

May 12, 2008

To the Members of the House of Representatives:

Governor's Veto Message for House Bill 1136

I am returning House Bill 1136: "AN ACT TO AMEND SECTION 97-17-71, MISSISSIPPI CODE OF 1972, TO EXPAND THE TYPE OF METALS REGULATED BY THIS SECTION; TO REQUIRE SCRAP METAL DEALERS TO MAINTAIN A RECORD OF PURCHASES; TO PROVIDE A PROCEDURE BY WHICH RECORDS ARE MAINTAINED AND MAY BE INSPECTED; TO AUTHORIZE A HOLD BY LAW ENFORCEMENT ON CERTAIN SALES OF METALS; TO REQUIRE THE REPORTING OF PURCHASES OF CERTAIN METALS; TO REVISE PENALTIES; TO PROVIDE EXEMPTIONS; TO PROVIDE THAT MUNICIPALITIES AND COUNTIES MAY IMPOSE ADDITIONAL OR STRICTER REQUIREMENTS; TO REQUIRE REGISTRATION BY SCRAP METAL DEALERS WITH THE OFFICE OF THE SECRETARY OF STATE; TO PROVIDE THAT SCRAP METAL DEALERS MAY ONLY PURCHASE AIR CONDITIONER EVAPORATOR COILS OR CONDENSERS FROM CERTAIN CONTRACTORS OR COMPANIES; TO PROVIDE PENALTIES FOR VIOLATIONS; AND FOR RELATED PURPOSES" without my approval and assign the following reasons for my veto:

After full consideration, I am vetoing House Bill 1136, which places undue regulatory burden on the metal recycling industry, including many small businesses in Mississippi.

The theft of metals, especially copper, is a major problem in Mississippi that must be addressed. Metal thefts from individual homes, businesses, and public property have resulted in considerable economic losses.

I support harsher penalties for those convicted of stealing metals, and I support more restrictive laws that discourage the trade of illegal metals in Mississippi. However, in regulating metals commerce, we should acknowledge that the metals industry employs thousands of Mississippians and to penalize many legitimate businesses for the bad actions of others is poor policy and unfair.

While I agree with the intent of House Bill 1136, I believe that the prescribed remedy is massive overregulation and potentially damaging to many legitimate businesses.

This legislation requires purchasers of metal property to hold purchases separately for a period of five days. It is bad public policy to mandate that businesses engaged in the purchase of certain metals hold all purchases "separate and apart" from all other purchases for any amount of time, unless requested by law enforcement. This provision would increase market risk and would require metal recyclers to dedicate a significant amount of their property to storage to comply with these requirements.

This legislation also adds many new recordkeeping requirements for metal recyclers. Specifically, it would require recyclers to maintain the following records for each purchase for two (2) years: name/address/age/number from seller's personal ID, right thumbprint of seller (retained for three (3) years), date/place of acquisition, weight/quantity/volume/physical description of metal property, amount of consideration paid in purchase transaction, seller's vehicle license tag number, statement signed by seller that he is rightful owner of property, scanned copy or photocopy of seller's personal ID card. The legislation also prohibits payment by cash and requires payment be made by mailed check.

It is important to provide law enforcement with the evidence necessary to prosecute those selling stolen metals, but the recordkeeping and "separate and apart" storage requirements of House Bill 1136 are clearly excessive. As any business owner knows, recordkeeping and storage space cost time and money. The excessive bureaucratic requirements of this legislation are in effect an unjustified tax on the metal recycling industry, which includes many small businesses in Mississippi.

Because of the urgency in addressing this problem, I am gathering a group of metals companies, law enforcement officials, and victims of metal thefts to offer recommendations for a legislative approach to curbing metal thefts in Mississippi. After considering the recommendations, I will propose legislation with a goal to be both fair to our good corporate citizens and effective in discouraging metals theft.

For these reasons, I urge the members to reject House Bill 1136 and to sustain my veto.

Respectfully submitted,

Haley Barbour