

By: Representatives Morgan, Bailey

To: Judiciary B

HOUSE BILL NO. 452

1 AN ACT TO PROHIBIT THE REMOVAL OR ASSISTED REMOVAL OF STREET,
2 ROAD OR HIGHWAY SIGNS; TO PROVIDE PENALTIES FOR SUCH REMOVAL; TO
3 AMEND SECTION 97-17-71, MISSISSIPPI CODE OF 1972, TO ADD STREET,
4 ROAD AND HIGHWAY SIGNS TO THE LIST OF METALS PROHIBITED FROM
5 PURCHASE BY SCRAP METAL DEALERS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Any person who shall remove, or cause to be
8 removed, or aid or assist in removing any street, road or highway
9 sign, upon conviction, shall be guilty of a misdemeanor, and shall
10 be punished by a fine not to exceed One Thousand Dollars
11 (\$1,000.00) per offense unless the aggregate value of such exceeds
12 One Thousand Dollars (\$1,000.00) but less than Five Thousand
13 Dollars (\$5,000.00), in which case the person shall be guilty of a
14 felony and shall be imprisoned in the custody of the Department of
15 Corrections for a term not to exceed five (5) years, fined not
16 more than Ten Thousand Dollars (\$10,000.00), or both.

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



19 97-17-71. (1) For the purposes of this section, the
20 following terms shall have the meanings ascribed in this section:

21 (a) "Railroad materials" means any materials, equipment
22 and parts used in the construction, operation, protection and
23 maintenance of a railroad.

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

31 (c) "Aluminum materials" means any aluminum cable,
32 bars, rods or tubing of the type used to construct utility,
33 communication or broadcasting towers, aluminum utility wire and
34 aluminum irrigation pipes or tubing. "Aluminum materials" does
35 not include aluminum cans that have served their original economic
36 purpose.

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

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



44 authority to bear arms and make arrests, and whose primary
45 responsibility is the prevention and detection of crime, the
46 apprehension of criminals and the enforcement of the criminal
47 traffic laws of this state or the ordinances of any political
48 subdivision thereof.

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

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

61 (h) "Personal identification card" means any government
62 issued photographic identification card including a valid
63 identification card issued by a federally recognized Indian tribe
64 that contains a color photograph of the card holder and the card
65 holder's legal name, residence address and date of birth.

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



68 that are of such quality that the persons and objects depicted are
69 clearly identifiable.

70 (j) "Purchase transaction" means a transaction in which
71 metal property is acquired whether the person acquiring the metal
72 property gives consideration for the metal property or not. For
73 purposes of Sections 97-17-71 through 97-17-71.3, the words
74 "purchase" and "purchased" mean a purchase transaction.

75 (k) "Purchaser" means a person who acquires metal
76 property, whether the person gives consideration for the metal
77 property or not.

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

80 (m) "Registered business entity" means a business
81 entity created by statute, registered and in good standing with
82 its state of incorporation or formation, and having a federal
83 Employer Identification Number (EIN). This term does not include
84 any sole proprietorship, fictitious business name, or nonstatutory
85 general partnership.

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

88 (o) "Scrap metal dealer" means any person who is
89 engaged, from a fixed location or otherwise, acquiring by purchase
90 transaction, metal property that has served its original economic
91 purpose, whether or not the person is engaged in the business of
92 performing the manufacturing process by which metals are converted



93 into raw material products consisting of prepared grades and
94 having an existing or potential economic value. Any person who
95 falls under this definition must register as a scrap metal dealer
96 pursuant to Sections 97-17-71 through 97-17-71.3 and its rules.

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

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

103 (i) If a person other than the seller delivers the
104 metal property to the purchaser, the purchaser shall enter the
105 name, address, and age of the person who delivers the metal
106 property, as obtained from the personal identification card of the
107 person delivering the metal property. If the person delivering
108 the metal property is the employee of the scrap metal dealer
109 acting in his official capacity and at the direction of the scrap
110 metal dealer, the purchaser is not required to enter the name,
111 address, and age of the person who delivers the metal property.

112 (ii) If the seller is a registered business
113 entity, and a person other than the seller delivers the metal
114 property to the purchaser, in addition to the information required
115 by this paragraph (a), the purchaser shall enter the name,
116 principal business address, state of incorporation or formation of
117 the entity, the federal Employer Identification Number (EIN) of



118 the entity, and the name and telephone number of a contact person
119 for the seller;

120 (b) The date and place of each acquisition of the metal
121 property;

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

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

128 (e) The vehicle license tag number, state of issue and
129 the make and type of the vehicle used to deliver the metal
130 property to the purchaser;

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

138 (g) A scanned copy or a photocopy of the personal
139 identification card of the person receiving consideration, or
140 delivering the metal property in the purchase transaction; and

141 (h) A photograph, videotape or similar likeness of the
142 person receiving consideration or any person other than the seller



143 who delivers the metal property to the purchaser in which the
144 person's facial features are clearly visible and in which the
145 metal property the person is selling or delivering is clearly
146 visible.

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

152 (3) The purchaser shall photographically capture the metal
153 property as it exists when it is acquired by the purchaser. The
154 time and date shall be digitally recorded on the photograph, and
155 the identity of the person taking the photograph shall be
156 recorded. The purchaser shall permit any law enforcement officer
157 or Secretary of State examiner to make an inspection of the metal
158 property, if the metal property is still in the purchaser's
159 possession, and of all photographs of the metal property. Any
160 photograph of metal property taken and maintained pursuant to this
161 subsection shall be admissible in any civil or criminal
162 proceeding.

163 (4) During the usual and customary business hours of a scrap
164 metal dealer, a law enforcement officer or Secretary of State
165 examiner, after proper identification as a law enforcement officer
166 or Secretary of State examiner, shall have the right to inspect
167 all purchased metal property and all records pertaining to the



168 purchase of regulated metals in the possession of the scrap metal
169 dealer or purchaser.

170 (5) (a) Whenever a law enforcement officer has reasonable
171 cause to believe that any item of metal property in the possession
172 of a scrap metal dealer has been stolen, a law enforcement officer
173 who has an affidavit from the alleged rightful owner of the
174 property identifying the property with specificity, including any
175 identifying markings, may issue and deliver a written hold notice
176 to the scrap metal dealer. The hold notice shall specifically
177 identify those items of metal property that are believed to have
178 been stolen and that are subject to the hold notice. Upon receipt
179 of the notice, the scrap metal dealer may not process or remove
180 the metal property identified in the notice from the place of
181 business of the scrap metal dealer for fifteen (15) calendar days
182 after receipt of the notice, unless sooner released by a law
183 enforcement officer.

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



193 the notice from the place of business of the scrap metal dealer
194 for fifteen (15) calendar days after receipt of the extended hold
195 notice, unless sooner released by a law enforcement officer.

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

202 (d) If the scrap metal dealer contests the
203 identification or ownership of the metal property, the party other
204 than the scrap metal dealer claiming ownership of any metal
205 property in the possession of a scrap metal dealer, provided that
206 a timely report of the theft of the metal property was made to the
207 proper authorities, may bring a civil action in the circuit court
208 of the county in which the scrap metal dealer or purchaser is
209 located. The petition for the action shall include the means of
210 identification of the metal property utilized by the petitioner to
211 determine ownership of the metal property in the possession of the
212 scrap metal dealer.

213 (e) When a lawful owner recovers stolen metal property
214 from a scrap metal dealer who has complied with this section, and
215 the person who sold the metal property to the scrap metal dealer
216 is convicted of a violation of this section, or theft by receiving
217 stolen property under Section 97-17-70, the court shall order the



218 convicted person to make full restitution to the scrap metal
219 dealer, including, without limitation, attorney's fees, court
220 costs and other expenses.

221 (6) For dealer-to-dealer transactions, records required to
222 be kept include:

223 (a) Name and address of selling dealer;

224 (b) Date and place of each acquisition of the metal
225 property;

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

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

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

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

240 (8) A scrap metal dealer or other purchaser shall not enter
241 into any cash transactions in payment for the purchase of metal



242 property. Payment shall be made by check issued to the seller of
243 the metal property or by electronic funds transfer.

244 (9) If a person acquiring metal property fails to maintain
245 the records or to hold such materials as requested by a law
246 enforcement officer under Sections 97-17-71 through 97-17-71.3,
247 such failure shall be prima facie evidence that the person
248 receiving the metal property received it knowing it to be stolen
249 in violation of Section 97-17-70.

250 (10) It shall be unlawful for any person to transport or
251 cause to be transported for himself or another from any point
252 within this state to any point outside this state any metal
253 property, unless the person or entity first reports to the sheriff
254 of the county from which he departs this state transporting such
255 materials the same information that a purchaser in this state
256 would be required to obtain and keep in a record as set forth in
257 subsection (2) of this section. In such a case the sheriff
258 receiving the report shall keep the information in records
259 maintained in his office as a public record available for
260 inspection by any person at all reasonable times. This section
261 shall not apply to a public utility, as that term is defined in
262 Section 77-3-3, engaged in carrying on utility operations; to a
263 railroad, as that term is defined in Section 77-9-5; to a
264 communications service provider, whether wireless or wire line; or
265 to a scrap metal dealer.



266 (11) It shall be unlawful for a scrap metal dealer or other
267 purchaser to knowingly purchase or possess a metal beer keg, or a
268 metal syrup tank generally used by the soft drink industry,
269 whether damaged or undamaged, or any reasonably recognizable part
270 thereof, on any premises that the dealer uses to buy, sell, store,
271 shred, melt, cut or otherwise alter scrap metal. However, it
272 shall not be unlawful to purchase or possess a metal syrup tank
273 generally used by the soft drink industry if the scrap metal
274 dealer or other purchaser obtains a bill of sale at the time of
275 purchase from a seller if the seller is a manufacturer of such
276 tanks, a soft drink company or a soft drink distributor.

277 (12) It shall be unlawful to sell to a scrap metal dealer
278 any bronze vase and/or marker, memorial, statue, plaque, or other
279 bronze object used at a cemetery or other location where deceased
280 persons are interred or memorialized, or for any such dealer to
281 purchase those objects, unless the source of the bronze is known
282 and notice is provided to the municipal or county law enforcement
283 agency where the dealer is located. The notice shall identify all
284 names, letters, dates and symbols on the bronze and a photograph
285 of the bronze shall be attached thereto. Written permission from
286 the cemetery and the appropriate law enforcement agency must be
287 received before any type of bronze described in this subsection
288 may be purchased, processed, sold or melted.

289 (13) (a) It shall be unlawful for any scrap metal dealer to
290 purchase any manhole cover and other similar types of utility



291 access covers, including storm drain covers, street, road or
292 highway signs or any metal property clearly identified as
293 belonging to a political subdivision of the state or a
294 municipality, unless that metal property is purchased from the
295 state, or the political subdivision, the municipal utility or the
296 manufacturer of the metal. Any purchaser who purchases metal
297 property in bulk shall be allowed twenty-four (24) hours to
298 determine if any metal property prohibited by this subsection is
299 included in a bulk purchase. If such prohibited metal property is
300 included in a bulk purchase, the purchaser shall notify law
301 enforcement no later than twenty-four (24) hours after the
302 purchase.

303 (b) It shall be unlawful for a person to sell, or any
304 scrap metal dealer to purchase, any copper telecommunication wire
305 in any form or any metal property clearly identified as belonging
306 to a telecommunications company, unless that metal property is
307 purchased from (i) an electrician or contractor to whom either a
308 license has been issued by a municipality or county in this state
309 or a current certificate of responsibility has been issued by the
310 State Board of Public Contractors; or (ii) a person who holds a
311 demolition permit issued by a municipality or county in this
312 state. It shall be unlawful for a person to sell, or a scrap
313 metal dealer to purchase, copper telecommunication wire that has
314 been burned to remove the insulation, unless the seller provides
315 certification, on a form as issued by the Secretary of State and



316 signed by a firefighter who is currently in compliance with the
317 certification requirements of the Mississippi Fire Personnel
318 Minimum Standards and Certification Board or a certified law
319 enforcement officer, that the source of the copper
320 telecommunication wire was from a building destroyed by fire.

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

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

326 (16) Except as provided in this subsection, any person
327 willfully or knowingly violating the provisions of Sections
328 97-17-71 through 97-17-71.3 shall, upon conviction thereof, be
329 deemed guilty of a misdemeanor, and shall be punished by a fine
330 not to exceed One Thousand Dollars (\$1,000.00) per offense, unless
331 the purchase transaction or transactions related to the violation,
332 in addition to any costs which are, or would be, incurred in
333 repairing or in the attempt to recover any property damaged in the
334 theft of or removal of the metal property, including replacement
335 costs of the metal property, are in aggregate an amount which
336 exceeds One Thousand Dollars (\$1,000.00) but less than Five
337 Thousand Dollars (\$5,000.00), in which case the person shall be
338 guilty of a felony and shall be imprisoned in the custody of the
339 Department of Corrections for a term not to exceed five (5) years,
340 fined not more than Ten Thousand Dollars (\$10,000.00), or both.



341 Any person found guilty of stealing metal property or receiving
342 metal property, knowing it to be stolen in violation of Section
343 97-17-70, shall be ordered to make full restitution to the victim,
344 including, without limitation, restitution for property damage
345 that resulted from the theft of the property.

346 (17) If the purchase transaction or transactions related to
347 the violation, in addition to any costs which are, or would be,
348 incurred in repairing or in the attempt to recover any property
349 damaged in the theft of or removal of the metal property,
350 including replacement costs of the metal property, are in
351 aggregate an amount which exceeds Five Thousand Dollars
352 (\$5,000.00) but less than Twenty-five Thousand Dollars
353 (\$25,000.00), the person shall be guilty of a felony and shall be
354 imprisoned in the custody of the Department of Corrections for a
355 term not less than one (1) year, but not to exceed ten (10) years,
356 fined not more than Fifteen Thousand Dollars (\$15,000.00), or
357 both.

358 (18) If the purchase transaction or transactions related to
359 the violation, in addition to any costs which are, or would be,
360 incurred in repairing or in the attempt to recover any property
361 damaged in the theft of or removal of the metal property,
362 including replacement costs of the metal property, are in
363 aggregate an amount which exceeds Twenty-five Thousand Dollars
364 (\$25,000.00), the person shall be guilty of a felony and shall be
365 imprisoned in the custody of the Department of Corrections for a



366 term not less than three (3) years, but not to exceed twenty (20)
367 years, fined not more than Twenty Thousand Dollars (\$20,000.00),
368 or both.

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

373 (20) This section shall apply to all businesses regulated
374 under this section without regard to the location within the State
375 of Mississippi.

376 (21) Sections 97-17-71 through 97-17-71.3 shall take
377 precedence over any and all local ordinances governing purchase
378 transactions of metal property. If any municipal or county
379 ordinance, rule or regulation conflicts with the provisions of
380 Sections 97-17-71 through 97-17-71.3, the provisions of Sections
381 97-17-71 through 97-17-71.3 shall preempt the municipal or county
382 ordinance, rule or regulation.

383 (22) This section shall be fully applicable to the
384 requirements for the purchase and sale of detached catalytic
385 converters provided in Section 97-17-71.3, Mississippi Code of
386 1972.

387 **SECTION 3.** This act shall take effect and be in force from
388 and after July 1, 2023.

