

By: Representative Banks

To: Business and Commerce

## HOUSE BILL NO. 900

1 AN ACT TO AMEND SECTION 97-17-71, MISSISSIPPI CODE OF 1972,  
2 TO PROHIBIT TRANSACTIONS INVOLVING THE SALE OF COPPER MATERIALS TO  
3 A SCRAP METAL DEALER UNLESS THE SELLER IS A LICENSED PLUMBER,  
4 ELECTRICIAN, CONTRACTOR OR HOLDER OF A CERTIFICATE OF  
5 RESPONSIBILITY OR DEMOLITION PERMIT; TO REQUIRE A SCRAP METAL  
6 DEALER TO MAINTAIN A SCANNED COPY OF A SELLER'S APPROPRIATE  
7 LICENSE, CERTIFICATE OF RESPONSIBILITY OR PERMIT; TO BRING FORWARD  
8 SECTION 97-17-71.2, MISSISSIPPI CODE OF 1972, WHICH GOVERNS THE  
9 SALE OF AIR CONDITIONER EVAPORATOR COILS AND CONDITIONERS TO SCRAP  
10 METAL DEALERS, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED  
11 PURPOSES.

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

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

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

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

20 (b) "Copper materials" means any copper wire, bars,  
21 rods or tubing, including copper wire or cable or coaxial cable of  
22 the type used by public utilities, common carriers or



23 communication services providers, whether wireless or wire line,  
24 copper air conditioner evaporator coil or condenser, aluminum  
25 copper radiators not attached to a motor vehicle, or any  
26 combination of these.

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

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

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

45 (f) "Metal property" means materials as defined in this  
46 section as railroad track materials, copper materials and aluminum  
47 materials and electrical, communications or utility brass, metal



48 covers for service access and entrances to sewers and storm  
49 drains, metal bridge pilings, irrigation wiring and other metal  
50 property attached to or part of center pivots, grain bins,  
51 stainless steel sinks, catalytic converters not attached to a  
52 motor vehicle and metal beer kegs. Metal property does not  
53 include ferrous materials not listed in this section.

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

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

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

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



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

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

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

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

84           (o) "Scrap metal dealer" means any person who is  
85 engaged, from a fixed location or otherwise, acquiring by purchase  
86 transaction, metal property that has served its original economic  
87 purpose, whether or not the person is engaged in the business of  
88 performing the manufacturing process by which metals are converted  
89 into raw material products consisting of prepared grades and  
90 having an existing or potential economic value. Any person who  
91 falls under this definition must register as a scrap metal dealer  
92 pursuant to Sections 97-17-71 through 97-17-71.3 and its rules.

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



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

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

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

116 (iii) If the transaction is for the purchase of  
117 copper materials, a scanned copy of either: the license to do  
118 business issued to the plumber, electrician or contractor by a  
119 municipality or county in this state or the certificate of  
120 responsibility issued by the State Board of Contractors; or a



demolition permit issued to the seller by the municipality or  
county in which the scrap metal dealer is located;

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

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

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

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

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

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

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



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

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

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

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



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

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

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





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

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

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

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



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

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

- (a) Name and address of selling dealer;
- (b) Date and place of each acquisition of the metal property;
- (c) The weight, quantity, or volume and a general description of the type of metal property; and
- (d) The amount or type of consideration given for the metal property by the purchasing dealer.

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

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

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



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

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

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



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

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

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



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

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



certification requirements of the Mississippi Fire Personnel Minimum Standards and Certification Board or a certified law enforcement officer, that the source of the copper telecommunication wire was from a building destroyed by fire.

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

(15) It is unlawful for a seller to sell, and for a scrap metal dealer or other purchaser to purchase, copper materials if the seller:

(a) Is not a plumber, electrician or contractor to whom either a license has been issued by a municipality or county in this state or a current certificate of responsibility has been issued by the State Board of Public Contractors; or

(b) Is not the holder of a demolition permit issued by the municipality or county in which the scrap metal dealer is located.

( \* \* \*16) Metal property may not be purchased, acquired or collected between the hours of 9:00 p.m. and 6:00 a.m.

( \* \* \*17) Except as provided in this subsection, any person willfully or knowingly violating the provisions of Sections 97-17-71 through 97-17-71.3 shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) per offense, unless the purchase transaction or transactions related to the violation,



in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft of or removal of the metal property, including replacement costs of the metal property, are in aggregate an amount which exceeds One Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars (\$5,000.00), in which case the person shall be guilty of a felony and shall be imprisoned in the custody of the Department of Corrections for a term not to exceed five (5) years, fined not more than Ten Thousand Dollars (\$10,000.00), or both. Any person found guilty of stealing metal property or receiving metal property, knowing it to be stolen in violation of Section 97-17-70, shall be ordered to make full restitution to the victim, including, without limitation, restitution for property damage that resulted from the theft of the property.

( \* \* \*18) If the purchase transaction or transactions related to the violation, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft of or removal of the metal property, including replacement costs of the metal property, are in aggregate an amount which exceeds Five Thousand Dollars (\$5,000.00) but less than Twenty-five Thousand Dollars (\$25,000.00), the person shall be guilty of a felony and shall be imprisoned in the custody of the Department of Corrections for a term not less than one (1) year, but not to exceed ten (10) years,



368 fined not more than Fifteen Thousand Dollars (\$15,000.00), or  
369 both.

370 ( \* \* \*19) If the purchase transaction or transactions  
371 related to the violation, in addition to any costs which are, or  
372 would be, incurred in repairing or in the attempt to recover any  
373 property damaged in the theft of or removal of the metal property,  
374 including replacement costs of the metal property, are in  
375 aggregate an amount which exceeds Twenty-five Thousand Dollars  
376 (\$25,000.00), the person shall be guilty of a felony and shall be  
377 imprisoned in the custody of the Department of Corrections for a  
378 term not less than three (3) years, but not to exceed twenty (20)  
379 years, fined not more than Twenty Thousand Dollars (\$20,000.00),  
380 or both.

381 ( \* \* \*20) This section shall not be construed to repeal  
382 other criminal laws. Whenever conduct proscribed by any provision  
383 of this section is also proscribed by any other provision of law,  
384 the provision which carries the more serious penalty shall be  
385 applied.

386 ( \* \* \*21) This section shall apply to all businesses  
387 regulated under this section without regard to the location within  
388 the State of Mississippi.

389 ( \* \* \*22) Sections 97-17-71 through 97-17-71.3 shall take  
390 precedence over any and all local ordinances governing purchase  
391 transactions of metal property. If any municipal or county  
392 ordinance, rule or regulation conflicts with the provisions of





Sections 97-17-71 through 97-17-71.3, the provisions of Sections 97-17-71 through 97-17-71.3 shall preempt the municipal or county ordinance, rule or regulation.

( \* \* \*23) This section shall be fully applicable to the requirements for the purchase and sale of detached catalytic converters provided in Section 97-17-71.3, Mississippi Code of 1972.

**SECTION 2.** Section 97-17-71.2, Mississippi Code of 1972, is brought forward as follows:

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

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

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

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

(c) Where the jurisdiction does not require a permit to repair, replace and install HVAC units containing copper evaporator coils or condensers, by a company holding a privilege



418 license indicating the business as that of an HVAC installer or  
419 repairer; or

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

422 (3) The person offering an air conditioner evaporator coil  
423 or condenser for sale as scrap on behalf of a company listed in  
424 subsection (2) shall have in the person's possession documentation  
425 that the company for whom it is being sold is a company described  
426 in subsection (2), and that the person selling the evaporator coil  
427 or condenser is an authorized agent, representative or employee of  
428 that company.

429 (4) Payment for scrap metal described in subsection (1) must  
430 be made by check or money order, and the name of the company or  
431 the individual meeting the requirements of subsection (2) of this  
432 section must be the payee on the check.

433 (5) (a) A violation of this section is a misdemeanor  
434 punishable by a fine not to exceed One Thousand Dollars  
435 (\$1,000.00) per offense.

436 (b) Nothing in this section shall be construed to  
437 preclude a person violating this section from also being  
438 prosecuted for any other applicable criminal offense.

439 (6) Any purchase of any air conditioner evaporator coil or  
440 condenser, as described in this section, in whole or in part, is  
441 subject to the record keeping requirements required by Section  
442 97-17-71.



443           **SECTION 3.** This act shall take effect and be in force from  
444 and after July 1, 2025.

