

House Amendments to Senate Bill No. 2545

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

14 97-17-71. (1) For the purposes of this section, the
15 following terms shall have the meanings ascribed in this section:

16 (a) "Railroad materials" means any materials, equipment
17 and parts used in the construction, operation, protection and
18 maintenance of a railroad.

19 (b) "Copper materials" means any copper wire, bars,
20 rods or tubing, including copper wire or cable or coaxial cable of
21 the type used by public utilities, common carriers or
22 communication services providers, whether wireless or wire line,
23 copper air conditioner evaporator coil or condenser, aluminum
24 copper radiators not attached to a motor vehicle, or any
25 combination of these.

26 (c) "Aluminum materials" means any aluminum cable,
27 bars, rods or tubing of the type used to construct utility,
28 communication or broadcasting towers, aluminum utility wire and

29 aluminum irrigation pipes or tubing. "Aluminum materials" does
30 not include aluminum cans that have served their original economic
31 purpose.

32 (d) "Dealer-to-dealer transaction(s)" means any
33 transaction of regulated metals, regardless of compensation,
34 between registered scrap metal dealers.

35 (* * *e) "Law enforcement officer" means any person
36 appointed or employed full time by the state or any political
37 subdivision thereof, or by the state military department as
38 provided in Section 33-1-33, who is duly sworn and vested with
39 authority to bear arms and make arrests, and whose primary
40 responsibility is the prevention and detection of crime, the
41 apprehension of criminals and the enforcement of the criminal
42 traffic laws of this state or the ordinances of any political
43 subdivision thereof.

44 (* * *f) "Metal property" means materials as defined
45 in this section as railroad track materials, copper materials and
46 aluminum materials and electrical, communications or utility
47 brass, metal covers for service access and entrances to sewers and
48 storm drains, metal bridge pilings, irrigation wiring and other
49 metal property attached to or part of center pivots, grain bins,
50 stainless steel sinks, catalytic converters not attached to a
51 motor vehicle and metal beer kegs. Metal property does not
52 include ferrous materials not listed in this section.

53 (* * *g) "Person" means an individual, partnership,
54 corporation, joint venture, trust, limited liability company,
55 association or any other legal or commercial entity.

56 (* * *h) "Personal identification card" means any
57 government issued photographic identification card including a
58 valid identification card issued by a federally recognized Indian
59 tribe that contains a color photograph of the card holder and the
60 card holder's legal name, residence address and date of birth.

61 (* * *i) "Photograph" or "photographically" means a
62 still photographic image, including images captured in digital
63 format, that are of such quality that the persons and objects
64 depicted are clearly identifiable.

65 (* * *j) "Purchase transaction" means a transaction in
66 which * * * metal property is acquired whether the person
67 acquiring the metal property gives consideration for the metal
68 property or not. For purposes of this act, the words "purchase"
69 and "purchased" mean a purchase transaction.

70 (* * *k) "Purchaser" means a person who * * * acquires
71 metal property, whether the person gives consideration for the
72 metal property or not.

73 (* * *l) "Record" or "records" means a paper,
74 electronic or other method of storing information.

75 (m) "Registered business entity" means a business
76 entity created by statute, registered and in good standing with
77 its state of incorporation or formation, and having a federal
78 Employer Identification Number (EIN). This term does not include

79 any sole proprietorship, fictitious business name, or nonstatutory
80 general partnership.

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

83 (* * *o) "Scrap metal dealer" means any person who is
84 engaged, from a fixed location or otherwise, * * * acquiring by
85 purchase transaction, metal property that has served its original
86 economic purpose, whether or not the person is engaged in the
87 business of performing the manufacturing process by which metals
88 are converted into raw material products consisting of prepared
89 grades and having an existing or potential economic value. Any
90 person who falls under this definition must register as a scrap
91 metal dealer pursuant to this act and its rules.

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

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

98 (i) If a person other than the seller delivers the
99 metal property to the purchaser, the purchaser shall enter the
100 name, address, and age of the person who delivers the metal
101 property, as obtained from the personal identification card of the
102 person delivering the metal property. If the person delivering
103 the metal property is the employee of the scrap metal dealer
104 purchasing the property, the purchaser is not required to enter

105 the name, address, and age of the person who delivers the metal
106 property.

107 (ii) If the seller is a registered business
108 entity, and a person other than the seller delivers the metal
109 property to the purchaser, in addition to the information required
110 by this paragraph, the purchaser shall enter the name, principal
111 business address, state of incorporation or formation of the
112 entity, the federal Employer Identification Number (EIN) of the
113 entity, and the name and telephone number of a contact person for
114 the seller.

115 (b) The date and place of each acquisition of the metal
116 property;

117 (c) The weight, quantity or volume and a general
118 physical description of the type of metal property, such as wire,
119 tubing, extrusions or casting, * * * acquired in a purchase
120 transaction;

121 (d) The amount of consideration given in a purchase
122 transaction for the metal property. If no consideration is given,
123 a record of the origin of the regulated metal;

124 (e) The vehicle license tag number, state of issue and
125 the make and type of the vehicle used to deliver the metal
126 property to the purchaser;

127 * * *

128 (* * *f) A signed statement from the person receiving
129 consideration in the purchase transaction stating that he or she
130 is the rightful owner of the metal property or is entitled to sell

131 the metal property being sold. Signed statements as required by
132 this section may be collected and recorded on paper, by
133 photographic copy, or other alternative formats as set forth in
134 the rules promulgated by the Secretary of State;

135 (* * *g) * * * A scanned copy or a photocopy of the
136 personal identification card of the person receiving
137 consideration, or delivering the metal property in the purchase
138 transaction; * * *

139 * * *

140 (* * *h) A photograph, videotape or similar likeness
141 of the person receiving consideration or any person other than the
142 seller who delivers the metal property to the purchaser in which
143 the person's facial features are clearly visible and in which the
144 metal property the person is selling or delivering is clearly
145 visible.

146 Such records shall be maintained by the scrap metal dealer or
147 purchaser for not less than two (2) years from the date of the
148 purchase transaction, and such records shall be made available to
149 any law enforcement officer or Secretary of State examiner during
150 usual and customary business hours. Any photograph of metal
151 property taken and maintained pursuant to this subsection shall be
152 admissible in any civil or criminal proceeding.

153 (3) * * * The purchaser shall * * * photographically capture
154 the metal property * * * as it exists when it is acquired by the
155 purchaser. The time and date shall be digitally recorded on the
156 photograph, and the identity of the person taking the photograph

157 shall be recorded. The purchaser shall permit any law enforcement
158 officer or Secretary of State examiner to make an inspection of
159 the metal property * * *, if the metal property is still in the
160 purchaser's possession, and of all photographs of the metal
161 property. Any photograph of metal property taken and maintained
162 pursuant to this subsection shall be admissible in any civil or
163 criminal proceeding.

164 (4) During the usual and customary business hours of a scrap
165 metal dealer * * *, a law enforcement officer or Secretary of
166 State examiner, after proper identification as a law enforcement
167 officer or Secretary of State examiner, shall have the right to
168 inspect all purchased metal property and all records pertaining to
169 the purchase of regulated metals in the possession of the scrap
170 metal dealer or purchaser.

171 (5) (a) Whenever a law enforcement officer has reasonable
172 cause to believe that any item of metal property in the possession
173 of a scrap metal dealer * * * has been stolen, a law enforcement
174 officer who has an affidavit from the alleged rightful owner of
175 the property identifying the property with specificity, including
176 any identifying markings, may issue and deliver a written hold
177 notice to the scrap metal dealer * * *. The hold notice shall
178 specifically identify those items of metal property that are
179 believed to have been stolen and that are subject to the hold
180 notice. Upon receipt of the notice, the scrap metal dealer * * *
181 may not process or remove the metal property identified in the
182 notice from the place of business of the scrap metal dealer * * *

183 for fifteen (15) calendar days after receipt of the notice, unless
184 sooner released by a law enforcement officer.

185 (b) No later than the expiration of the fifteen-day
186 period, a law enforcement officer, after receiving additional
187 substantive evidence beyond the initial affidavit, may issue and
188 deliver a second written hold notice, which shall be an extended
189 hold notice. The extended hold notice shall specifically identify
190 those items of metal property that are believed to have been
191 stolen and that are subject to the extended hold notice. Upon
192 receipt of the extended hold notice, the scrap metal dealer * * *
193 may not process or remove the items of metal property identified
194 in the notice from the place of business of the scrap metal
195 dealer * * * for fifteen (15) calendar days after receipt of the
196 extended hold notice, unless sooner released by a law enforcement
197 officer.

198 (c) At the expiration of the hold period or, if
199 extended in accordance with this subsection, at the expiration of
200 the extended hold period, the hold is automatically released, then
201 the scrap metal dealer * * * may dispose of the metal property
202 unless other disposition has been ordered by a court of competent
203 jurisdiction.

204 (d) If the scrap metal dealer * * * contests the
205 identification or ownership of the metal property, the party other
206 than the scrap metal dealer * * * claiming ownership of any metal
207 property in the possession of a scrap metal dealer * * *, provided
208 that a timely report of the theft of the metal property was made

209 to the proper authorities, may bring a civil action in the circuit
210 court of the county in which the scrap metal dealer or purchaser
211 is located. The petition for the action shall include the means
212 of identification of the metal property utilized by the petitioner
213 to determine ownership of the metal property in the possession of
214 the scrap metal dealer * * *.

215 (e) When a lawful owner recovers stolen metal property
216 from a scrap metal dealer * * * who has complied with this
217 section, and the person who sold the metal property to the scrap
218 metal dealer * * * is convicted of a violation of this section, or
219 theft by receiving stolen property under Section 97-17-70, the
220 court shall order the convicted person to make full restitution to
221 the scrap metal dealer * * *, including, without limitation,
222 attorney's fees, court costs and other expenses.

223 (6) * * * For dealer-to-dealer transactions, records
224 required to be kept include:

225 (a) * * * Name and address of selling dealer,

226 (b) * * * Date and place of each acquisition of the
227 metal property,

228 (c) * * * The weight, quantity, or volume and a general
229 description of the type of metal property, and

230 (d) * * * The amount or type of consideration given for
231 the metal property by the purchasing dealer.

232 * * *

233 Such records shall be maintained by the scrap metal dealer
234 for not less than two (2) years from the date of the purchase

235 transaction, and such records shall be made available to any law
236 enforcement officer or Secretary of State examiner during usual
237 and customary business hours.

238 (7) It shall be unlawful for any person to give a false
239 statement of ownership or to give a false or altered
240 identification or vehicle tag number and receive money or other
241 consideration from a scrap metal dealer or other purchaser in
242 return for metal property.

243 (8) * * *. Unless the seller is a registered business
244 entity, able to provide the information set forth in this section,
245 a scrap metal dealer shall not enter into any cash transactions in
246 payment for the purchase of metal property.

247 (9) If a person acquiring metal property fails to maintain
248 the records or to hold such materials * * * as requested by a law
249 enforcement officer under this act, such failure shall be prima
250 facie evidence that the person receiving the metal property
251 received it knowing it to be stolen in violation of Section
252 97-17-70.

253 * * *

254 (* * * 10) It shall be unlawful for a scrap metal dealer or
255 other purchaser to knowingly purchase or possess a metal beer keg,
256 or a metal syrup tank generally used by the soft drink industry,
257 whether damaged or undamaged, or any reasonably recognizable part
258 thereof, on any premises that the dealer uses to buy, sell, store,
259 shred, melt, cut or otherwise alter scrap metal. However, it
260 shall not be unlawful to purchase or possess a metal syrup tank

261 generally used by the soft drink industry if the scrap metal
262 dealer or other purchaser obtains a bill of sale at the time of
263 purchase from a seller if the seller is a manufacturer of such
264 tanks, a soft drink company or a soft drink distributor.

265 (* * *11) It shall be unlawful to sell to a scrap metal
266 dealer any bronze vase and/or marker, memorial, statue, plaque, or
267 other bronze object used at a cemetery or other location where
268 deceased persons are interred or memorialized, or for any such
269 dealer to purchase those objects, unless the source of the bronze
270 is known and notice is provided to the municipal or county law
271 enforcement agency where the dealer is located. The notice shall
272 identify all names, letters, dates and symbols on the bronze and a
273 photograph of the bronze shall be attached thereto. Written
274 permission from the cemetery and the appropriate law enforcement
275 agency must be received before any type of bronze described in
276 this subsection may be purchased, processed, sold or melted.

277 (* * *12) (a) It shall be unlawful for any scrap metal
278 dealer to purchase any manhole cover and other similar types of
279 utility access covers, including storm drain covers, or any metal
280 property clearly identified as belonging to a political
281 subdivision of the state or a municipality, unless that metal
282 property is purchased from the political subdivision, the
283 municipal utility or the manufacturer of the metal. Any purchaser
284 who purchases metal property in bulk shall be allowed twenty-four
285 (24) hours to determine if any metal property prohibited by this
286 subsection is included in a bulk purchase. If such prohibited

287 metal property is included in a bulk purchase, the purchaser shall
288 notify law enforcement no later than twenty-four (24) hours after
289 the purchase.

290 (b) It shall be unlawful for a person to sell, or any
291 scrap metal dealer to purchase, any copper telecommunication wire
292 in any form or any metal property clearly identified as belonging
293 to a telecommunications company, unless that metal property is
294 purchased from (i) an electrician or contractor to whom either a
295 license has been issued by a municipality or county in this state
296 or a current certificate of responsibility has been issued by the
297 State Board of Public Contractors; or (ii) a person who holds a
298 demolition permit issued by a municipality or county in this
299 state. It shall be unlawful for a person to sell, or a scrap
300 metal dealer to purchase, copper telecommunication wire that has
301 been burned to remove the insulation, unless the seller provides
302 certification, on a form as issued by the Secretary of State and
303 signed by a firefighter who is currently in compliance with the
304 certification requirements of the Mississippi Fire Personnel
305 Minimum Standards and Certification Board or a certified law
306 enforcement officer, that the source of the copper
307 telecommunication wire was from a building destroyed by fire.

308 (* * *13) It shall be unlawful for a scrap metal dealer or
309 other purchaser to purchase metal property from a person younger
310 than eighteen (18) years of age.

311 (* * *14) Metal property may not be purchased, acquired or
312 collected between the hours of 9:00 p.m. and 6:00 a.m.

313 (* * *15) Except as provided in this subsection, any person
314 willfully or knowingly violating the provisions of this * * * act
315 shall, upon conviction thereof, be deemed guilty of a misdemeanor,
316 and shall be punished by a fine not to exceed One Thousand Dollars
317 (\$1,000.00) per offense, unless the purchase transaction or
318 transactions related to the violation, in addition to any costs
319 which are, or would be, incurred in repairing or in the attempt to
320 recover any property damaged in the theft of or removal of the
321 metal property, including replacement costs of the metal property,
322 are in aggregate an amount which exceeds One Thousand Dollars
323 (\$1,000.00) but less than Five Thousand Dollars (\$5,000.00), in
324 which case the person shall be guilty of a felony and shall be
325 imprisoned in the custody of the Department of Corrections for a
326 term not to exceed five (5) years, fined not more than Ten
327 Thousand Dollars (\$10,000.00), or both. Any person found guilty
328 of stealing metal property or receiving metal property, knowing it
329 to be stolen in violation of Section 97-17-70, shall be ordered to
330 make full restitution to the victim, including, without
331 limitation, restitution for property damage that resulted from the
332 theft of the property.

333 (* * *16) If the purchase transaction or transactions
334 related to the violation, in addition to any costs which are, or
335 would be, incurred in repairing or in the attempt to recover any
336 property damaged in the theft of or removal of the metal property,
337 including replacement costs of the metal property, are in
338 aggregate an amount which exceeds Five Thousand Dollars

339 (\$5,000.00) but less than Twenty-five Thousand Dollars
340 (\$25,000.00), the person shall be guilty of a felony and shall be
341 imprisoned in the custody of the Department of Corrections for a
342 term not less than one (1) year, but not to exceed ten (10) years,
343 fined not more than * * * Fifteen Thousand Dollars (\$15,000.00),
344 or both.

345 (* * * 17) If the purchase transaction or transactions
346 related to the violation, in addition to any costs which are, or
347 would be, incurred in repairing or in the attempt to recover any
348 property damaged in the theft of or removal of the metal property,
349 including replacement costs of the metal property, are in
350 aggregate an amount which exceeds Twenty-five Thousand Dollars
351 (\$25,000.00), the person shall be guilty of a felony and shall be
352 imprisoned in the custody of the Department of Corrections for a
353 term not less than three (3) years, but not to exceed twenty (20)
354 years, fined not more than * * * Twenty Thousand Dollars
355 (\$20,000.00), or both.

356 (* * * 18) This section shall not be construed to repeal
357 other criminal laws. Whenever conduct proscribed by any provision
358 of this section is also proscribed by any other provision of law,
359 the provision which carries the more serious penalty shall be
360 applied.

361 (* * * 19) This section shall apply to all businesses
362 regulated under this section without regard to the location within
363 the State of Mississippi.

364 (* * * 20) This * * * act shall take precedence over any and
365 all local ordinances governing purchase transactions of metal
366 property. If any municipal or county ordinance, rule or
367 regulation conflicts with the provisions of this act, the
368 provisions of this act shall preempt the municipal or county
369 ordinance, rule or regulation.

370 **SECTION 2.** Section 97-17-71.1, Mississippi Code of 1972, is
371 amended as follows:

372 97-17-71.1. (1) (a) From and after * * * sixty (60) days
373 after the passage of this act, it shall be unlawful for any scrap
374 metal dealer or any person who purchases scrap metal, deals in
375 scrap metal, or otherwise engages in the scrap metal business to
376 fail to register with the Secretary of State. All registrations
377 under this section shall expire two (2) years from the date of the
378 registration or the renewal thereof.

379 (b) The Secretary of State may promulgate and adopt
380 such rules and regulations as are reasonably necessary to carry
381 out the provisions of this section and establish such registration
382 and renewal fees as are adequate to cover the administrative costs
383 associated with the registration program.

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

389 (2) A violation of this section is a misdemeanor punishable
390 by a fine of not less than Five Hundred Dollars (\$500.00) but not
391 to exceed One Thousand Dollars (\$1,000.00) for the first offense.
392 Any person who shall be guilty of any subsequent violations of
393 this section requiring registration shall be guilty of a felony
394 offense and shall be imprisoned in the custody of the Department
395 of Corrections for a term not to exceed three (3) years, fined not
396 more than Five Thousand Dollars (\$5,000.00), or both.

397 (3) (a) To register or renew registration, the registrant
398 must declare, under penalty of perjury, whether such registrant
399 has ever been * * * convicted of any felony offense, or any
400 misdemeanor offense involving fraud, dishonesty, or deceit within
401 five (5) years preceding the date of application. If the
402 registrant is a business entity, the registrant shall make the
403 same declarations on behalf of every owner of the business who
404 participates in the operation or management of the business.

405 (b) (i) An applicant who has been convicted of a
406 violation * * * may be prohibited from registering under this
407 section for five (5) years from the date of conviction.

408 (ii) Any false statement submitted to the
409 Secretary of State for the purpose of unlawfully registering under
410 this section shall be punished as perjury in the manner provided
411 in Section 97-9-61, and a person so convicted shall be
412 disqualified for life from registering as a scrap metal dealer
413 under this section.

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

418 (5) It is unlawful for a person to make or cause to be made,
419 in a record or statement that is used or obtained in an
420 examination, action, proceeding, or filed under this chapter, a
421 statement that, at the time and in light of the circumstances
422 under which it is made, is false or misleading in a material
423 respect, or, in connection with the statement, to omit to state a
424 material fact necessary to make the statement made, in light of
425 the circumstances under which it was made, not false or
426 misleading.

427 (* * *6) The Secretary of State shall have the authority
428 to:

429 (a) Conduct and carry out criminal background history
430 verification of the information provided by the applicant or
431 registrant and to require the submission of information and forms
432 from the applicant or registrant in order to accomplish the
433 registration duties imposed by this section;

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

438 (* * *c) Issue a cease and desist order, with a prior
439 hearing, against the scrap metal dealer or other purchaser alleged

440 to be in violation of this section, directing the person or
441 persons to cease and desist from further illegal activity. In the
442 instance of an immediate cease and desist order, the Secretary of
443 State shall hold an administrative hearing on the alleged
444 violations within ten (10) business days;

445 (* * *d) (i) Issue an order against any scrap metal
446 dealer or other purchaser for any violation of this section,
447 imposing an administrative penalty up to a maximum of One Thousand
448 Dollars (\$1,000.00) for each offense. Each violation shall be
449 considered a separate offense in a single proceeding or a series
450 of related proceedings. Any administrative penalty, plus
451 reimbursement for all costs and expenses incurred in the
452 investigation of the violation and any administrative proceedings,
453 shall be paid to the Secretary of State;

454 (ii) For the purpose of determining the amount or
455 extent of a sanction, if any, to be imposed under paragraph (c)(i)
456 of this subsection, the Secretary of State shall consider, among
457 other factors, the frequency, persistence and willfulness of the
458 conduct constituting a violation of this section or any rule or
459 order hereunder; the number of persons adversely affected by the
460 conduct; and the resources of the person committing the violation;

461 (* * *e) Bring an action in chancery court to enjoin
462 the acts or practices complained of to enforce compliance with
463 this section or any rule promulgated or order entered hereunder.
464 Upon a proper showing, a permanent or temporary injunction,
465 restraining order, or writ of mandamus shall be granted and a

466 receiver or conservator may be appointed for the defendant or the
467 defendant's assets. In addition, upon a proper showing by the
468 Secretary of State, the court may enter an order of rescission or
469 restitution directed to any person who has engaged in any act
470 constituting a violation of any provision of this section or any
471 rule or order hereunder, or the court may impose a civil penalty
472 up to a maximum of One Thousand Dollars (\$1,000.00) for each
473 offense, provided that each violation shall be considered as a
474 separate offense in a single proceeding or a series of related
475 proceedings. The court may not require the Secretary of State to
476 post a bond.

477 (* * *7) Any person aggrieved by a final order of the
478 Secretary of State may obtain a review of the order in the
479 Chancery Court of the First Judicial District of Hinds County,
480 Mississippi, by filing in the court, within thirty (30) days after
481 the entry of the order, a written petition praying that the order
482 be modified or set aside, in whole or in part. A copy of the
483 petition shall be forthwith served upon the Secretary of State and
484 thereupon the Secretary of State shall certify and file in court a
485 copy of the filing and evidence upon which the order was entered.
486 When these have been filed, the court has exclusive jurisdiction
487 to affirm, modify, enforce or set aside the order, in whole or in
488 part.

489 **SECTION 3.** Section 97-17-71.2, Mississippi Code of 1972, is
490 amended as follows:

491 97-17-71.2. (1) It is an offense for a scrap metal
492 dealer * * * to pay cash to a person who presents an air
493 conditioner evaporator coil or condenser, in whole or in part, for
494 sale as scrap * * *.

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

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

501 (b) A company meeting all local or municipal
502 requirements to obtain a permit from that jurisdiction to repair,
503 replace and install HVAC units containing copper evaporator coils
504 or condensers;

505 (c) Where the jurisdiction does not require a permit to
506 repair, replace and install HVAC units containing copper
507 evaporator coils or condensers, by a company holding a privilege
508 license indicating the business as that of an HVAC installer or
509 repairer; or

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

512 (3) The person offering an air conditioner evaporator coil
513 or condenser for sale as scrap on behalf of a company listed in
514 subsection (2) shall have in the person's possession documentation
515 that the company for whom it is being sold is a company described
516 in subsection (2), and that the person selling the evaporator coil

517 or condenser is an authorized agent, representative or employee of
518 that company.

519 (4) Payment for scrap metal described in subsection (1) must
520 be made by check or money order, * * * and the name of the company
521 or the individual meeting the requirements of must be the payee on
522 the check.

523 * * *

524 (* * *5) Nothing in this section shall be construed to
525 preclude a person violating this section from also being
526 prosecuted for any other applicable criminal offense.

527 (6) Any purchase of any air conditioner evaporator coil or
528 condenser, as described in this section, in whole or in part, is
529 subject to the record keeping requirements required by this
530 section.

531 **SECTION 4.** The following shall be codified as Section
532 97-17-71.3, Mississippi Code of 1972:

533 97-17-71.3. (1) Any person purchasing a used or defective,
534 detached catalytic converter, in whole or in part, must be
535 registered as a scrap metal dealer pursuant to this act.

536 (2) Registered scrap metal dealers may only purchase
537 catalytic converters from:

538 (a) A new, used, or wholesale motor vehicle dealer or
539 motor vehicle manufacturer as defined in, and licensed with the
540 Motor Vehicle Commission as provided in Section 63-17-1, et seq.;

541 (b) A National Institute for Automotive Service
542 Excellence ("ASE") certified mechanic or ASE certified automotive

543 repair facility, or in the event the mechanic or repair facility
544 is not ASE certified, satisfactory alternative proof as set forth
545 in the rules promulgated by the Secretary of State;

546 (c) A registered business entity, able to provide the
547 information set forth in Section 97-17-71, that purchases vehicles
548 as scrap or to be dismantled or destroyed and has complied with
549 the requirements of Section 63-21-39 for each vehicle from which a
550 catalytic convertor has been obtained;

551 (d) A person who possesses documentation that the
552 catalytic converter in the individual's possession is the result
553 of a replacement of a catalytic converter from a vehicle
554 registered in that individual's name. The documentation must
555 include the motor vehicle registration and a receipt showing the
556 replacement of the catalytic converter on the same automobile; or

557 (e) Another scrap metal dealer registered pursuant to
558 this act that has acquired the catalytic convertor from one (1) of
559 the other approved sellers set forth in paragraphs (a) through (e)
560 in this subsection.

561 (3) The person offering a catalytic converter for sale on
562 behalf of a company listed in subsection (2) shall have in the
563 person's possession documentation that the company for whom it is
564 being sold is a company described in subsection (2), and that the
565 person selling the catalytic converter is an authorized agent,
566 representative or employee of that company.

567 (4) Payment for scrap metal described in subsection (1) must
568 be made by check or money order, and the name of the company or

569 individual meeting the requirements of subsection (2)(a) through
570 (e) as set forth in this act.

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

574 (6) Any purchase of any catalytic converter is subject to
575 the record keeping requirements of this section as set forth
576 above. In addition, the purchaser must keep for two (2) years the
577 documentary proof that the seller meets the criteria set forth
578 above for sellers.

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

584 **SECTION 5.** This act shall take effect and be in force from
585 and after July 1, 2022, and shall stand repealed on June 30, 2022.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 97-17-71, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE PENALTIES FOR VIOLATIONS OF PURCHASE TRANSACTIONS
3 FOR SCRAP METAL; TO REVISE DEFINITIONS BY ADDING CERTAIN TERMS; TO
4 REQUIRE RECORD KEEPING FOR DEALER-TO-DEALER TRANSACTIONS; TO
5 REGULATE DELIVERY OF METAL PROPERTY BY A PERSON OTHER THAN THE
6 SELLER WHO DELIVERS METAL PROPERTY; TO AMEND SECTIONS 97-17-71.1
7 AND 97-17-71.2, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
8 PRECEDING SECTIONS; TO CREATE NEW SECTION 97-17-71.3, MISSISSIPPI
9 CODE OF 1972, TO REGULATE THE PURCHASE OF CATALYTIC CONVERTERS;
10 AND FOR RELATED PURPOSES.

HR31\SB2545A.J

Andrew Ketchings
Clerk of the House of Representatives