

By: Representative Haney

To: Judiciary B

HOUSE BILL NO. 1232

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 felony punishable by a  
35 fine of not less than Five Hundred Dollars (\$500.00) but not to  
36 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 for any violation of  
78 this section, imposing an administrative penalty up to a maximum  
79 of One Thousand Dollars (\$1,000.00) for each offense. Each  
80 violation shall be considered a separate offense in a single  
81 proceeding or a series of related proceedings. Any administrative  
82 penalty, plus reimbursement for all costs and expenses incurred in  
83 the investigation of the violation and any administrative  
84 proceedings, shall be paid to the Secretary of State;

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

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



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

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

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

120 97-17-71. (1) For the purposes of this section, the  
121 following terms shall have the meanings ascribed in this section:



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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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





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

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

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

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

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

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

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



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

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

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



244           (5)   (a)   Whenever a law enforcement officer has reasonable  
245   cause to believe that any item of metal property in the possession  
246   of a scrap metal dealer or other purchaser 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 or other purchaser.  
251   The hold notice shall specifically identify those items of metal  
252   property that are believed to have been stolen and that are  
253   subject to the hold notice. Upon receipt of the notice, the scrap  
254   metal dealer or other purchaser may not process or remove the  
255   metal property identified in the notice from the place of business  
256   of the scrap metal dealer or purchaser for fifteen (15) calendar  
257   days after receipt of the notice, unless sooner released by a law  
258   enforcement officer.

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



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

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

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

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



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

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

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

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

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

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

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

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



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

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

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



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

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

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



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

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

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





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

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

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

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



419 97-17-70, shall be ordered to make full restitution to the victim,  
420 including, without limitation, restitution for property damage  
421 that resulted from the theft of the property.

422 (17) If the purchase transaction or transactions related to  
423 the violation, in addition to any costs which are, or would be,  
424 incurred in repairing or in the attempt to recover any property  
425 damaged in the theft of or removal of the metal property, are in  
426 aggregate an amount which exceeds Five Thousand Dollars  
427 (\$5,000.00) but less than 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 ten (10) years, fined not more than Ten  
431 Thousand Dollars (\$10,000.00), or both.

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

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



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

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

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

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

