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

CHAPTER 225

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, POSSESS or sell a used catalytic converter unless the purchase or sale is 8 9 in the ordinary course of business by a commercial motor vehicle parts or repair business in connection with the sale or installation of a new 10 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 NONFERROUS PARTS OF A CATALYTIC CONVERTER BY an automotive recycler that 14 is licensed pursuant to title 28, chapter 10 IF THE POSSESSION OR SALE IS 15 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 44-1642.01 that is ARE acquired in a transaction with an industrial 19 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 transaction occurs, EXCEPT THAT A SOLICITATION OR ADVERTISEMENT FOR A USED 23 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 PARTS OR REPAIR BUSINESS THAT SELLS OR INSTALLS A NEW CATALYTIC CONVERTER 28 29 IF THE POSSESSION OR SALE IS IN THE BUSINESS'S ORDINARY COURSE OF BUSINESS. A COMMERCIAL MOTOR VEHICLE PARTS OR REPAIR BUSINESS MAY 30 31 PURCHASE A USED CATALYTIC CONVERTER BEING SOLD AS A VEHICLE REPAIR PART IN COMPLIANCE WITH UNITED STATES ENVIRONMENTAL PROTECTION AGENCY POLICY. THE 32 USED CATALYTIC CONVERTER IN COMPLIANCE WITH UNITED STATES ENVIRONMENTAL 33 PROTECTION AGENCY POLICY SHALL BE MARKED WITH THE DATE THE CATALYTIC 34 CONVERTER WAS REMOVED FROM THE VEHICLE, THE VEHICLE IDENTIFICATION NUMBER 35 36 OF THE VEHICLE FROM WHICH THE CATALYTIC CONVERTER WAS REMOVED OR AN 37 VEHICLE IDENTIFICATION ALTERNATIVE NUMBER TO THE NUMBER. IF AN ALTERNATIVE NUMBER IS USED, THE ALTERNATIVE NUMBER MUST BE UNDER A 38 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 NONFERROUS PARTS OF A CATALYTIC CONVERTER SHALL ELECTRONICALLY SUBMIT TO 42 43 THE DEPARTMENT OF PUBLIC SAFETY A RECORD OF EACH TRANSACTION RELATING TO A USED CATALYTIC CONVERTER OR ANY NONFERROUS PARTS OF A CATALYTIC CONVERTER 44 45 IN ACCORDANCE WITH SECTION 44-1644.

1 C. D. A violation of this section is a class 1 misdemeanor. E. FOR THE PURPOSES OF THIS SECTION, "CATALYTIC CONVERTER" HAS THE 2 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 made in the ordinary course of business at or near the time of the 10 11 purchase, trade, barter or transaction, including receipts, books or similar records as prescribed by section 44-1642, but does not include 12 13 correspondence, tax returns or financial statements. 14 "Department" means the department of public safety. 2. 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 automotive recyclers that are licensed pursuant to title 28, chapter 10 27 and whose primary business is the dismantling, selling or disposing of 28 29 parts or accessories of motor vehicles, engaged in the business of purchasing, trading, bartering or otherwise receiving secondhand or 30 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. 7. "Scrap vehicle" means a vehicle that has been reported to the 34 national vehicle title information system and that has been flattened, 35 36 crushed, baled or logged so that the vehicle is less than fifty percent of its original volume, is no longer the vehicle that is described by the 37 certificate of title and is sold for purposes of scrap metal only. 38 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 business; city or county ability to recover 42 43 costs; violation; civil penalty 44 A. A registered scrap metal dealer must keep the following at each 45 place of business:

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1. Proof of registration that is issued by the department.

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 1 aw 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 enforcement. If after inspection law enforcement determines that the scrap 14 metal dealer is in violation of this section, law enforcement must submit 15 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 $\frac{1}{100}$ NOT earlier than fifteen SEVEN days after 19 scrap metal dealer receives the notice of violation. AFTER the 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:

For a first violation, a civil penalty of five hundred dollars,
 \$500. except that the person is not subject to a civil penalty if the
 person corrects the violation within fifteen days after receiving the
 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 metal43 recycler.

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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. 4. Except as otherwise provided in this paragraph, the seller's 15 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 issued pursuant to section 28-3165 or photo identification card issued by 19 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 section 28-3165 or photo identification card issued by a tribal government 23 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 of any transaction and shall be retained either at the business premises 34 35 or any other reasonably available location for an additional year. Α 36 scrap metal dealer's business premises, business records relating to scrap metal transactions, including a book or similar record prescribed by this 37 section, and business inventory shall be open during regular business 38 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 inspected. The scrap metal dealer may require the peace officer to sign 44

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.

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

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

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

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

27 2. An identifying description and weight of the specific scrap28 metal received.

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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.

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

H. IF A SCRAP METAL DEALER PURCHASES A USED CATALYTIC CONVERTER OR
ANY NONFERROUS PARTS OF A CATALYTIC CONVERTER, THE SCRAP METAL DEALER
SHALL RETAIN THE USED CATALYTIC CONVERTER OR THE NONFERROUS PARTS OF THE
CATALYTIC CONVERTER IN THEIR ORIGINAL FORM FOR AT LEAST SEVEN DAYS AFTER
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. 5. Aluminum trench shoring that is commonly used for shoring below
16 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 39	misdemeanor.
39 40	Sec. 6. Section 44–1644, Arizona Revised Statutes, is amended to read:
40 41	44-1644. <u>Report: exemption: violation: classification</u>
41	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:

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 vehicle18 used to deliver the scrap metal.

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

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

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

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3. THE NUMBER OF CATALYTIC CONVERTERS PURCHASED.

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

B. C. The department shall establish by rule electronic submission 30 31 standards. The submission standards shall allow the submission of the information in an electronic format that is compatible with the output 32 format of not less than four of the record keeping software programs 33 currently in use in the scrap metal industry in this state in a manner 34 35 that will allow the information to be electronically merged with the 36 department's database. A scrap metal dealer that submits information to the department pursuant to this section shall IS not be required to submit 37 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. D. E. For copper, aluminum wire with a diameter of at least three-eighths of an inch and transactions with a value over one hundred dollars \$100, a scrap metal dealer shall hold in its custody in the same size, shape and condition in which the scrap metal was received on its business premises any scrap metal received in a reportable transaction for seven days after filing the report prescribed by subsection A of this 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:

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44-1646. <u>Burned metallic wire; aluminum wire; copper wire;</u> <u>transaction restrictions; applicability</u>

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

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

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

Sec. 8. <u>Emergency</u>

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

APPROVED BY THE GOVERNOR MAY 9, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 9, 2022.