

By: Senator(s) Seymour

To: Judiciary, Division B

SENATE BILL NO. 2551

1 AN ACT TO AMEND SECTION 97-17-71, MISSISSIPPI CODE OF 1972,  
2 TO EXCLUDE NONFUNCTIONING WINDOW AIR CONDITIONER UNITS AND  
3 STAINLESS STEEL SINKS FROM THE REGULATION OF SCRAP-METAL SALES;  
4 AND FOR RELATED PURPOSES.

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

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

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

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

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



19 combination of these. "Copper materials" does not include any  
20 part of a nonfunctioning window air-conditioning unit.

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

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

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



44 include ferrous materials not listed in this section and does not  
45 include stainless steel sinks.

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

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

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

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

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

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

64 (l) "Scrap metal dealer" means any person who is  
65 engaged, from a fixed location or otherwise, in the business of  
66 paying compensation for metal property that has served its  
67 original economic purpose, whether or not the person is engaged in  
68 the business of performing the manufacturing process by which



69 metals are converted into raw material products consisting of  
70 prepared grades and having an existing or potential economic  
71 value.

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

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

78 (b) The date and place of each acquisition of the metal  
79 property;

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

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

86 (e) The vehicle license tag number, state of issue and  
87 the make and type of the vehicle used to deliver the metal  
88 property to the purchaser;

89 (f) If a person other than the seller delivers the  
90 metal property to the purchaser, the name, address and age of the  
91 person who delivers the metal property;

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



94 rightful owner of the metal property or is entitled to sell the  
95 metal property being sold;

96 (h) (i) A scanned copy or a photocopy of the personal  
97 identification card of the person receiving consideration in the  
98 purchase transaction; or

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

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

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

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



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

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

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



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

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

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

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



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

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

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

190 (a) A law enforcement officer acting in an official  
191 capacity;





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

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

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

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

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

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

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



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

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

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



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

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

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



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

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

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

278 (16) Except as provided in this subsection, any person  
279 willfully or knowingly violating the provisions of this section  
280 shall, upon conviction thereof, be deemed guilty of a misdemeanor,  
281 and shall be punished by a fine not to exceed One Thousand Dollars  
282 (\$1,000.00) per offense, unless the purchase transaction or  
283 transactions related to the violation, in addition to any costs  
284 which are, or would be, incurred in repairing or in the attempt to  
285 recover any property damaged in the theft of or removal of the  
286 metal property, are in aggregate an amount which exceeds One  
287 Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars  
288 (\$5,000.00), in which case the person shall be guilty of a felony  
289 and shall be imprisoned in the custody of the Department of  
290 Corrections for a term not to exceed five (5) years, fined not  
291 more than Ten Thousand Dollars (\$10,000.00), or both. Any person



292 found guilty of stealing metal property or receiving metal  
293 property, knowing it to be stolen in violation of Section  
294 97-17-70, shall be ordered to make full restitution to the victim,  
295 including, without limitation, restitution for property damage  
296 that resulted from the theft of the property.

297 (17) If the purchase transaction or transactions related to  
298 the violation, in addition to any costs which are, or would be,  
299 incurred in repairing or in the attempt to recover any property  
300 damaged in the theft of or removal of the metal property, are in  
301 aggregate an amount which exceeds Five Thousand Dollars  
302 (\$5,000.00) but less than Twenty-five Thousand Dollars  
303 (\$25,000.00), the person shall be guilty of a felony and shall be  
304 imprisoned in the custody of the Department of Corrections for a  
305 term not to exceed ten (10) years, fined not more than Ten  
306 Thousand Dollars (\$10,000.00), or both.

307 (18) If the purchase transaction or transactions related to  
308 the violation, in addition to any costs which are, or would be,  
309 incurred in repairing or in the attempt to recover any property  
310 damaged in the theft of or removal of the metal property, are in  
311 aggregate an amount which exceeds Twenty-five Thousand Dollars  
312 (\$25,000.00), the person shall be guilty of a felony and shall be  
313 imprisoned in the custody of the Department of Corrections for a  
314 term not to exceed twenty (20) years, fined not more than Ten  
315 Thousand Dollars (\$10,000.00), or both.



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

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

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

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

