

By: Representative Guice

To: Judiciary B

HOUSE BILL NO. 1123

1 AN ACT TO AMEND SECTION 97-17-71.1, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE ANY PERSON WHO TRANSPORTS DETACHED CATALYTIC
 3 CONVERTERS, IN WHOLE OR IN PART, OR SELLS SCRAP METAL TO REGISTER
 4 WITH THE SECRETARY OF STATE; TO PROVIDE THAT SUCH TRANSPORT
 5 WITHOUT REGISTRATION SHALL BE UNLAWFUL; TO INCLUDE SELLING OR
 6 RECEIVING STOLEN PROPERTY TO THE LIST OF CRIMES THAT PROHIBIT
 7 REGISTRATION AS A SCRAP METAL DEALER; TO AMEND SECTION 97-17-71,
 8 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE PURCHASE OF METAL
 9 PROPERTY WITH CASH OR ELECTRONIC CASH TRANSACTIONS SHALL BE
 10 UNLAWFUL; TO PROVIDE A LIST OF REQUIRED DOCUMENTS FOR ANY PERSON
 11 WHO TRANSPORTS DETACHED CATALYTIC CONVERTERS, IN WHOLE OR IN PART;
 12 AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 97-17-71.1, Mississippi Code of 1972, is
 15 amended as follows:

16 97-17-71.1. (1) (a) * * * It shall be unlawful for * * * a
 17 person who transports detached catalytic converters, in whole or
 18 in part, a scrap metal dealer or any person who purchases scrap
 19 metal, deals in scrap metal, sells scrap metal or otherwise
 20 engages in the scrap metal business to fail to register with the
 21 Secretary of State. All registrations under this section shall
 22 expire two (2) years from the date of the registration or the
 23 renewal thereof.



24 (b) The Secretary of State may promulgate and adopt
25 such rules and regulations as are reasonably necessary to carry
26 out the provisions of this section and establish such registration
27 and renewal fees as are adequate to cover the administrative costs
28 associated with the registration program.

29 (c) The Secretary of State may deny, suspend, revoke or
30 refuse to renew any registration following notice to the applicant
31 or registrant in accordance with the promulgated rules and an
32 opportunity for a hearing for any failure to comply with this
33 section, or for other good cause.

34 (2) A violation of this section is a misdemeanor punishable
35 by a fine of not less than Five Hundred Dollars (\$500.00) but not
36 to exceed One Thousand Dollars (\$1,000.00) for the first offense.
37 Any person who shall be guilty of any subsequent violations of
38 this section requiring registration shall be guilty of a felony
39 offense and shall be imprisoned in the custody of the Department
40 of Corrections for a term not to exceed three (3) years, fined not
41 more than Five Thousand Dollars (\$5,000.00), or both.

42 (3) (a) To register or renew registration, the registrant
43 must declare, under penalty of perjury, whether such registrant
44 has ever been convicted of a violation of Section 97-17-71 or
45 convicted of a criminal offense of larceny, burglary * * *,
46 vandalism, selling stolen property, or receiving stolen property
47 where the offense involved metal property as defined in Section
48 97-17-71.



49 (b) (i) An applicant who has been convicted of a
50 violation of Section 97-17-71, or who has a conviction for a
51 criminal offense of larceny, burglary * * *, vandalism, selling
52 stolen property, or receiving stolen property where such offense
53 involved metal property, shall be prohibited from registering
54 under this section for five (5) years from the date of conviction.

55 (ii) Any false statement submitted to the
56 Secretary of State for the purpose of unlawfully registering under
57 this section shall be punished as perjury in the manner provided
58 in Section 97-9-61, and a person so convicted shall be
59 disqualified for life from registering as a scrap metal dealer
60 under this section.

61 (4) The Secretary of State shall immediately report any
62 suspected criminal violation accompanied by all relevant records
63 to the Office of Attorney General and the appropriate district
64 attorney for further proceedings.

65 (5) The Secretary of State shall have the authority to:

66 (a) Conduct and carry out criminal background history
67 verification of the information provided by the applicant or
68 registrant and to require the submission of information and forms
69 from the applicant or registrant in order to accomplish the
70 registration duties imposed by this section;

71 (b) Issue a cease and desist order, with a prior
72 hearing, against the scrap metal dealer * * * other purchaser or
73 transporter alleged to be in violation of this section, directing



74 the person or persons to cease and desist from further illegal
75 activity;

76 (c) (i) Issue an order against any scrap metal
77 dealer * * * other purchaser or transporter other purchaser for
78 any violation of this section, imposing an administrative penalty
79 up to a maximum of One Thousand Dollars (\$1,000.00) for each
80 offense. Each violation shall be considered a separate offense in
81 a single proceeding or a series of related proceedings. Any
82 administrative penalty, plus reimbursement for all costs and
83 expenses incurred in the investigation of the violation and any
84 administrative proceedings, shall be paid to the Secretary of
85 State;

86 (ii) For the purpose of determining the amount or
87 extent of a sanction, if any, to be imposed under paragraph (c)(i)
88 of this subsection, the Secretary of State shall consider, among
89 other factors, the frequency, persistence and willfulness of the
90 conduct constituting a violation of this section or any rule or
91 order hereunder; the number of persons adversely affected by the
92 conduct; and the resources of the person committing the violation;

93 (d) Bring an action in chancery court to enjoin the
94 acts or practices complained of to enforce compliance with this
95 section or any rule promulgated or order entered hereunder. Upon
96 a proper showing, a permanent or temporary injunction, restraining
97 order, or writ of mandamus shall be granted and a receiver or
98 conservator may be appointed for the defendant or the defendant's



99 assets. In addition, upon a proper showing by the Secretary of
100 State, the court may enter an order of rescission or restitution
101 directed to any person who has engaged in any act constituting a
102 violation of any provision of this section or any rule or order
103 hereunder, or the court may impose a civil penalty up to a maximum
104 of One Thousand Dollars (\$1,000.00) for each offense, provided
105 that each violation shall be considered as a separate offense in a
106 single proceeding or a series of related proceedings. The court
107 may not require the Secretary of State to post a bond.

108 (6) Any person aggrieved by a final order of the Secretary
109 of State may obtain a review of the order in the Chancery Court of
110 the First Judicial District of Hinds County, Mississippi, by
111 filing in the court, within thirty (30) days after the entry of
112 the order, a written petition praying that the order be modified
113 or set aside, in whole or in part. A copy of the petition shall
114 be forthwith served upon the Secretary of State and thereupon the
115 Secretary of State shall certify and file in court a copy of the
116 filing and evidence upon which the order was entered. When these
117 have been filed, the court has exclusive jurisdiction to affirm,
118 modify, enforce or set aside the order, in whole or in part.

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

121 97-17-71. (1) For the purposes of this section, the
122 following terms shall have the meanings ascribed in this section:



123 (a) "Railroad materials" means any materials, equipment
124 and parts used in the construction, operation, protection and
125 maintenance of a railroad.

126 (b) "Copper materials" means any copper wire, bars,
127 rods or tubing, including copper wire or cable or coaxial cable of
128 the type used by public utilities, common carriers or
129 communication services providers, whether wireless or wire line,
130 copper air conditioner evaporator coil or condenser, aluminum
131 copper radiators not attached to a motor vehicle, or any
132 combination of these.

133 (c) "Aluminum materials" means any aluminum cable,
134 bars, rods or tubing of the type used to construct utility,
135 communication or broadcasting towers, aluminum utility wire and
136 aluminum irrigation pipes or tubing. "Aluminum materials" does
137 not include aluminum cans that have served their original economic
138 purpose.

139 (d) "Law enforcement officer" means any person
140 appointed or employed full time by the state or any political
141 subdivision thereof, or by the state military department as
142 provided in Section 33-1-33, who is duly sworn and vested with
143 authority to bear arms and make arrests, and whose primary
144 responsibility is the prevention and detection of crime, the
145 apprehension of criminals and the enforcement of the criminal
146 traffic laws of this state or the ordinances of any political
147 subdivision thereof.



148 (e) "Metal property" means materials as defined in this
149 section as railroad track materials, copper materials and aluminum
150 materials and electrical, communications or utility brass, metal
151 covers for service access and entrances to sewers and storm
152 drains, metal bridge pilings, irrigation wiring and other metal
153 property attached to or part of center pivots, grain bins,
154 stainless steel sinks, catalytic converters, in whole or in part,
155 not attached to a motor vehicle and metal beer kegs. Metal
156 property does not include ferrous materials not listed in this
157 section.

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

161 (g) "Personal identification card" means any government
162 issued photographic identification card including a valid
163 identification card issued by a federally recognized Indian tribe
164 that contains a color photograph of the card holder and the card
165 holder's legal name, residence address and date of birth.

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

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



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

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

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

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

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

190 (b) The date and place of each acquisition of the metal
191 property;

192 (c) The weight, quantity or volume and a general
193 physical description of the type of metal property, such as wire,
194 tubing, extrusions or casting, purchased in a purchase
195 transaction;



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

198 (e) The vehicle license tag number, state of issue and
199 the make and type of the vehicle used to deliver the metal
200 property to the purchaser;

201 (f) If a person other than the seller delivers the
202 metal property to the purchaser, the name, address and age of the
203 person who delivers the metal property;

204 (g) A signed statement from the person receiving
205 consideration in the purchase transaction stating that he is the
206 rightful owner of the metal property or is entitled to sell the
207 metal property being sold;

208 (h) (i) A scanned copy or a photocopy of the personal
209 identification card of the person receiving consideration in the
210 purchase transaction; or

211 (ii) If a person other than the seller delivers
212 the metal property to the purchaser, a scanned copy or a photocopy
213 of the personal identification card of the person delivering the
214 metal property to the purchaser; and

215 (i) A photograph, videotape or similar likeness of the
216 person receiving consideration or any person other than the seller
217 who delivers the metal property to the purchaser in which the
218 person's facial features are clearly visible and in which the
219 metal property the person is selling or delivering is clearly
220 visible.



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

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

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



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

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



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

273 (c) At the expiration of the hold period or, if
274 extended in accordance with this subsection, at the expiration of
275 the extended hold period, the hold is automatically released, then
276 the scrap metal dealer or purchaser may dispose of the metal
277 property unless other disposition has been ordered by a court of
278 competent jurisdiction.

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

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



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

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

302 (a) A law enforcement officer acting in an official
303 capacity;

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

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

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

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

315 (7) It shall be unlawful for any person to give a false
316 statement of ownership or to give a false or altered
317 identification or vehicle tag number and receive money or other
318 consideration from a scrap metal dealer or other purchaser in
319 return for metal property.



320 (8) * * * It shall be unlawful for a scrap metal dealer or
321 other purchaser * * * to enter into any cash transactions,
322 including electronic cash-like transactions, in payment for the
323 purchase of metal property. Payment shall be made by check issued
324 to the seller of the metal, made payable to the name and address
325 of the seller and mailed to the recorded address of the seller, or
326 by electronic funds transfer. Payment shall not be made for a
327 period of three (3) days after the purchase transaction.

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

333 (10) (a) It shall be unlawful for any person to transport
334 or cause to be transported for himself or another from any point
335 within this state to any point within or outside this state any
336 metal property, unless the person or entity first reports to the
337 sheriff of the county from which he or she departs within this
338 state transporting such materials the same information that a
339 purchaser in this state would be required to obtain and keep in a
340 record as set forth in subsection (2) of this section. In
341 addition to the items listed in subsection (2), any person
342 transporting a catalytic converter shall provide the following:
343 (i) the name of the person or company that removed the catalytic
344 converter; (ii) the name of the person for whom the work was



345 completed; (iii) the make and model of the vehicle from which the
346 catalytic converter was removed; (iv) the vehicle identification
347 number of the vehicle from which the catalytic converter was
348 removed; (v) the part number or other identifying number of the
349 catalytic converter that was removed; and (vi) the certificate of
350 title or certificate of registration showing the seller's
351 ownership interest in the vehicle.

352 (b) In any such * * * case the sheriff receiving the
353 report shall keep the information in records maintained in his
354 office as a public record available for inspection by any person
355 at all reasonable times. This section shall not apply to a public
356 utility, as that term is defined in Section 77-3-3, engaged in
357 carrying on utility operations; to a railroad, as that term is
358 defined in Section 77-9-5; to a communications service provider,
359 whether wireless or wire line; to a scrap metal dealer; or to a
360 person identified in subsection (6) as being exempt from the
361 provisions of this section.

362 (11) It shall be unlawful for a scrap metal dealer or other
363 purchaser to knowingly purchase or possess a metal beer keg, or a
364 metal syrup tank generally used by the soft drink industry,
365 whether damaged or undamaged, or any reasonably recognizable part
366 thereof, on any premises that the dealer uses to buy, sell, store,
367 shred, melt, cut or otherwise alter scrap metal. However, it
368 shall not be unlawful to purchase or possess a metal syrup tank
369 generally used by the soft drink industry if the scrap metal



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

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

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



395 subsection is included in a bulk purchase. If such prohibited
396 metal property is included in a bulk purchase, the purchaser shall
397 notify law enforcement no later than twenty-four (24) hours after
398 the purchase.

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

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

404 (16) Except as otherwise provided in this * * * section, any
405 person * * * violating the provisions of this section shall, upon
406 conviction thereof, be deemed guilty of a misdemeanor, and shall
407 be punished by a fine not to exceed One Thousand Dollars
408 (\$1,000.00) per offense, unless the purchase transaction or
409 transactions related to the violation, in addition to any costs
410 which are, or would be, incurred in repairing or in the attempt to
411 recover any property damaged in the theft of or removal of the
412 metal property, are in aggregate an amount which exceeds One
413 Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars
414 (\$5,000.00), in which case the person shall be guilty of a felony
415 and shall be imprisoned in the custody of the Department of
416 Corrections for a term not to exceed five (5) years, fined not
417 more than Ten Thousand Dollars (\$10,000.00), or both. Any person
418 found guilty of stealing metal property or receiving metal
419 property, knowing it to be stolen in violation of Section



420 97-17-70, shall be ordered to make full restitution to the victim,
421 including, without limitation, restitution for property damage
422 that resulted from the theft of the property.

423 (17) If the purchase transaction or transactions related to
424 the violation, in addition to any costs which are, or would be,
425 incurred in repairing or in the attempt to recover any property
426 damaged in the theft of or removal of the metal property, are in
427 aggregate an amount which exceeds Five Thousand Dollars
428 (\$5,000.00) but less than Twenty-five Thousand Dollars
429 (\$25,000.00), the person shall be guilty of a felony and shall be
430 imprisoned in the custody of the Department of Corrections for a
431 term not to exceed ten (10) years, fined not more than Ten
432 Thousand Dollars (\$10,000.00), or both.

433 (18) If the purchase transaction or transactions related to
434 the violation, in addition to any costs which are, or would be,
435 incurred in repairing or in the attempt to recover any property
436 damaged in the theft of or removal of the metal property, are in
437 aggregate an amount which exceeds Twenty-five Thousand Dollars
438 (\$25,000.00), the person shall be guilty of a felony and shall be
439 imprisoned in the custody of the Department of Corrections for a
440 term not to exceed twenty (20) years, fined not more than Ten
441 Thousand Dollars (\$10,000.00), or both.

442 (19) This section shall not be construed to repeal other
443 criminal laws. Whenever conduct proscribed by any provision of



444 this section is also proscribed by any other provision of law, the
445 provision which carries the more serious penalty shall be applied.

446 (20) This section shall apply to all businesses regulated
447 under this section without regard to the location within the State
448 of Mississippi.

449 (21) This section shall not be construed to prohibit
450 municipalities and counties from enacting and implementing
451 ordinances, rules and regulations that impose stricter
452 requirements relating to purchase transactions.

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

