable of
84 the type used by public utilities, common carriers or
85 communication services providers, whether wireless or wire line,
86 copper air conditioner evaporator coil or condenser, aluminum
87 copper radiators not attached to a motor vehicle, or any
88 combination of these.

89 (c) "Aluminum materials" means any aluminum cable,
90 bars, rods or tubing of the type used to construct utility,
91 communication or broadcasting towers, aluminum utility wire and
92 aluminum irrigation pipes or tubing. "Aluminum materials" does
93 not include aluminum cans that have served their original economic
94 purpose.

95 (d) "Dealer to dealer transaction" means a transaction
96 of regulated metals, regardless of compensation, between
97 registered scrap metal dealers.

98 (e) "Law enforcement officer" means any person
99 appointed or employed full time by the state or any political
100 subdivision thereof, or by the state military department as
101 provided in Section 33-1-33, who is duly sworn and vested with



102 authority to bear arms and make arrests, and whose primary
103 responsibility is the prevention and detection of crime, the
104 apprehension of criminals and the enforcement of the criminal
105 traffic laws of this state or the ordinances of any political
106 subdivision thereof.

107 (f) "Metal property" means materials as defined in this
108 act as railroad track materials, copper materials and aluminum
109 materials as well as electrical, communications materials, utility
110 brass, metal covers for service access and entrances to sewers and
111 storm drains, metal bridge pilings, irrigation wiring and other
112 metal property attached to or part of center pivots, grain bins,
113 stainless steel sinks, air conditioner evaporator coils or
114 condensers, catalytic converters not attached to a motor vehicle
115 and metal beer kegs. Metal property does not include ferrous
116 materials not listed in this act.

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

120 (h) "Personal identification card" means any government
121 issued photographic identification card including a valid
122 identification card issued by a federally recognized Indian tribe
123 that contains a color photograph of the card holder and the card
124 holder's legal name, residence address and date of birth.

125 (i) "Photograph" or "photographically" means a still
126 photographic image, including images captured in digital format,



127 that are of such quality that the persons and objects depicted are
128 clearly identifiable.

129 (j) "Purchase transaction" means a transaction in which
130 metal property is acquired, whether the person acquiring the metal
131 property gives consideration for the metal property or not. For
132 purposes of this act, the words "purchase" and "purchased" mean a
133 purchase transaction.

134 (k) "Purchaser" means a person who acquires metal
135 property, whether the person gives consideration for the metal
136 property or not.

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

139 (m) "Registered Business Entity" means a business
140 entity created by statute, registered and in good standing with
141 its state of incorporation or formation, and having a Federal
142 Employer Identification Number (FEIN). "Registered Business
143 Entity" does not include any sole proprietorship, fictitious
144 business name, or nonstatutory general partnership.

145 (n) "Scrap metal" means any metal property that is
146 acquired by a scrap metal dealer in a purchase transaction.

147 (o) "Scrap metal dealer" means any person who is
148 engaged, from a fixed location or otherwise, in acquiring, by
149 purchase transaction, metal property that has served its original
150 economic purpose, whether or not the person is engaged in the
151 business of performing the manufacturing process by which metals



152 are converted into raw material products consisting of prepared
153 grades and having an existing or potential economic value. Any
154 person who falls under this definition must register as a scrap
155 metal dealer pursuant to this act and rules promulgated under this
156 act.

157 **SECTION 3.** The following shall be codified as Section
158 97-17-305, Mississippi Code of 1972:

159 97-17-305. (1) Every scrap metal dealer or other purchaser
160 shall keep an accurate and legible record in which he shall enter
161 the following information for each purchase transaction:

162 (a) The name, address and age of the person from whom
163 the metal property is purchased as obtained from the seller's
164 personal identification card, subject to the following:

165 (i) If a person other than the seller delivers the
166 metal property to the purchaser, the purchaser shall enter the
167 name, address, and age of the person who delivers the metal
168 property, as obtained from the personal identification card of the
169 person delivering the metal property. If the person delivering
170 the metal property is the employee of the scrap metal dealer
171 purchasing the property, the purchaser is not required to enter
172 the name, address, and age of the person who delivers the metal
173 property;

174 (ii) If the seller is a Registered Business
175 Entity, and a person other than the seller delivers the metal
176 property to the purchaser, in addition to the information in



177 subparagraph (i), the purchaser shall enter the name, principal
178 business address, state of incorporation or formation of the
179 entity, the Federal Employer Identification Number of the entity
180 (FEIN), and the name and telephone number of a contact person for
181 the seller;

182 (b) The date and place of each acquisition of the metal
183 property;

184 (c) The weight, quantity or volume and a general
185 physical description of the type of metal property, such as wire,
186 tubing, extrusions or casting, acquired in a purchase transaction;

187 (d) The amount and form of consideration given in a
188 purchase transaction for the metal property. If no consideration
189 is given, a record of the origin of the regulated metal;

190 (e) The vehicle license tag number, state of issue and
191 the make and type of the vehicle used to deliver the metal
192 property to the purchaser;

193 (f) A signed statement from the person receiving
194 consideration in the purchase transaction stating that he or she
195 is the rightful owner of the metal property or is entitled to sell
196 the metal property being sold. Signed statements as required by
197 this section may be collected and recorded on paper, by
198 photographic copy, or other alternative formats as set forth in
199 the rules promulgated by the Secretary of State;



200 (g) (i) A scanned copy or a photocopy of the personal
201 identification card of the person receiving consideration in the
202 purchase transaction; or

203 (ii) If a person other than the seller delivers
204 the metal property to the purchaser, a scanned copy or a photocopy
205 of the personal identification card of the person delivering the
206 metal property to the purchaser; and

207 (h) A photograph, videotape or similar likeness of the
208 person receiving consideration or any person other than the seller
209 who delivers the metal property to the purchaser in which the
210 person's facial features are clearly visible and in which the
211 metal property the person is selling or delivering is clearly
212 visible.

213 (2) Such records shall be maintained by the scrap metal
214 dealer or purchaser for not less than two (2) years from the date
215 of the purchase transaction, and such records shall be made
216 available to any law enforcement officer or Secretary of State
217 examiner during usual and customary business hours. Any
218 photograph of metal property taken and maintained pursuant to this
219 section shall be admissible in any civil or criminal proceeding.

220 **SECTION 4.** The following shall be codified as Section
221 97-17-307, Mississippi Code of 1972:

222 97-17-307. The purchaser shall photographically capture the
223 metal property as it exists when it is acquired by the purchaser.
224 The time and date shall be digitally recorded on the photograph,



225 and the identity of the person taking the photograph shall be
226 recorded. The purchaser shall permit any law enforcement officer
227 or Secretary of State examiner to make an inspection of the metal
228 property, if the metal property is still in the purchaser's
229 possession, and of all photographs of the metal property. Any
230 photograph of metal property taken and maintained pursuant to this
231 subsection shall be admissible in any civil or criminal
232 proceeding.

233 **SECTION 5.** The following shall be codified as Section
234 97-17-309, Mississippi Code of 1972:

235 97-17-309. During the usual and customary business hours of
236 a scrap metal dealer, a law enforcement officer or Secretary of
237 State examiner, after proper identification as a law enforcement
238 officer or Secretary of State examiner, shall have the right to
239 inspect all purchased metal property and all records pertaining to
240 the purchase of regulated metals in the possession of the scrap
241 metal dealer or purchaser.

242 **SECTION 6.** The following shall be codified as Section
243 97-17-311, Mississippi Code of 1972:

244 97-17-311. (1) Whenever a law enforcement officer has
245 reasonable cause to believe that any item of metal property in the
246 possession of a scrap metal dealer has been stolen, a law
247 enforcement officer who has an affidavit from the alleged rightful
248 owner of the property identifying the property with specificity,
249 including any identifying markings, may issue and deliver a



250 written hold notice to the scrap metal dealer. The hold notice
251 shall specifically identify those items of metal property that are
252 believed to have been stolen and that are subject to the hold
253 notice. Upon receipt of the notice, the scrap metal dealer may
254 not process or remove the metal property identified in the notice
255 from the place of business of the scrap metal dealer for fifteen
256 (15) calendar days after receipt of the notice, unless sooner
257 released by a law enforcement officer.

258 (2) No later than the expiration of the fifteen day period,
259 a law enforcement officer, after receiving additional substantive
260 evidence beyond the initial affidavit, may issue and deliver a
261 second written hold notice, which shall be an extended hold
262 notice. The extended hold notice shall specifically identify
263 those items of metal property that are believed to have been
264 stolen and that are subject to the extended hold notice. Upon
265 receipt of the extended hold notice, the scrap metal dealer may
266 not process or remove the items of metal property identified in
267 the notice from the place of business of the scrap metal dealer
268 for fifteen (15) calendar days after receipt of the extended hold
269 notice, unless sooner released by a law enforcement officer.

270 (3) At the expiration of the hold period or, if extended in
271 accordance with this section, at the expiration of the extended
272 hold period, the hold is automatically released, then the scrap
273 metal dealer may dispose of the metal property unless other
274 disposition has been ordered by a court of competent jurisdiction.



275 (4) If the scrap metal dealer contests the identification or
276 ownership of the metal property, the party other than the scrap
277 metal dealer or other purchaser claiming ownership of any metal
278 property in the possession of a scrap metal dealer, provided that
279 a timely report of the theft of the metal property was made to the
280 proper authorities, may bring a civil action in the circuit court
281 of the county in which the scrap metal dealer is located. The
282 petition for the action shall include the means of identification
283 of the metal property utilized by the petitioner to determine
284 ownership of the metal property in the possession of the scrap
285 metal dealer.

286 (5) When a lawful owner recovers stolen metal property from
287 a scrap metal dealer who has complied with this act, and the
288 person who sold the metal property to the scrap metal dealer is
289 convicted of a violation of this act, or theft by receiving stolen
290 property under Section 97-17-70, the court shall order the
291 convicted person to make full restitution to the scrap metal
292 dealer, including, without limitation, attorney's fees, court
293 costs and other expenses.

294 **SECTION 7.** The following shall be codified as Section
295 97-17-313, Mississippi Code of 1972:

296 97-17-313. For dealer to dealer transactions, records
297 required to be kept include:

298 (a) Name and address of selling dealer;



299 (b) Date and place of each acquisition of the metal
300 property;

301 (c) The weight, quantity, or volume and a general
302 description of the type of metal property; and

303 (d) The amount or type of consideration given for the
304 metal property by the purchasing dealer.

305 Such records shall be maintained by the scrap metal dealer
306 for not less than two (2) years from the date of the purchase
307 transaction, and such records shall be made available to any law
308 enforcement officer or Secretary of State examiner during usual
309 and customary business hours.

310 **SECTION 8.** The following shall be codified as Section
311 97-17-315, Mississippi Code of 1972:

312 97-17-315. It shall be unlawful for any person to give a
313 false statement of ownership or to give a false or altered
314 identification or vehicle tag number and receive money or other
315 consideration from a scrap metal dealer or other purchaser in
316 return for metal property.

317 **SECTION 9.** The following shall be codified as Section
318 97-17-317, Mississippi Code of 1972:

319 97-17-317. Unless the seller is a Registered Business
320 Entity, able to provide the information set forth in Section
321 97-17-305(1)(a)(ii), a scrap metal dealer shall not enter into any
322 cash transactions in payment for the purchase of metal property.
323 If the seller is not a Registered Business Entity, payment shall



324 be made by check or money order issued to the individual who owns
325 the regulated metal as the payee on the check or money order. If
326 the seller is a Registered Business Entity, able to provide the
327 information set forth in Section 97-17-305(1)(a)(ii), and payment
328 is made in cash, a copy of the receipt of the transaction must be
329 kept by the scrap metal dealer for not less than two (2) years
330 from the date of the purchase transaction.

331 **SECTION 10.** The following shall be codified as Section
332 97-17-319, Mississippi Code of 1972:

333 97-17-319. If a person acquiring metal property fails to
334 maintain the records or to hold such materials as requested by a
335 law enforcement officer under this act, such failure shall be
336 prima facie evidence that the person receiving the metal property
337 received it knowing it to be stolen in violation of this act.

338 **SECTION 11.** The following shall be codified as Section
339 97-17-321, Mississippi Code of 1972:

340 97-17-321. It shall be unlawful for a scrap metal dealer or
341 other purchaser to knowingly purchase or possess a metal beer keg,
342 or a metal syrup tank generally used by the soft drink industry,
343 whether damaged or undamaged, or any reasonably recognizable part
344 thereof, on any premises that the dealer uses to buy, sell, store,
345 shred, melt, cut or otherwise alter scrap metal. However, it
346 shall not be unlawful to purchase or possess a metal syrup tank
347 generally used by the soft drink industry if the scrap metal
348 dealer or other purchaser obtains a bill of sale at the time of



349 purchase from a seller if the seller is a manufacturer of such
350 tanks, a soft drink company or a soft drink distributor.

351 **SECTION 12.** The following shall be codified as Section
352 97-17-323, Mississippi Code of 1972:

353 97-17-323. It shall be unlawful to sell to a scrap metal
354 dealer any bronze vase and/or marker, memorial, statue, plaque, or
355 other bronze object used at a cemetery or other location where
356 deceased persons are interred or memorialized, or for any such
357 dealer to purchase those objects, unless the source of the bronze
358 is known and notice is provided to the municipal or county law
359 enforcement agency where the dealer is located. The notice shall
360 identify all names, letters, dates and symbols on the bronze and a
361 photograph of the bronze shall be attached thereto. Written
362 permission from the cemetery and the appropriate law enforcement
363 agency must be received before any type of bronze described in
364 this section may be purchased, processed, sold or melted.

365 **SECTION 13.** The following shall be codified as Section
366 97-17-325, Mississippi Code of 1972:

367 97-17-325. It shall be unlawful for any scrap metal dealer
368 to purchase any manhole cover and other similar types of utility
369 access covers, including storm drain covers, or any metal property
370 clearly identified as belonging to a political subdivision of the
371 state or a municipality, unless that metal property is purchased
372 from the political subdivision, the municipal utility or the
373 manufacturer of the metal. Any purchaser who purchases metal



374 property in bulk shall be allowed twenty-four (24) hours to
375 determine if any metal property prohibited by this subsection is
376 included in a bulk purchase. If such prohibited metal property is
377 included in a bulk purchase, the purchaser shall notify law
378 enforcement no later than twenty-four (24) hours after the
379 purchase.

380 **SECTION 14.** The following shall be codified as Section
381 97-17-327, Mississippi Code of 1972:

382 97-17-327. It shall be unlawful for a scrap metal dealer or
383 other purchaser to purchase metal property from a person younger
384 than eighteen (18) years of age.

385 **SECTION 15.** The following shall be codified as Section
386 97-17-329, Mississippi Code of 1972:

387 97-17-329. Except as provided in this section, any person
388 willfully or knowingly violating the provisions of this act shall,
389 upon conviction thereof, be deemed guilty of a misdemeanor, and
390 shall be punished by a fine not to exceed One Thousand Dollars
391 (\$1,000.00) per offense, unless the purchase transaction or
392 transactions related to the violation, in addition to any costs
393 which are, or would be, incurred in repairing or in the attempt to
394 recover any property damaged in the theft of or removal of the
395 metal property, including replacement costs of the metal property,
396 are in aggregate an amount which exceeds One Thousand Dollars
397 (\$1,000.00) but less than Five Thousand Dollars (\$5,000.00), in
398 which case the person shall be guilty of a felony and shall be



399 imprisoned in the custody of the Department of Corrections for a
400 term not to exceed five (5) years, fined not more than Ten
401 Thousand Dollars (\$10,000.00), or both. Any person found guilty
402 of stealing metal property or receiving metal property, knowing it
403 to be stolen in violation of this act, shall be ordered to make
404 full restitution to the victim, including, without limitation,
405 restitution for property damage that resulted from the theft of
406 the property.

407 **SECTION 16.** The following shall be codified as Section
408 97-17-331, Mississippi Code of 1972:

409 97-17-331. If the purchase transaction or transactions
410 related to the violation, in addition to any costs which are, or
411 would be, incurred in repairing or in the attempt to recover any
412 property damaged in the theft of or removal of the metal property,
413 including replacement costs of the metal property, are in
414 aggregate an amount which exceeds Five Thousand Dollars
415 (\$5,000.00) but less than Twenty-five Thousand Dollars
416 (\$25,000.00), the person shall be guilty of a felony and shall be
417 imprisoned in the custody of the Department of Corrections for a
418 term not to exceed ten (10) years, fined not more than Ten
419 Thousand Dollars (\$10,000.00), or both.

420 **SECTION 17.** The following shall be codified as Section
421 97-17-333, Mississippi Code of 1972:

422 97-17-333. If the purchase transaction or transactions
423 related to the violation, in addition to any costs which are, or



424 would be, incurred in repairing or in the attempt to recover any
425 property damaged in the theft of or removal of the metal property,
426 including replacement costs of the metal property, are in
427 aggregate an amount which exceeds Twenty-five Thousand Dollars
428 (\$25,000.00), the person shall be guilty of a felony and shall be
429 imprisoned in the custody of the Department of Corrections for a
430 term not to exceed twenty (20) years, fined not more than Ten
431 Thousand Dollars (\$10,000.00), or both.

432 **SECTION 18.** The following shall be codified as Section
433 97-17-335, Mississippi Code of 1972:

434 97-17-335. This act shall not be construed to repeal other
435 criminal laws. Whenever conduct proscribed by any provision of
436 this act is also proscribed by any other provision of law, the
437 provision which carries the more serious penalty shall be applied.

438 **SECTION 19.** The following shall be codified as Section
439 97-17-337, Mississippi Code of 1972:

440 97-17-337. This act shall apply to all businesses regulated
441 under this act without regard to the location within the State of
442 Mississippi.

443 **SECTION 20.** The following shall be codified as Section
444 97-17-339, Mississippi Code of 1972:

445 37-17-339. This act shall take precedence over any and all
446 local ordinances governing purchase transactions of metal
447 property. If any municipal or county ordinance, rule, or
448 regulation conflicts with the provisions of this act, the



449 provisions of this act shall preempt the municipal or county
450 ordinance, rule, or regulation.

451 **SECTION 21.** The following shall be codified as Section
452 97-17-341, Mississippi Code of 1972:

453 97-17-341. (1) (a) From and after sixty (60) days after
454 passage of this act, it shall be unlawful for any scrap metal
455 dealer or any person who purchases scrap metal, deals in scrap
456 metal, or otherwise engages in the scrap metal business to fail to
457 register with the Secretary of State. All registrations under
458 this act shall expire two (2) years from the date of the
459 registration or the renewal thereof.

460 (b) The Secretary of State may promulgate and adopt
461 such rules and regulations as are reasonably necessary to carry
462 out the provisions of this act and establish such registration and
463 renewal fees as are adequate to cover the administrative costs
464 associated with the registration program.

465 (c) The Secretary of State may deny, suspend, revoke or
466 refuse to renew any registration following notice to the applicant
467 or registrant in accordance with the promulgated rules and an
468 opportunity for a hearing for any failure to comply with this act,
469 or for other good cause.

470 (2) A violation of this section is a misdemeanor punishable
471 by a fine of not less than Five Hundred Dollars (\$500.00) but not
472 to exceed One Thousand Dollars (\$1,000.00) for the first offense.
473 Any person who shall be guilty of any subsequent violations of



474 this section requiring registration shall be guilty of a felony
475 offense and shall be imprisoned in the custody of the Department
476 of Corrections for a term not to exceed three (3) years, fined not
477 more than Five Thousand Dollars (\$5,000.00), or both.

478 (3) (a) To register or renew registration, the registrant,
479 if an individual, must declare, under penalty of perjury, whether
480 such registrant has ever been convicted of a violation of this act
481 or convicted of any felony offense, or any misdemeanor offense
482 involving fraud, dishonesty, or deceit within five (5) years
483 preceding the date of application. If the registrant is a
484 business entity, the registrant must make the same declarations on
485 behalf of every owner of the business who participates in the
486 operation or management of the business.

487 (b) (i) An applicant who has been convicted of a
488 violation of this act or a felony under paragraph (a) of this
489 subsection may be prohibited from registering under this act for
490 five (5) years from the date of conviction.

491 (ii) Any false statement submitted to the
492 Secretary of State for the purpose of unlawfully registering under
493 this act shall be punished as perjury in the manner provided in
494 Section 97-9-61, and a person so convicted shall be disqualified
495 for life from registering as a scrap metal dealer under this act.

496 (4) The Secretary of State shall immediately report any
497 suspected criminal violation accompanied by all relevant records



498 to the Office of Attorney General and the appropriate district
499 attorney for further proceedings.

500 (5) It is unlawful for a person to make or cause to be made,
501 in a record or statement that is used or obtained in an
502 examination, action, proceeding, or filed under this chapter, a
503 statement that, at the time and in light of the circumstances
504 under which it is made, is false or misleading in a material
505 respect, or, in connection with the statement, to omit to state a
506 material fact necessary to make the statement made, in light of
507 the circumstances under which it was made, not false or
508 misleading.

509 (6) The Secretary of State shall have the authority to:

510 (a) Conduct and carry out criminal background history
511 verification of the information provided by the applicant or
512 registrant and to require the submission of information and forms
513 from the applicant or registrant in order to accomplish the
514 registration duties imposed by this act;

515 (b) Require or permit a person to testify, file a
516 statement, or produce a record, under oath or otherwise, as to all
517 the facts and circumstances concerning a matter to be investigated
518 or about which an action or proceeding is to be instituted;

519 (c) Issue a cease and desist order, with or without a
520 prior hearing, against the scrap metal dealer or other purchaser
521 alleged to be in violation of this act, directing the person or
522 persons to cease and desist from further illegal activity. In the



523 instance of an immediate cease and desist order, the Secretary of
524 State shall hold an administrative hearing on the alleged
525 violations within ten (10) business days;

526 (d) (i) Issue an order against any scrap metal dealer
527 or other purchaser for any violation of this act, imposing an
528 administrative penalty up to a maximum of One Thousand Dollars
529 (\$1,000.00) for each offense. Each violation shall be considered
530 a separate offense in a single proceeding or a series of related
531 proceedings. Any administrative penalty, plus reimbursement for
532 all costs and expenses incurred in the investigation of the
533 violation and any administrative proceedings, shall be paid to the
534 Secretary of State;

535 (ii) For the purpose of determining the amount or
536 extent of a sanction, if any, to be imposed under subparagraph (i)
537 of this paragraph, the Secretary of State shall consider, among
538 other factors, the frequency, persistence and willfulness of the
539 conduct constituting a violation of this act or any rule or order
540 hereunder; the number of persons adversely affected by the
541 conduct; and the resources of the person committing the violation;

542 (e) Bring an action in chancery court to enjoin the
543 acts or practices complained of to enforce compliance with this
544 act or any rule promulgated or order entered hereunder. Upon a
545 proper showing, a permanent or temporary injunction, restraining
546 order, or writ of mandamus shall be granted and a receiver or
547 conservator may be appointed for the defendant or the defendant's



548 assets. In addition, upon a proper showing by the Secretary of
549 State, the court may enter an order of rescission or restitution
550 directed to any person who has engaged in any act constituting a
551 violation of any provision of this act or any rule or order
552 hereunder, or the court may impose a civil penalty up to a maximum
553 of One Thousand Dollars (\$1,000.00) for each offense, provided
554 that each violation shall be considered as a separate offense in a
555 single proceeding or a series of related proceedings. The court
556 may not require the Secretary of State to post a bond.

557 **SECTION 22.** The following shall be codified as Section
558 97-17-343, Mississippi Code of 1972:

559 97-17-343. Any person aggrieved by a final order of the
560 Secretary of State may obtain a review of the order in the
561 Chancery Court of the First Judicial District of Hinds County,
562 Mississippi, by filing in the court, within thirty (30) days after
563 the entry of the order, a written petition praying that the order
564 be modified or set aside, in whole or in part. A copy of the
565 petition shall be forthwith served upon the Secretary of State and
566 thereupon the Secretary of State shall certify and file in court a
567 copy of the filing and evidence upon which the order was entered.
568 When these have been filed, the court has exclusive jurisdiction
569 to affirm, modify, enforce or set aside the order, in whole or in
570 part.

571 **SECTION 23.** The following shall be codified as Section
572 97-17-345, Mississippi Code of 1972:



573 97-17-345. (1) It is an offense for a scrap metal dealer to
574 pay cash to a person who presents an air conditioner evaporator
575 coil or condenser, in whole or in part, for sale as scrap.

576 (2) Scrap metal described in subsection (1) may only be sold
577 for scrap by an authorized agent, representative or employee of
578 one (1) of the following:

579 (a) A licensed HVAC contractor who acquired the
580 evaporator coil or condenser in the performance as a contractor as
581 defined in Section 31-3-1;

582 (b) A company meeting all local or municipal
583 requirements to obtain a permit from that jurisdiction to repair,
584 replace and install HVAC units containing copper evaporator coils
585 or condensers;

586 (c) Where the jurisdiction does not require a permit to
587 repair, replace and install HVAC units containing copper
588 evaporator coils or condensers, by a company holding a privilege
589 license indicating the business as that of an HVAC installer or
590 repairer; or

591 (d) A company holding a privilege license indicating
592 the business as that of an HVAC installer or repairer.

593 (3) The person offering an air conditioner evaporator coil
594 or condenser for sale as scrap on behalf of a company listed in
595 subsection (2) shall have in the person's possession documentation
596 that the company or individual for whom it is being sold is a
597 company or individual described in subsection (2), and that the



598 person selling the evaporator coil or condenser is an authorized
599 agent, representative or employee of that company.

600 (4) Payment for scrap metal described in subsection (1) must
601 be made by check or money order, and the name of the company or
602 individual meeting the requirements of subsection (2) of this
603 section must be the payee on the check.

604 (5) Nothing in this section shall be construed to preclude a
605 person violating this section from also being prosecuted for any
606 other applicable criminal offense.

607 (6) Any purchase of any air conditioner evaporator coil or
608 condenser, as described in this section, in whole or in part, is
609 subject to the record keeping requirements of Section 97-17-305 or
610 97-17-313.

611 **SECTION 24.** The following shall be codified as Section
612 97-17-347, Mississippi Code of 1972:

613 97-17-347. (1) Any person purchasing a used or defective,
614 detached catalytic converter, in whole or in part, must be
615 registered as a scrap metal dealer pursuant to this act.

616 (2) Registered scrap metal dealers may only purchase
617 catalytic converters from:

618 (a) A new, used, or wholesale motor vehicle dealer or
619 motor vehicle manufacturer as defined in, and licensed with the
620 Motor Vehicle Commission pursuant to Chapter 17, Title 63,
621 Mississippi Code of 1972;



622 (b) A National Institute for Automotive Service
623 Excellence (ASE) certified mechanic or ASE certified automotive
624 repair facility, or in the event the mechanic or repair facility
625 is not ASE certified, satisfactory alternative proof as set forth
626 in the rules promulgated by the Secretary of State;

627 (c) A Registered Business Entity, able to provide the
628 information set forth in Section 97-17-305(1)(b), that purchases
629 vehicles as scrap or to be dismantled or destroyed and has
630 complied with the requirements of Section 63-21-39 for each
631 vehicle from which a catalytic convertor has been obtained.

632 (d) A person who possesses documentation that the
633 catalytic converter in the individual's possession is the result
634 of a replacement of a catalytic converter from a vehicle
635 registered in that individual's name. The documentation must
636 include the motor vehicle registration and a receipt showing the
637 replacement of the catalytic converter on the same automobile; or

638 (e) Another scrap metal dealer registered pursuant to
639 this act that has acquired the catalytic convertor from one of the
640 other approved sellers set forth in paragraphs (a) through (d) of
641 this subsection.

642 (3) The person offering a catalytic converter for sale on
643 behalf of a company listed in subsection (2) shall have in the
644 person's possession documentation that the company for whom it is
645 being sold is a company described in subsection (2), and that the



646 person selling the catalytic converter is an authorized agent,
647 representative or employee of that company.

648 (4) Payment for scrap metal described in subsection (1) must
649 be made by check or money order, and the name of the company or
650 individual meeting the requirements of subsection (2) be the payee
651 on the check.

652 (5) Nothing in this section shall be construed to preclude a
653 person violating this section from also being prosecuted for any
654 other applicable criminal offense.

655 (6) Any purchase of any catalytic converter, is subject to
656 the record keeping requirements of Section 97-17-305 or 97-17-313.
657 In addition, the purchaser must keep for two (2) years the
658 documentary proof that the seller meets the criteria set forth
659 above for sellers.

660 (7) For purposes of this section, a used, detached catalytic
661 converter does not include a catalytic converter that has been
662 tested, certified, and labeled for reuse in accordance with
663 applicable U.S. Environmental Protection Agency Clean Air Act
664 regulations, as may from time to time be amended.

665 **SECTION 25.** Section 97-17-71, Mississippi Code of 1972,
666 which establishes the crime of receiving stolen property as it
667 relates to scrap metal, is repealed.

668 **SECTION 26.** Section 97-17-71.1, Mississippi Code of 1972,
669 which requires scrap metal dealers to register with the Office of
670 the Secretary of State, is repealed.



671 **SECTION 27.** Section 97-17-71.2, Mississippi Code of 1972,
672 which prohibits scrap metal dealers from paying cash or making
673 payment of any kind at the time of transaction for air conditioner
674 evaporator coils or condensers, is repealed.

675 **SECTION 28.** This act shall take effect and be in force from
676 and after July 1, 2022.

