

REFERENCE TITLE: **used catalytic converters; sales; acquisitions**

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

## **HB 2652**

Introduced by  
Representative Espinoza

**AN ACT**

**AMENDING SECTIONS 13-3728, 28-4301, 28-4403, 28-4404, 44-1641, 44-1641.05, 44-1642 AND 44-1642.01, 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 or  
8 sell a used catalytic converter OR ANY NONFERROUS PARTS OF A CATALYTIC  
9 CONVERTER unless the purchase, SOLICITATION, ADVERTISEMENT or sale is in  
10 the ordinary course of business by a commercial motor vehicle parts or  
11 repair business in connection with ~~the sale~~ SELLING or ~~installation of~~  
12 INSTALLING a new catalytic converter.

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

14 1. An automotive recycler that is licensed pursuant to title 28,  
15 chapter 10.

16 2. The purchase or sale of a used catalytic converter as prescribed  
17 by section 44-1642.01 that is acquired in a transaction with an industrial  
18 account, with another scrap metal dealer or after the used catalytic  
19 converter is authorized for release by a peace officer of the jurisdiction  
20 in which the transaction occurs.

21 C. A PERSON THAT PURCHASES A USED CATALYTIC CONVERTER SHALL  
22 ELECTRONICALLY SUBMIT TO THE DEPARTMENT A RECORD OF EACH USED CATALYTIC  
23 CONVERTER TRANSACTION. THE RECORD SHALL INCLUDE THE INFORMATION LISTED IN  
24 SECTION 44-1644, SUBSECTION A.

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

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

28 Sec. 2. Section 28-4301, Arizona Revised Statutes, is amended to  
29 read:

30 28-4301. Definitions

31 In this chapter, unless the context otherwise requires:

32 1. "Area of responsibility" means the area surrounding an  
33 individual dealer that the factory designates as that dealer's individual  
34 primary geographic territory for the purpose of marketing, promoting,  
35 selling and leasing new motor vehicles. In the absence of the factory  
36 designated area, the area of responsibility is that geographical area  
37 surrounding a dealer that lies closer to that dealer than to other dealers  
38 of the same line-make.

39 2. "Branch license" means a license that is issued by the director  
40 to a licensed motor vehicle dealer and that ~~permits~~ ALLOWS the licensee to  
41 sell motor vehicles from an established place of business within the same  
42 county but other than the original or principal place of business for  
43 which the license was issued.

44 3. "Broker" means a person who for any fee, commission or other  
45 valuable consideration offers to provide, provides or represents that the

- 1 person will provide a service of arranging or assisting in effecting the  
2 purchase of a motor vehicle and who is not:
- 3 (a) A new motor vehicle dealer or an employee or agent of a new  
4 motor vehicle dealer.
  - 5 (b) A used motor vehicle dealer or an employee or agent of a used  
6 motor vehicle dealer.
  - 7 (c) A manufacturer or employee or agent of a manufacturer.
  - 8 (d) An auctioneer or engaged in the auto auction business.
  - 9 (e) A wholesale motor vehicle dealer.
- 10 4. "Community" means the relevant market area. For the purposes of  
11 this paragraph, "relevant market area" means the incorporated city or town  
12 in which the franchise is located.
- 13 5. "Distributor" means a person who either:
- 14 (a) Sells or distributes new motor vehicles to new motor vehicle  
15 dealers in this state.
  - 16 (b) Maintains distributor representatives in this state.
- 17 6. "Distributor branch" means a branch office maintained or availed  
18 of by a distributor for either:
- 19 (a) The sale of new motor vehicles to new motor vehicle dealers in  
20 this state.
  - 21 (b) Directing or supervising its representatives in this state.
- 22 7. "Established place of business":
- 23 (a) Means a permanent enclosed building or structure that is owned  
24 either in fee or leased with sufficient space to display two or more motor  
25 vehicles of a kind and type that the dealer is licensed to sell and that  
26 is devoted principally to the use of a motor vehicle dealer in the conduct  
27 of the business of the dealer.
  - 28 (b) In the case of a used motor vehicle dealer, trailer dealer or  
29 semitrailer dealer:
    - 30 (i) Need not be a permanent building or structure or part of a  
31 permanent building or structure.
    - 32 (ii) May be a vacant lot or part of a vacant lot.
    - 33 (iii) Does not mean or include a residence, tent, temporary stand  
34 or temporary quarters or permanent quarters occupied pursuant to a  
35 temporary arrangement.
  - 36 (c) In the case of an automotive recycler, means a permanent site  
37 or location at which the business of an automotive recycler is or will be  
38 conducted.
- 39 8. "Exhibitor" means a manufacturer of new motor homes that  
40 exhibits new motor homes at a special event.
- 41 9. "Factory branch" means a branch office maintained or availed of  
42 by a manufacturer for either:
- 43 (a) The sale of new motor vehicles to distributors or the sale of  
44 new motor vehicles to new motor vehicle dealers in this state.
  - 45 (b) Directing or supervising its representatives in this state.

1           10. "Financial institution" means a bank, trust company, savings  
2 and loan association, credit union, consumer lender, international banking  
3 facility or holding company that is licensed, regulated or insured by the  
4 department of insurance and financial institutions, the federal deposit  
5 insurance corporation, the office of thrift supervision, the comptroller  
6 of the currency, the national credit union share insurance fund or the  
7 national credit union administration.

8           11. "Franchise" means a contract between two or more persons if all  
9 of the following conditions are included:

10           (a) A commercial relationship of definite duration or continuing  
11 indefinite duration is involved.

12           (b) The franchisee is granted the right to offer, sell and service  
13 in this state new motor vehicles manufactured or distributed by the  
14 franchisor.

15           (c) The franchisee, as a separate business, constitutes a component  
16 of the franchisor's distribution system.

17           (d) The operation of the franchisee's business is substantially  
18 associated with the franchisor's trademark, service mark, trade name,  
19 advertising or other commercial symbol designating the franchisor.

20           (e) The operation of the franchisee's business is substantially  
21 reliant on the franchisor for the continued supply of new motor vehicles,  
22 parts and accessories.

23           12. "Franchisee" means a person who both:

24           (a) Receives new motor vehicles from the franchisor under a  
25 franchise.

26           (b) Offers and sells to and services new motor vehicles for the  
27 general public.

28           13. "Franchisor" means a person who both:

29           (a) Manufactures or distributes new motor vehicles.

30           (b) May enter into a franchise.

31           14. "Importer" means a person who transports or arranges for the  
32 transportation of a foreign manufactured new motor vehicle into the United  
33 States for sale in this state.

34           15. "Lead" means any retail consumer who satisfies all of the  
35 following:

36           (a) Responds to a factory-directed program that obtains consumer  
37 contact information and that provides ~~such~~ THE information to one or more  
38 dealers.

39           (b) Expresses an interest to the factory in purchasing, leasing or  
40 acquiring any vehicle or product, service or financing available from the  
41 dealers of that factory.

42           (c) Does not qualify for any reasonable factory sponsored employee,  
43 retiree or vendor new vehicle purchase program or any other reasonable  
44 similar factory new vehicle purchase program.

1           16. "Line-make" means those motor vehicles that are offered for  
2 sale, lease or distribution under a common name, trademark, service mark  
3 or brand name of the manufacturer of those same motor vehicles.

4           17. "Major component part" includes a CATALYTIC CONVERTER AS  
5 DEFINED IN SECTION 44-1642.01 OR A motor vehicle or vehicle part ~~that~~ TO  
6 WHICH the manufacturer has assigned any factory, motor, serial or other  
7 identification number or mark.

8           18. "Manufacturer" means any person who either:

9           (a) Manufactures or assembles new motor vehicles.

10           (b) Manufactures or installs on previously assembled truck chassis  
11 special bodies or equipment that when installed forms an integral part of  
12 the new motor vehicle and that constitutes a major manufacturing  
13 alteration, excluding the installation of a camper on a pickup truck.

14           19. "Motor home" means a motor vehicle that is primarily designed  
15 as temporary living quarters and that:

16           (a) Is built onto as an integral part of, or is permanently  
17 attached to, a motor vehicle chassis.

18           (b) Contains at least four of the following independent life  
19 support systems if each is permanently installed and designed to be  
20 removed only for purposes of repair or replacement:

21           (i) A cooking facility with an onboard fuel source.

22           (ii) A gas or electric refrigerator.

23           (iii) A toilet with exterior evacuation.

24           (iv) A heating or air conditioning system with an onboard power or  
25 fuel source separate from the vehicle engine.

26           (v) A potable water supply system that includes at least a sink, a  
27 faucet and a water tank with an exterior service supply connection.

28           (vi) A 110-125 volt electric power supply.

29           20. "Motor vehicle" means an automobile, motor bus, motorcycle,  
30 truck or truck tractor or any other self-propelled vehicle, trailer or  
31 semitrailer.

32           21. "Motor vehicle dealer" means a new motor vehicle dealer, a used  
33 motor vehicle dealer, a public consignment auction dealer, a broker or a  
34 wholesale motor vehicle auction dealer, excluding a person who comes into  
35 possession of a motor vehicle as an incident to the person's regular  
36 business and who sells, auctions or exchanges the motor vehicle.

37           22. "New house trailer dealer" means a person who buys, sells,  
38 exchanges or offers or attempts to negotiate a sale or exchange of an  
39 interest in, or who is engaged in the business of selling, new house  
40 trailers or used house trailers taken in trade on new house trailers. For  
41 the purposes of this paragraph, "house trailer" means a vehicle, other  
42 than a motor vehicle, that is built on a chassis designed for being drawn  
43 on the highways by a motor vehicle and that is designed for human  
44 habitation.

1           23. "New motor vehicle" means a motor vehicle, other than a used  
2 motor vehicle, that is held either for:

3           (a) Sale by the franchisee who first acquired the vehicle from the  
4 manufacturer or distributor of the vehicle.

5           (b) Sale by another franchisee of the same line-make.

6           24. "New motor vehicle dealer" means a person who buys, sells,  
7 exchanges or offers or attempts to negotiate a sale or exchange of an  
8 interest in, or who is engaged in the business of selling, new motor  
9 vehicles or used motor vehicles taken in trade on new motor vehicles or  
10 used vehicles purchased for resale.

11           25. "Off-premises display and sales" means a promotion or sale of  
12 motor vehicles for a period of time as specified by the director that  
13 both:

14           (a) Is sponsored by a licensed motor vehicle dealer, the licensed  
15 motor vehicle dealer's agents or the manufacturer.

16           (b) Takes place at a location within the same county but not at the  
17 licensee's established place of business.

18           26. "Off-premises exhibition" means the exhibition of a motor  
19 vehicle for a period of time as specified by the director at a location  
20 within the same county but not at the established place of business of a  
21 licensed motor vehicle dealer and at which a solicitation or sale does not  
22 occur.

23           27. "Provisional automotive recycler's license" means a license  
24 that both:

25           (a) Is issued by the department only in conjunction with an  
26 application for an automotive recycler's license.

27           (b) Permits the applicant or applicants to conduct the business of  
28 an automotive recycler regulated by this chapter pending completion of the  
29 criminal records check pursuant to section 28-4361.

30           28. "Provisional dealer's license" means a license that both:

31           (a) Is issued by the department only in conjunction with an  
32 application for a dealer's license.

33           (b) Permits the applicant or applicants to conduct the business of  
34 a motor vehicle dealer regulated by this chapter pending completion of the  
35 criminal records check pursuant to section 28-4361.

36           29. "Public consignment auction dealer" means a person who at the  
37 public consignment auction dealer's established place of business or at an  
38 authorized off-premises location pursuant to the requirements of section  
39 28-4401 is in the business of both of the following:

40           (a) Conducting live auctions with a licensed auctioneer verbally  
41 calling for and accepting bids.

42           (b) Providing live auction services to the public on a consignment  
43 contract basis.

1           30. "Retail consumer" means any person purchasing, leasing or  
2 acquiring or possibly purchasing, leasing or acquiring a vehicle or  
3 product, service or financing not for resale.

4           31. "Service" means any service that is sold, leased or provided to  
5 retail consumers and that directly relates to ~~the ownership~~ OWNING or  
6 leasing ~~of~~ a new or used motor vehicle, including extended service  
7 contracts or motor vehicle warranty and nonwarranty repairs or  
8 maintenance, including both parts and labor.

9           32. "Special event" means an exhibition of new motor homes by a  
10 motor vehicle dealer licensed to sell new motor homes or an exhibitor for  
11 a period of time specified by the director at a location in this state  
12 other than the licensee's or exhibitor's established place of business.

13           33. "Used motor vehicle" means a motor vehicle that has been sold,  
14 bargained, exchanged or given away or the title to the motor vehicle has  
15 been transferred from the person who first acquired the vehicle from the  
16 manufacturer, or importer, dealer or agent of the manufacturer or  
17 importer, and that has been placed in bona fide consumer use. For the  
18 purposes of this paragraph, "bona fide consumer use" means actual  
19 operation by an owner who acquired a new motor vehicle both:

20           (a) For use in the owner's business or for pleasure or otherwise.

21           (b) For which a certificate of title has been issued or that has  
22 been registered as provided by law.

23           34. "Used motor vehicle dealer" means a person, other than a new  
24 motor vehicle dealer, who buys, sells, auctions, exchanges or offers or  
25 attempts to negotiate a sale or exchange of an interest in, or who is  
26 engaged in the business of selling, seven or more used motor vehicles in a  
27 continuous ~~twelve-month~~ TWELVE-MONTH period. Used motor vehicle dealer  
28 does not include a wholesale motor vehicle auction dealer or a public  
29 consignment auction dealer.

30           35. "Wholesale motor vehicle auction dealer" means a person who  
31 both:

32           (a) Is in the business of providing auction services solely in  
33 wholesale transactions to motor vehicle dealers licensed by this state or  
34 any other jurisdiction.

35           (b) Does not buy, sell or own the motor vehicles the auction dealer  
36 auctions in the ordinary course of business.

37           36. "Wholesale motor vehicle dealer" means a person who sells used  
38 motor vehicles only to licensed motor vehicle dealers.

39           Sec. 3. Section 28-4403, Arizona Revised Statutes, is amended to  
40 read:

41           28-4403. Record requirements; motor vehicle information;  
42                                   inspection; liability; electronic submission of  
43                                   documents and records

44           A. A licensee shall keep and maintain at the licensee's established  
45 place of business, or place of business if the licensee is a broker or a

1 wholesale motor vehicle dealer, a permanent record in the form prescribed  
2 by the director containing:

3 1. A particular description of each motor vehicle of a type subject  
4 to registration under the laws of this state that is bought, sold,  
5 brokered or exchanged by the licensee or received or accepted by the  
6 licensee for sale, brokering or exchange.

7 2. A particular description of each used motor vehicle body or  
8 chassis that is sold or otherwise disposed of.

9 3. A particular description of each motor vehicle that is bought or  
10 otherwise acquired and wrecked by the licensee.

11 4. The name and address of the person from whom a motor vehicle,  
12 motor vehicle body or motor vehicle chassis was purchased or otherwise  
13 acquired and the date it was purchased or acquired.

14 5. The name and address of the person to whom the motor vehicle,  
15 motor vehicle body or motor vehicle chassis was sold or otherwise disposed  
16 of, the date it was sold or disposed of and a sufficient description of  
17 the vehicle, body or chassis by name or identifying number or otherwise to  
18 identify it.

19 B. A licensed automotive recycler that has a vehicle in the  
20 automotive recycler's inventory shall:

21 1. At the same time have possession of a duly and regularly  
22 assigned salvage certificate of title, nonrepairable vehicle certificate  
23 of title or dismantle certificate of title to the vehicle.

24 2. Not offer for sale or sell a vehicle unless a salvage  
25 certificate of title, nonrepairable vehicle certificate of title or  
26 dismantle certificate of title to the vehicle has been obtained.

27 C. Each motor vehicle dealer shall give the customer a written  
28 contract and shall maintain a copy of the contract for three years at the  
29 dealer's established place of business.

30 D. Each record required by this section and all inventories  
31 relating to the records of a licensee shall be available at all times for  
32 physical inspection by agents of the department or members of the highway  
33 patrol division. The agents or members may enter on premises where the  
34 records or inventories are located during normal business hours for  
35 purposes of the inspection. The licensee or any designated employee or  
36 agent may accompany any person making the inspection while the person is  
37 on the licensee's premises.

38 E. The licensee is only liable to a person making an inspection  
39 under this section for an injury arising out of the condition of the  
40 premises that occurs while the person is on the licensee's premises if the  
41 licensee knowingly allows the person to encounter a hidden peril or  
42 wantonly or wilfully causes the person harm.

43 F. A wholesale motor vehicle dealer shall submit electronically to  
44 the department any documents that are requested by the department during  
45 the wholesale motor vehicle dealer's reported business hours and that are



1 prescribed in this section. The wholesale motor vehicle dealer shall  
2 submit the requested documents within forty-eight hours after the request  
3 is transmitted.

4 G. WITHIN TWENTY-FOUR HOURS AFTER THE TRANSACTION, A LICENSED  
5 AUTOMOTIVE RECYCLER SHALL SUBMIT TO THE DEPARTMENT A RECORD OF EACH  
6 TRANSACTION INVOLVING THE ACQUISITION OR PURCHASE OF A CATALYTIC CONVERTER  
7 AS DEFINED IN SECTION 44-1642.01 THAT IS NOT AFFIXED TO A VEHICLE.

8 Sec. 4. Section 28-4404, Arizona Revised Statutes, is amended to  
9 read:

10 28-4404. Record requirements; vehicles and parts; electronic  
11 submission; violation; classification

12 A. Each licensee shall keep and maintain at the licensee's place of  
13 business, or at each of the licensee's places of business if the licensee  
14 has more than one, a permanent record in a form prescribed by the director  
15 as follows:

16 1. Recording and describing each of the following:

17 (a) Each vehicle that is wrecked, dismantled, disassembled or  
18 substantially altered by the licensee.

19 (b) Each major component part that is acquired by the licensee,  
20 together with a bill of sale signed by a seller whose identity has been  
21 verified, and the name and address of the person, firm or corporation from  
22 which the licensee purchased the vehicle or part.

23 (c) The following information regarding the wrecked or acquired  
24 vehicle that is the source of a major component part:

25 (i) If previously titled in this or any other state, the  
26 certificate of title number.

27 (ii) The name of the state where last registered.

28 (iii) The number of the last license plate issued.

29 (iv) The make and model of the vehicle.

30 (v) The identification number and serial number of the vehicle.

31 (vi) The date purchased.

32 (vii) The disposition of the chassis.

33 (viii) The name and address of the person from whom a motor  
34 vehicle, motor vehicle body or motor vehicle chassis was purchased or  
35 otherwise acquired and the date of the purchase.

36 (ix) The name and address of the person to whom the motor vehicle,  
37 motor vehicle body or motor vehicle chassis was sold or otherwise disposed  
38 of, the date of the sale and a description of the vehicle, body or chassis  
39 by make and model or identification number.

40 (d) EACH CATALYTIC CONVERTER AS DEFINED IN SECTION 44-1642.01 THAT  
41 IS NOT PERMANENTLY AFFIXED TO A VEHICLE AND THAT IS ACQUIRED BY THE  
42 LICENSEE.

43 2. Including a bill of sale signed by the seller for any motor  
44 vehicle parts other than major component parts acquired by the licensee,  
45 identifying the seller by name, address and date of sale.

1 B. The licensee shall maintain the record at the licensee's  
2 established place of business or principal place of business if the  
3 licensee is a broker or a wholesale motor vehicle dealer for a period of  
4 three years from the date of acquiring each item recorded.

5 C. Authorized representatives of the department of transportation  
6 or any law enforcement agency may inspect the record kept by the licensee  
7 at any time during regular business hours.

8 D. An automotive recycler shall maintain a similar record of all  
9 disabled vehicles that have been towed or transported to the automotive  
10 recycler's place of business or to other places designated by the owner of  
11 the vehicle or the owner's representative. This record shall specify the  
12 make, model and description of the vehicle, name of the owner, number of  
13 the license plate, condition of the vehicle and place to which it was  
14 towed or transported.

15 E. Each licensee shall allow any person described in subsection C  
16 OF THIS SECTION, during business hours and after reasonable demand, to  
17 physically compare the records required to be maintained with the vehicles  
18 or major component parts that are located at the licensee's place of  
19 business.

20 F. A LICENSED AUTOMOTIVE RECYCLER SHALL SUBMIT ELECTRONICALLY TO  
21 THE DEPARTMENT INFORMATION REGARDING EACH TRANSACTION THAT INVOLVES THE  
22 ACQUISITION OR PURCHASE OF A CATALYTIC CONVERTER AS DEFINED IN SECTION  
23 44-1642.01 THAT IS NOT PERMANENTLY AFFIXED TO A VEHICLE, INCLUDING THE  
24 INFORMATION LISTED IN SECTION 44-1644.

25 ~~F. G. Beginning January 1, 2014,~~ A wholesale motor vehicle dealer  
26 shall submit electronically to the department any documents that are  
27 requested by the department during the wholesale motor vehicle dealer's  
28 reported business hours and that are prescribed in this section. The  
29 wholesale motor vehicle dealer shall submit the requested documents within  
30 forty-eight hours after the request is transmitted.

31 ~~G. H.~~ H. After reasonable demand by a person under subsection C or E  
32 OF THIS SECTION, a person who fails to display the records required to be  
33 maintained is guilty of a class 1 misdemeanor.

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

36 44-1641. Definitions

37 In this article, unless the context otherwise requires:

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

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

- 1           3. "Ferrous metals":  
2           (a) Means those metals that will attract a magnet.  
3           (b) Includes a scrap vehicle.
- 4           4. "Industrial account" means EITHER:  
5           (a) A person or business entity that files or is required to file  
6 monthly returns for that person's or entity's transaction privilege tax  
7 licenses ~~or~~ AND THAT IS REASONABLY EXPECTED TO GENERATE THE TYPE OF SCRAP  
8 METALS IT SELLS.  
9           (b) A governmental entity that sells scrap metal to a scrap metal  
10 dealer.
- 11           5. "Scrap metal dealers" means each person or business entity,  
12 including all employees of the person or business entity, except  
13 automotive recyclers that are licensed pursuant to title 28, chapter 10  
14 and whose primary business is the dismantling, selling or disposing of  
15 parts or accessories of motor vehicles, engaged in the business of  
16 purchasing, trading, bartering or otherwise receiving secondhand or  
17 castoff material of any kind that is commonly known as scrap metal.
- 18           6. "Scrap metals" includes insulated and uninsulated metallic  
19 cables and scrap vehicles.
- 20           7. "Scrap vehicle" means a vehicle that has been reported to the  
21 national vehicle title information system and that has been flattened,  
22 crushed, baled or logged so that the vehicle is less than fifty percent of  
23 its original volume, is no longer the vehicle that is described by the  
24 certificate of title and is sold for purposes of scrap metal only.
- 25           Sec. 6. Section 44-1641.05, Arizona Revised Statutes, is amended to  
26 read:  
27           44-1641.05. Items required to be maintained at place of  
28 business; city or county ability to recover  
29 costs; violation; civil penalty
- 30           A. A registered scrap metal dealer must keep the following at each  
31 place of business:  
32           1. Proof of registration that is issued by the department.  
33           2. A statement indicating that the applicant SCRAP METAL DEALER has  
34 registered on a free theft notification website that allows law  
35 enforcement to send detailed descriptions of stolen items to recycling  
36 operations and other law enforcement within at least a one hundred mile  
37 radius of a theft. The website must allow scrap metal dealers to alert  
38 law enforcement when the dealers are offered suspicious materials.  
39           3. An affidavit signed by the applicant SCRAP METAL DEALER that  
40 states that the person is in compliance with this article.  
41           4. A questionnaire that the scrap metal dealer must prepare every  
42 two years to show compliance with this article.

1 B. The scrap metal dealer must maintain and make available the  
2 items prescribed by subsection A of this section for inspection by law  
3 enforcement. If after inspection law enforcement determines that the scrap  
4 metal dealer is in violation of this section, law enforcement must submit  
5 a notice of violation to the scrap metal dealer. EXCEPT AS OTHERWISE  
6 PROVIDED IN THIS SECTION, law enforcement shall reinspect the scrap metal  
7 dealer's place of business ~~no~~ NOT earlier than ~~fifteen~~ SEVEN days after  
8 the scrap metal dealer receives the notice of violation. AFTER  
9 REINSPECTION, IF LAW ENFORCEMENT DETERMINES THAT THE SCRAP METAL DEALER IS  
10 IN VIOLATION OF THIS SECTION, LAW ENFORCEMENT MAY CONDUCT A SUBSEQUENT  
11 REINSPECTION WITHOUT A MINIMUM WAITING PERIOD.

12 C. If a person violates this section, the person is subject to the  
13 following:

14 1. For a first violation, a civil penalty of ~~five hundred dollars,~~  
15 \$500. ~~except that the person is not subject to a civil penalty if the~~  
16 ~~person corrects the violation within fifteen days after receiving the~~  
17 ~~notice pursuant to subsection B of this section.~~

18 2. For a second ~~or subsequent~~ violation, a civil penalty of ~~one~~  
19 ~~thousand dollars~~ \$2,000 and a licensing jurisdiction shall suspend or  
20 revoke the person's business license or, if a business license is not  
21 required to operate a business, the jurisdiction shall order the  
22 suspension or permanent cessation of the person's business operations.

23 3. FOR A THIRD OR SUBSEQUENT VIOLATION, A CIVIL PENALTY THAT IS  
24 \$2,000 MORE THAN THE PREVIOUS CIVIL PENALTY IMPOSED ON THE PERSON FOR  
25 VIOLATING THIS SECTION.

26 ~~3.~~ 4. Any costs associated with the enforcement of this article as  
27 determined by a city or county.

28 D. Failure to comply with this section may result in the immediate  
29 suspension of all scrap metal transactions unless one of the following  
30 applies to the business:

31 1. The business has been previously registered as a scrap metal  
32 recycler.

33 2. The business has a local business license.

34 Sec. 7. Section 44-1642, Arizona Revised Statutes, is amended to  
35 read:

36 44-1642. Records of purchase; transaction limitations; age  
37 requirement for scrap metal seller; used catalytic  
38 converter retainment period; exception

39 A. Every scrap metal dealer shall keep on the business premises a  
40 book or other similar record legibly printed or written in ink, in the  
41 English language of each transaction involving the receipt of scrap metal.  
42 The record of each receipt of scrap metal shall include the following  
43 information:

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

1           2. A photograph and an identifying description and weight of the  
2 specific scrap metal received.

3           3. The dollar amount of the transaction.

4           4. Except as otherwise provided in this paragraph, the seller's  
5 name, physical description including gender, height, weight, race and eye  
6 and hair color, physical address, date of birth and signature and a  
7 photocopy of a current driver license, nonoperating identification license  
8 issued pursuant to section 28-3165 or photo identification card issued by  
9 a tribal government or the United States military. The scrap metal dealer  
10 must validate the recorded information by using the seller's current  
11 driver license, nonoperating identification license issued pursuant to  
12 section 28-3165 or photo identification card issued by a tribal government  
13 or the United States military. This paragraph does not apply to a seller  
14 who is exclusively selling aluminum beverage containers.

15           5. The seller's transaction privilege tax number, if applicable.

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

18           7. A photograph, video record or digital record of the seller  
19 involved in the transaction.

20           8. A right index fingerprint of the seller.

21           B. The record and entries shall be retained in a book or similar  
22 record at the business premises for one year after making the final entry  
23 of any transaction and shall be retained either at the business premises  
24 or any other reasonably available location for an additional year. A  
25 scrap metal dealer's business premises, business records relating to scrap  
26 metal transactions, including a book or similar record prescribed by this  
27 section, and business inventory shall be open during regular business  
28 hours for reasonable inspection by a peace officer. Before an inspection  
29 shall take place, a peace officer shall first identify himself and the  
30 purpose for the inspection to the scrap metal dealer, dealer's manager or  
31 other responsible person and comply with all reasonable and customary  
32 safety requirements of that scrap metal dealer for the business premises  
33 inspected. The scrap metal dealer may require the peace officer to sign  
34 an inspection log that includes the officer's name and serial or badge  
35 number and the time, the date and the purpose for the inspection.

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

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



- 1           4. Water meters that are used for ~~measurement of~~ MEASURING the use  
2 and consumption of domestic water.
- 3           5. Aluminum trench shoring that is commonly used for shoring below  
4 ground trenches and excavations for ~~the construction of~~ CONSTRUCTING  
5 buildings and structures.
- 6           6. Aluminum loading ramps that are manufactured and used for  
7 loading motor vehicles for hauling the motor vehicles.
- 8           7. Aluminum or stainless steel beer or malt beverage kegs that are  
9 commonly used by brewers or producers for ~~the sale~~ SELLING and  
10 ~~transportation of~~ TRANSPORTING beer or malt beverages.
- 11          8. Catalytic converters. For the purposes of this paragraph,  
12 "catalytic converters" means motor vehicle exhaust system parts that are  
13 used for controlling the exhaust emissions from motor vehicles and that  
14 contain a catalyst metal.
- 15          9. Metal municipal storm grates that are used to allow for water  
16 drainage from municipal streets or alleys.
- 17          B. This section does not apply to or prohibit the purchase or  
18 possession of the types of items THAT ARE listed in subsection A of this  
19 section and that are acquired in transactions with industrial accounts,  
20 with other scrap metal dealers or after the scrap metal is authorized for  
21 release by a peace officer of that jurisdiction IF THE SCRAP METAL DEALER  
22 KEEPS RECORDS PURSUANT TO SECTION 44-1642 AND ELECTRONICALLY REPORTS THE  
23 TRANSACTIONS PURSUANT TO SECTION 44-1644.
- 24          C. A person who violates this section is guilty of a class 1  
25 misdemeanor.