

Senate Engrossed House Bill

~~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, 44-1644 AND 44-1646, 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'S ORDINARY COURSE OF
30 BUSINESS. A COMMERCIAL MOTOR VEHICLE PARTS OR REPAIR BUSINESS MAY
31 PURCHASE A USED CATALYTIC CONVERTER BEING SOLD AS A VEHICLE REPAIR PART IN
32 COMPLIANCE WITH UNITED STATES ENVIRONMENTAL PROTECTION AGENCY POLICY. THE
33 USED CATALYTIC CONVERTER IN COMPLIANCE WITH UNITED STATES ENVIRONMENTAL
34 PROTECTION AGENCY POLICY SHALL BE MARKED WITH THE DATE THE CATALYTIC
35 CONVERTER WAS REMOVED FROM THE VEHICLE, THE VEHICLE IDENTIFICATION NUMBER
36 OF THE VEHICLE FROM WHICH THE CATALYTIC CONVERTER WAS REMOVED OR AN
37 ALTERNATIVE NUMBER TO THE VEHICLE IDENTIFICATION NUMBER. IF AN
38 ALTERNATIVE NUMBER IS USED, THE ALTERNATIVE NUMBER MUST BE UNDER A
39 NUMBERING SYSTEM THAT CAN BE IMMEDIATELY LINKED TO THE VEHICLE
40 IDENTIFICATION NUMBER BY LAW ENFORCEMENT.

41 C. A PERSON THAT PURCHASES A USED CATALYTIC CONVERTER OR ANY
42 NONFERROUS PARTS OF A CATALYTIC CONVERTER SHALL ELECTRONICALLY SUBMIT TO
43 THE DEPARTMENT OF PUBLIC SAFETY A RECORD OF EACH TRANSACTION RELATING TO A
44 USED CATALYTIC CONVERTER OR ANY NONFERROUS PARTS OF A CATALYTIC CONVERTER
45 IN ACCORDANCE WITH SECTION 44-1644.

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 Sec. 4. Section 44-1642, Arizona Revised Statutes, is amended to
2 read:

3 44-1642. Records of purchase; transaction limitations; age
4 requirement for scrap metal seller; used catalytic
5 converter retainment period; exception

6 A. Every scrap metal dealer shall keep on the business premises a
7 book or other similar record legibly printed or written in ink, in the
8 English language of each transaction involving the receipt of scrap metal.
9 The record of each receipt of scrap metal shall include the following
10 information:

- 11 1. The date, time and place of the transaction.
- 12 2. A photograph and an identifying description and weight of the
13 specific scrap metal received.
- 14 3. The dollar amount of the transaction.
- 15 4. Except as otherwise provided in this paragraph, the seller's
16 name, physical description including gender, height, weight, race and eye
17 and hair color, physical address, date of birth and signature and a
18 photocopy of a current driver license, nonoperating identification license
19 issued pursuant to section 28-3165 or photo identification card issued by
20 a tribal government or the United States military. The scrap metal dealer
21 must validate the recorded information by using the seller's current
22 driver license, nonoperating identification license issued pursuant to
23 section 28-3165 or photo identification card issued by a tribal government
24 or the United States military. This paragraph does not apply to a seller
25 who is exclusively selling aluminum beverage containers.
- 26 5. The seller's transaction privilege tax number, if applicable.
- 27 6. The number and state of issuance of the license on the vehicle
28 used to deliver the scrap metal.
- 29 7. A photograph, video record or digital record of the seller
30 involved in the transaction.
- 31 8. A right index fingerprint of the seller.

32 B. The record and entries shall be retained in a book or similar
33 record at the business premises for one year after making the final entry
34 of any transaction and shall be retained either at the business premises
35 or any other reasonably available location for an additional year. A
36 scrap metal dealer's business premises, business records relating to scrap
37 metal transactions, including a book or similar record prescribed by this
38 section, and business inventory shall be open during regular business
39 hours for reasonable inspection by a peace officer. Before an inspection
40 shall take place, a peace officer shall first identify himself and the
41 purpose for the inspection to the scrap metal dealer, dealer's manager or
42 other responsible person and comply with all reasonable and customary
43 safety requirements of that scrap metal dealer for the business premises
44 inspected. The scrap metal dealer may require the peace officer to sign

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 THE**
39 **CATALYTIC CONVERTER IN THEIR ORIGINAL FORM FOR AT LEAST SEVEN DAYS AFTER**
40 **THE 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 Sec. 5. Section 44-1642.01, Arizona Revised Statutes, is amended to
2 read:

3 44-1642.01. Prohibited scrap metal transactions; exceptions;
4 violation; classification

5 A. A scrap metal dealer shall not knowingly purchase the following
6 types of scrap metal:

7 1. Metal manhole covers that are used to cover street or alley
8 service personnel access entrances to municipal sewers and storm drains.

9 2. Brass or bronze valves or fittings that are commonly used on
10 structures for access to water for the purpose of extinguishing fires.

11 3. Brass or bronze commercial potable water backflow preventer
12 valves that are valves commonly used to prevent backflow of potable water
13 into municipal domestic water service systems from commercial structures.

14 4. Water meters that are used for ~~measurement of~~ MEASURING the use
15 and consumption of domestic water.

16 5. Aluminum trench shoring that is commonly used for shoring below
17 ground trenches and excavations for ~~the construction of~~ CONSTRUCTING
18 buildings and structures.

19 6. Aluminum loading ramps that are manufactured and used for
20 loading motor vehicles for hauling the motor vehicles.

21 7. Aluminum or stainless steel beer or malt beverage kegs that are
22 commonly used by brewers or producers for ~~the sale~~ SELLING and
23 ~~transportation of~~ TRANSPORTING beer or malt beverages.

24 8. Catalytic converters ~~OR ANY NONFERROUS PARTS OF A CATALYTIC~~
25 ~~CONVERTER~~. For the purposes of this paragraph, "catalytic converters"
26 means motor vehicle exhaust system parts that are used for controlling the
27 exhaust emissions from motor vehicles and that contain a catalyst metal.

28 9. Metal municipal storm grates that are used to allow for water
29 drainage from municipal streets or alleys.

30 B. This section does not apply to or prohibit the purchase or
31 possession of the types of items ~~THAT ARE~~ listed in subsection A of this
32 section and that are acquired in transactions with industrial accounts,
33 with other scrap metal dealers or after the scrap metal is authorized for
34 release by a peace officer of that jurisdiction ~~IF THE SCRAP METAL DEALER~~
35 ~~KEEPS RECORDS PURSUANT TO SECTION 44-1642 AND ELECTRONICALLY REPORTS THE~~
36 ~~TRANSACTIONS PURSUANT TO SECTION 44-1644.~~

37 C. A person who violates this section is guilty of a class 1
38 misdemeanor.

39 Sec. 6. Section 44-1644, Arizona Revised Statutes, is amended to
40 read:

41 44-1644. Report; exemption; violation; classification

42 A. Within twenty-four hours ~~of receipt of~~ AFTER RECEIVING scrap
43 metals, except from an industrial account or a scrap metal dealer, for
44 which a record is required to be kept by section 44-1642, a scrap metal
45 dealer shall electronically submit to the department a record of the

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) UNIQUE IDENTIFYING NUMBERS AND MARKINGS ON CATALYTIC CONVERTERS
9 AS DEFINED IN SECTION 44-1642.01, SUBSECTION A, PARAGRAPH 8 OR ANY
10 NONFERROUS PARTS OF A CATALYTIC CONVERTER.

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

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

19 B. A SCRAP METAL DEALER SHALL ELECTRONICALLY SUBMIT TO THE
20 DEPARTMENT A RECORD OF THE RECEIPT OF EACH PURCHASE OF A USED CATALYTIC
21 CONVERTER AS DEFINED IN SECTION 44-1642.01, SUBSECTION A, PARAGRAPH 8 OR
22 ANY NONFERROUS PARTS OF A CATALYTIC CONVERTER FROM AN INDUSTRIAL ACCOUNT
23 OR ANOTHER SCRAP METAL DEALER. THE REPORT SHALL INCLUDE:

24 1. THE NAME, ADDRESS AND TRANSACTION PRIVILEGE TAX NUMBER OF THE
25 SELLER.

26 2. THE DATE, TIME AND PLACE OF THE TRANSACTION.

27 3. THE NUMBER OF CATALYTIC CONVERTERS PURCHASED.

28 4. ANY UNIQUE IDENTIFYING NUMBERS AND MARKINGS ON CATALYTIC
29 CONVERTERS OR ANY NONFERROUS PARTS OF A CATALYTIC CONVERTER.

30 ~~B.~~ C. The department shall establish by rule electronic submission
31 standards. The submission standards shall allow the submission of the
32 information in an electronic format that is compatible with the output
33 format of not less than four of the record keeping software programs
34 currently in use in the scrap metal industry in this state in a manner
35 that will allow the information to be electronically merged with the
36 department's database. A scrap metal dealer that submits information to
37 the department pursuant to this section ~~shall~~ IS not ~~be~~ required to submit
38 the same information to a local law enforcement agency.

39 ~~C.~~ D. The department shall make the information submitted pursuant
40 to this section available to local law enforcement agencies over the
41 internet and shall provide for training and procedures to allow law
42 enforcement personnel to access the information provided electronically
43 for law enforcement purposes.

1 ~~D.~~ E. For copper, aluminum wire with a diameter of at least
2 three-eighths of an inch and transactions with a value over ~~one hundred~~
3 ~~dollars~~ \$100, a scrap metal dealer shall hold in its custody in the same
4 size, shape and condition in which the scrap metal was received on its
5 business premises any scrap metal received in a reportable transaction for
6 seven days after filing the report prescribed by subsection A of this
7 section.

8 ~~E.~~ F. Subsection ~~D.~~ E of this section does not apply to
9 transactions with industrial accounts, other scrap metal dealers or
10 purchases by scrap metal dealers of used aluminum beverage containers or
11 ferrous metals and of scrap metal authorized for release by a peace
12 officer of that jurisdiction.

13 ~~F.~~ G. A person who fails to file a report prescribed by this
14 section is guilty of a class 1 misdemeanor.

15 Sec. 7. Section 44-1646, Arizona Revised Statutes, is amended to
16 read:

17 44-1646. Burned metallic wire; aluminum wire; copper wire;
18 transaction restrictions; applicability

19 A. A scrap metal dealer shall not purchase or ~~otherwise~~ receive
20 metallic wire that was burned in whole or in part to remove insulation
21 unless the scrap metal dealer receives from the scrap metal seller written
22 evidence identifying the person who delivers the wire to the scrap metal
23 dealer that includes evidence that the wire was lawfully burned.

24 B. A scrap metal dealer shall not accept aluminum wire with a
25 diameter of ~~at least three-eighths of an~~ 3/8 inch ~~OR MORE~~ or any copper
26 wire that has ~~had~~ the insulation removed and shall not remove the
27 insulation from the wire until after the ~~seven-day~~ SEVEN-DAY period
28 prescribed by section 44-1644, subsection ~~D.~~ E.

29 C. This section does not apply to transactions with all industrial
30 accounts or to transactions between scrap metal dealers.

31 Sec. 8. Emergency

32 This act is an emergency measure that is necessary to preserve the
33 public peace, health or safety and is operative immediately as provided by
34 law.