

House Engrossed

~~used catalytic converters; sales; acquisitions~~
(now: sales; acquisitions; used catalytic converters)

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2652

AN ACT

AMENDING SECTIONS 13-3728, 44-1641, 44-1641.05, 44-1642, 44-1642.01 AND 44-1644, ARIZONA REVISED STATUTES; RELATING TO CATALYTIC CONVERTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3728, Arizona Revised Statutes, is amended to
3 read:

4 13-3728. Unlawful purchase, solicitation, advertisement or
5 sale of used catalytic converter; classification;
6 definition

7 A. It is unlawful for a person to purchase, SOLICIT, ADVERTISE,
8 POSSESS or sell a used catalytic converter ~~unless the purchase or sale is~~
9 ~~in the ordinary course of business by a commercial motor vehicle parts or~~
10 ~~repair business in connection with the sale or installation of a new~~
11 ~~catalytic converter~~ OR ANY NONFERROUS PARTS OF A CATALYTIC CONVERTER.

12 B. SUBSECTION A OF this section does not apply to:

13 1. THE POSSESSION OR SALE OF A USED CATALYTIC CONVERTER OR ANY
14 NONFERROUS PARTS OF A CATALYTIC CONVERTER BY an automotive recycler that
15 is licensed pursuant to title 28, chapter 10 IF THE POSSESSION OR SALE IS
16 IN THE AUTOMOTIVE RECYCLER'S ORDINARY COURSE OF BUSINESS.

17 2. The purchase or sale of a used catalytic converter OR ANY
18 NONFERROUS PARTS OF A CATALYTIC CONVERTER as prescribed by section
19 44-1642.01 that ~~is~~ ARE acquired in a transaction with an industrial
20 account, with another scrap metal dealer or after the used catalytic
21 converter ~~is~~ OR THE NONFERROUS PARTS OF A CATALYTIC CONVERTER ARE
22 authorized for release by a peace officer of the jurisdiction in which the
23 transaction occurs, EXCEPT THAT A SOLICITATION OR ADVERTISEMENT FOR A USED
24 CATALYTIC CONVERTER OR ANY NONFERROUS PARTS OF A CATALYTIC CONVERTER MAY
25 BE MADE ONLY FOR INDUSTRIAL ACCOUNTS.

26 3. THE POSSESSION OR SALE OF A USED CATALYTIC CONVERTER OR ANY
27 NONFERROUS PARTS OF A CATALYTIC CONVERTER BY A COMMERCIAL MOTOR VEHICLE
28 PARTS OR REPAIR BUSINESS THAT SELLS OR INSTALLS A NEW CATALYTIC CONVERTER
29 IF THE POSSESSION OR SALE IS IN THE BUSINESS' ORDINARY COURSE OF BUSINESS.
30 A COMMERCIAL MOTOR VEHICLE PARTS OR REPAIR BUSINESS MAY PURCHASE A USED
31 CATALYTIC CONVERTER BEING SOLD AS A VEHICLE REPAIR PART IN COMPLIANCE WITH
32 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY POLICY. THE USED CATALYTIC
33 CONVERTER IN COMPLIANCE WITH UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
34 POLICY SHALL BE MARKED WITH THE DATE THE CATALYTIC CONVERTER WAS REMOVED
35 FROM THE VEHICLE, THE VEHICLE IDENTIFICATION NUMBER OF THE VEHICLE FROM
36 WHICH THE CATALYTIC CONVERTER WAS REMOVED OR AN ALTERNATIVE NUMBER TO THE
37 VEHICLE IDENTIFICATION NUMBER. IF AN ALTERNATIVE NUMBER IS USED, IT MUST
38 BE UNDER A NUMBERING SYSTEM THAT CAN BE IMMEDIATELY LINKED TO THE VEHICLE
39 IDENTIFICATION NUMBER BY LAW ENFORCEMENT.

40 C. A PERSON THAT PURCHASES A USED CATALYTIC CONVERTER OR ANY
41 NONFERROUS PARTS OF A CATALYTIC CONVERTER SHALL ELECTRONICALLY SUBMIT TO
42 THE DEPARTMENT A RECORD OF EACH TRANSACTION RELATING TO A USED CATALYTIC
43 CONVERTER OR ANY NONFERROUS PARTS OF A CATALYTIC CONVERTER. THE RECORD
44 SHALL INCLUDE THE INFORMATION LISTED IN SECTION 44-1644, SUBSECTION A.

1 ~~C~~. D. A violation of this section is a class 1 misdemeanor.

2 E. FOR THE PURPOSES OF THIS SECTION, "CATALYTIC CONVERTER" HAS THE
3 SAME MEANING PRESCRIBED IN SECTION 44-1642.01.

4 Sec. 2. Section 44-1641, Arizona Revised Statutes, is amended to
5 read:

6 44-1641. Definitions

7 In this article, unless the context otherwise requires:

8 1. "Business records" means records of any purchase, trade, barter
9 or other transaction that involves the receipt of scrap metals and that is
10 made in the ordinary course of business at or near the time of the
11 purchase, trade, barter or transaction, including receipts, books or
12 similar records as prescribed by section 44-1642, but does not include
13 correspondence, tax returns or financial statements.

14 2. "Department" means the department of public safety.

15 3. "Ferrous metals":

16 (a) Means those metals that will attract a magnet.

17 (b) Includes a scrap vehicle.

18 4. "Industrial account" means EITHER:

19 (a) A person or business entity that files or is required to file
20 monthly returns for that person's or entity's transaction privilege tax
21 licenses ~~OR~~ AND THAT IS REASONABLY EXPECTED TO GENERATE THE TYPE OF SCRAP
22 METALS IT SELLS.

23 (b) A governmental entity that sells scrap metal to a scrap metal
24 dealer.

25 5. "Scrap metal dealers" means each person or business entity,
26 including all employees of the person or business entity, except
27 automotive recyclers that are licensed pursuant to title 28, chapter 10
28 and whose primary business is the dismantling, selling or disposing of
29 parts or accessories of motor vehicles, engaged in the business of
30 purchasing, trading, bartering or otherwise receiving secondhand or
31 castoff material of any kind that is commonly known as scrap metal.

32 6. "Scrap metals" includes insulated and uninsulated metallic
33 cables and scrap vehicles.

34 7. "Scrap vehicle" means a vehicle that has been reported to the
35 national vehicle title information system and that has been flattened,
36 crushed, baled or logged so that the vehicle is less than fifty percent of
37 its original volume, is no longer the vehicle that is described by the
38 certificate of title and is sold for purposes of scrap metal only.

39 Sec. 3. Section 44-1641.05, Arizona Revised Statutes, is amended to
40 read:

41 44-1641.05. Items required to be maintained at place of
42 business; city or county ability to recover
43 costs; violation; civil penalty

44 A. A registered scrap metal dealer must keep the following at each
45 place of business:

- 1 1. Proof of registration that is issued by the department.
- 2 2. A statement indicating that the ~~applicant~~ SCRAP METAL DEALER has
- 3 registered on a free theft notification website that allows law
- 4 enforcement to send detailed descriptions of stolen items to recycling
- 5 operations and other law enforcement within at least a one hundred mile
- 6 radius of a theft. The website must allow scrap metal dealers to alert
- 7 law enforcement when the dealers are offered suspicious materials.
- 8 3. An affidavit signed by the ~~applicant~~ SCRAP METAL DEALER that
- 9 states that the person is in compliance with this article.
- 10 4. A questionnaire that the scrap metal dealer must prepare every
- 11 two years to show compliance with this article.
- 12 B. The scrap metal dealer must maintain and make available the
- 13 items prescribed by subsection A of this section for inspection by law
- 14 enforcement. If after inspection law enforcement determines that the scrap
- 15 metal dealer is in violation of this section, law enforcement must submit
- 16 a notice of violation to the scrap metal dealer. ~~EXCEPT AS OTHERWISE~~
- 17 ~~PROVIDED IN THIS SECTION,~~ law enforcement shall reinspect the scrap metal
- 18 dealer's place of business ~~no~~ NOT earlier than ~~fifteen~~ SEVEN days after
- 19 the scrap metal dealer receives the notice of violation. ~~AFTER~~
- 20 ~~REINSPECTION, IF LAW ENFORCEMENT DETERMINES THAT THE SCRAP METAL DEALER IS~~
- 21 ~~IN VIOLATION OF THIS SECTION, LAW ENFORCEMENT MAY CONDUCT A SUBSEQUENT~~
- 22 ~~REINSPECTION WITHOUT A MINIMUM WAITING PERIOD.~~
- 23 C. If a person violates this section, the person is subject to the
- 24 following:
- 25 1. For a first violation, a civil penalty of ~~five hundred dollars,~~
- 26 ~~\$500. except that the person is not subject to a civil penalty if the~~
- 27 ~~person corrects the violation within fifteen days after receiving the~~
- 28 ~~notice pursuant to subsection B of this section.~~
- 29 2. For a second ~~or subsequent~~ violation, a civil penalty of ~~one~~
- 30 ~~thousand dollars~~ \$2,000 and a licensing jurisdiction shall suspend or
- 31 revoke the person's business license or, if a business license is not
- 32 required to operate a business, the jurisdiction shall order the
- 33 suspension or permanent cessation of the person's business operations.
- 34 3. ~~FOR A THIRD OR SUBSEQUENT VIOLATION, A CIVIL PENALTY THAT IS~~
- 35 ~~\$2,000 MORE THAN THE PREVIOUS CIVIL PENALTY IMPOSED ON THE PERSON FOR~~
- 36 ~~VIOLATING THIS SECTION.~~
- 37 ~~3.~~ 4. Any costs associated with the enforcement of this article as
- 38 determined by a city or county.
- 39 D. Failure to comply with this section may result in the immediate
- 40 suspension of all scrap metal transactions unless one of the following
- 41 applies to the business:
- 42 1. The business has been previously registered as a scrap metal
- 43 recycler.
- 44 2. The business has a local business license.

1 an inspection log that includes the officer's name and serial or badge
2 number and the time, the date and the purpose for the inspection.

3 C. A scrap metal dealer shall not provide payment for any scrap
4 metal on site at the time of the scrap metal transaction. Payment shall
5 be made by mailing a check or money order to a physical address provided
6 by the seller through a current driver license or other identification
7 prescribed in subsection A, paragraph 4 of this section. The check or
8 money order shall be made payable to the business name for an industrial
9 account. This subsection:

10 1. Except as provided in paragraphs 2, 3 and 4 of this subsection,
11 ~~only~~ applies **ONLY** to industrial accounts, copper and aluminum wire with a
12 diameter of at least three-eighths of an inch.

13 2. Except as provided in paragraph 3 or 4 of this subsection,
14 applies to all scrap metal transactions of ~~three hundred dollars~~ **\$300** or
15 more.

16 3. Does not apply to industrial accounts if the industrial accounts
17 annually preregister employees who are authorized sellers on behalf of the
18 industrial accounts.

19 4. Applies to all transactions involving air conditioner cooling
20 coils, including industrial accounts, except that for these transactions a
21 scrap metal dealer may give a seller on site a check made payable to an
22 industrial account.

23 D. A scrap metal dealer shall provide a receipt to the seller on
24 site at the time of the scrap metal transaction, for every transaction,
25 and shall include the following information:

26 1. The date, time and place of the transaction.

27 2. An identifying description and weight of the specific scrap
28 metal received.

29 3. The dollar amount of the transaction.

30 E. A scrap metal seller may not conduct a series of transactions
31 for one vehicle load of scrap metal to avoid the requirements of this
32 section.

33 F. A scrap metal seller shall not participate in more than one cash
34 transaction per day for scrap metal.

35 G. A scrap metal seller shall be at least sixteen years of age.

36 **H. IF A SCRAP METAL DEALER PURCHASES A USED CATALYTIC CONVERTER OR**
37 **ANY NONFERROUS PARTS OF A CATALYTIC CONVERTER, THE SCRAP METAL DEALER**
38 **SHALL RETAIN THE USED CATALYTIC CONVERTER OR THE NONFERROUS PARTS OF A**
39 **CATALYTIC CONVERTER IN ITS ORIGINAL FORM FOR AT LEAST SEVEN DAYS AFTER THE**
40 **ORIGINAL PURCHASE DATE AT THE SCRAP METAL DEALER'S PLACE OF BUSINESS.**

41 ~~H.~~ I. This section does not apply to transactions involving
42 materials consisting of a metal product in its original manufactured form
43 that is composed of ~~no~~ **NOT** more than twenty ~~per cent~~ **PERCENT** by weight of
44 nonferrous metal.

1 receipt of the scrap metals. The record shall include the following
2 information:

3 1. The date, time and place of the receipt of the scrap metal.
4 2. An identifying description of the specific scrap metal received,
5 including:

6 (a) The weight and amount of the transaction or other consideration
7 given.

8 (b) **FACTORY MARKINGS OR OWNER APPLIED NUMBERS ON CATALYTIC**
9 **CONVERTERS AS DEFINED IN SECTION 44-1642.01, SUBSECTION A, PARAGRAPH 8.**

10 3. A description of the person delivering the metal to the scrap
11 metal dealer including the person's gender, height, weight, race and hair
12 and eye color, address and date of birth and a photocopy of a current
13 driver license, nonoperating identification license issued pursuant to
14 section 28-3165 or photo identification card issued by a tribal government
15 or the United States military.

16 4. The number and state of issuance of the license on the vehicle
17 used to deliver the scrap metal.

18 B. The department shall establish by rule electronic submission
19 standards. The submission standards shall allow the submission of the
20 information in an electronic format that is compatible with the output
21 format of not less than four of the record keeping software programs
22 currently in use in the scrap metal industry in this state in a manner
23 that will allow the information to be electronically merged with the
24 department's database. A scrap metal dealer that submits information to
25 the department pursuant to this section ~~shall~~ **IS** not ~~be~~ required to submit
26 the same information to a local law enforcement agency.

27 C. The department shall make the information submitted pursuant to
28 this section available to local law enforcement agencies over the internet
29 and shall provide for training and procedures to allow law enforcement
30 personnel to access the information provided electronically for law
31 enforcement purposes.

32 D. For copper, aluminum wire with a diameter of at least
33 three-eighths of an inch and transactions with a value over ~~one hundred~~
34 ~~dollars~~ **\$100**, a scrap metal dealer shall hold in its custody in the same
35 size, shape and condition in which the scrap metal was received on its
36 business premises any scrap metal received in a reportable transaction for
37 seven days after filing the report prescribed by subsection A of this
38 section.

39 E. Subsection D of this section does not apply to transactions with
40 industrial accounts, other scrap metal dealers or purchases by scrap metal
41 dealers of used aluminum beverage containers or ferrous metals and of
42 scrap metal authorized for release by a peace officer of that
43 jurisdiction.

44 F. A person who fails to file a report prescribed by this section
45 is guilty of a class 1 misdemeanor.