

PROPOSED AMENDMENT

(Offered by Secretary of State)

LD 796 An Act to Restrict Sales of Catalytic Converters Removed from Motor Vehicles

Be it enacted by the People of the State of Maine as follows:

Amend the bill by striking everything after the enacting clause and before the summary and replace with the following:

Sec. 1. **29-A MSRA § 952 sub-§1-B** is amended to read:

1-B. Vehicles. A dealer shall:

- A. On all used motor vehicles offered for sale, ensure that the written vehicle history statement is conspicuously affixed to the vehicle pursuant to Title 10, section 1475;
- B. For all vehicles sold, comply with the provisions of Title 10, chapter 217-; and
- C. Engrave the full vehicle identification number of a vehicle on the catalytic converter prior to the retail sale of all vehicles where the catalytic converter is clearly visible from the underside of the vehicle. The marking shall be done in a manner that the vehicle identification number is clearly visible and legible.

Sec. 2. **Chapter 9, Sub. 7 - Catalytic Converters - 29-A MRSA §XXXX** enacted to read:

1. **Purpose.** The purpose of this subchapter is to define the detachment, possession, purchase and sale, transport, and disposal of a catalytic converter. Unless otherwise stated, a catalytic converter is defined in Title 30-A, section 3771(2).
2. **Detachment of a catalytic converter.**
 - A. A recycler that detaches a catalytic converter from a motor vehicle shall ensure that the catalytic converter is marked. Unless the recycler is utilizing a stock number system, the detached catalytic converter shall be marked with the full vehicle identification number of the vehicle from which the catalytic converter was removed. A recycler utilizing a stock number in place of a full vehicle identification number shall mark the detached catalytic converter with the stock number and the recycler license number. The marking shall be done using engraving or another permanent marking method and shall be done in a manner that the vehicle identification number is clearly visible and legible.
 - B. When a catalytic converter is detached from a motor vehicle the person or entity responsible for the detachment shall ensure that the catalytic converter is engraved with the full vehicle identification number of the vehicle from which the catalytic converter was removed. The marking shall be done in a manner that the vehicle identification number is clearly visible and legible.
 - C. Penalty. Violation of subsection 2 is a Class E crime.

3. Purchase and sale of catalytic converters and contents. The following provisions shall apply to the purchase and sale of catalytic converters and contents:

- A. Only a licensed recycler may purchase or acquire a catalytic converter that has been detached from a motor vehicle. A business that deals in the removal of the contents of detached catalytic converters shall be licensed as a recycler.
- B. A recycler who purchases or acquires a catalytic converter must comply with the provisions of Title 30-A M.R.S. Chapter 183 Subchapter 1-A.
- C. Prior to disposal, or within 10 days of purchasing or acquiring a detached catalytic converter, a recycler shall submit to a regional property and recovery tracking system administered by a regional law enforcement support organization designated by the Department of Secretary of State, Bureau of Motor Vehicles, in a form acceptable to the recipient, a report of the transaction, including:
 - (1) The name and address of the recycler;
 - (2) The date and time of the transaction;
 - (3) The name, address, date of birth, telephone number, if any, and unique identifying number on a valid form of identification of the consumer or seller; and
 - (4) The vehicle identification number marked on the catalytic converter, the stock number and license number, if applicable, and the amount of the purchase price.
- D. A recycler shall not purchase or acquire a detached catalytic converter unless it has been clearly marked with the full vehicle identification number of the vehicle from which it was removed.
- E. A recycler shall not remove the contents of a catalytic converter unless the catalytic converter has been clearly marked in accordance with subsection 1.
- F. A recycler shall not sell detached catalytic converters for retail but may sell the detached catalytic converter wholesale to other scrap metal processors.

Violation of subsections 2(A), 2(B) or 2(C) is a Class E crime. Violation of subsections 2(D) or 2(E) is a Class D crime. Violation of subsection 2(F) is a Class E crime.

3. Transportation of Catalytic Converters. The following provisions shall apply to the transportation of catalytic converters:

- A. A recycler transporting detached catalytic converters shall allow the inspection of the catalytic converters in the load upon request of law enforcement.

- B. A recycler transporting catalytic converters that are marked only with the stock number and the recycler license number shall have a manifest. The manifest shall be provided to law enforcement upon request. The manifest shall include the stock numbers, the vehicle identification numbers, and the name of the recyclers that marked the catalytic converters.
- C. Individuals may not transport unmarked catalytic converters. When lawfully stopped by a law enforcement officer, individuals who are transporting one or more catalytic converters shall allow the inspection of the catalytic converters upon request of law enforcement.
- D. Violation of subsection 3 is a Class E crime.

4. Misrepresentation.

- A. A recycler shall not mark a catalytic converter in any manner that the recycler knows or ought to know is not the vehicle identification number of the vehicle from which the catalytic converter was removed.
- B. A person or entity shall not mark a catalytic converter in any manner that the person or entity knows or ought to know is not the vehicle identification number of the vehicle of which the catalytic converter was removed.
- C. Violation of subsection 4 is a Class E crime.

5. Illegal Possession of Catalytic Converters. A person is guilty of illegal possession of catalytic converters if:

- A. The person who is a recycler exercises control over one or more detached catalytic converters that have not been clearly marked with either the full vehicle identification number of the vehicle from which it was removed or the stock number and recycler license number for catalytic converters detached by licensed recyclers. This paragraph applies to an individual who is not a licensed recycler who exercises control over two or more detached catalytic converters.
- B. The person or entity who exercises control over one or more detached catalytic converters and the vehicle identification number or the stock number and recycler license number have been removed or defaced.
- C. Violation of subsection 5 is a Class D crime. If the person violates paragraph A or B and at the time of the offense has one or more prior convictions within the past five years for violating paragraph A or B it is a Class C crime.

6. Disposal of Unmarked Catalytic Converters-

- A. A person who exercises ownership over an unmarked detached catalytic converter that cannot be marked with the vehicle identification number of the vehicle from which it was

removed may request the Secretary of State assign and attach to the catalytic converter a new vehicle identification number. Upon providing credible proof of ownership, the Secretary of State shall attach a new vehicle identification number and maintain a record of the number.

- B. All unmarked catalytic converters that have been impounded or seized by law enforcement shall become the property of the Secretary of State. The Secretary of State shall mark the catalytic converters prior to disposal. A licensed recycler is authorized to dispose of the catalytic converters that have been marked by the Secretary of State. The proceeds from the sale of the impounded or seized catalytic converters shall be allocated to the Highway Fund.

Title 30-A: MUNICIPALITIES AND COUNTIES

§3771. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Beverage container. "Beverage container" means a can, bottle, jar or other container made of aluminum or metal that is sealed by a manufacturer and contained, at the time of sale, a beverage, as defined by Title 38, section 3102, subsection 1, but does not include a beer keg.

2. Catalytic converter. A device incorporated in the exhaust system of a motor vehicle, containing a catalyst for converting pollutant gases into less harmful ones.

2 3. Nonferrous metal. "Nonferrous metal" means a metal that does not contain significant quantities of iron or steel. "Nonferrous metal" includes the following metals and their alloys:

A. Copper;

B. Brass;

C. Aluminum;

D. Bronze;

E. Lead;

F. Zinc;

G. Nickel; and

H. Platinum.

3 4. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

4 5. Scrap metal. "Scrap metal" means metal that can be recycled, including, but not limited to, bits and pieces of metal parts that may be combined together with bolts or soldering and can be recycled when worn or superfluous.

5 6. Scrap metal processor. "Scrap metal processor" means a person that purchases or acquires scrap metal for resale or recycling.

6 7. Seller. "Seller" means any person that receives in a transaction monetary consideration from a scrap metal processor in exchange for nonferrous metal, iron or steel, including stainless steel, sells, or trades detached catalytic converters. "Seller" does not include a person that, as part of a commercial enterprise or business, sells pursuant to a written contract or bill of sale scrap metal generated in a manufacturing or production process to a scrap metal processor.

§3772. Records of purchases maintained by scrap metal processors

1. Maintenance of records requirement. Except as provided in subsection 2, a scrap metal processor doing business in the State shall maintain an accurate and legible record of each scrap metal purchase transaction.

1-A. Form and method of payment. A scrap metal processor shall provide payment to a seller only in the form of a credit card, as defined in Title 9-A, section 1-301, subsection 16, a debit card, as defined in Title 10, section 1271, subsection 3, or a check. If payment is made by check, the scrap metal processor shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.

2. Exception. A scrap metal processor doing business in the State is not required to maintain individual records for a series of scrap metal purchase transactions made pursuant to a written contract or bill of sale. This exemption does not apply to the purchase of vehicles, vehicle parts, or catalytic converters.

3. Information required. The record of each scrap metal purchase transaction required under subsection 1 must be on a form prescribed by the Commissioner of Public Safety and contain the following information:

A. The name, address and gender of the seller. The scrap metal processor shall require the seller to provide proof of identification with a driver's license, military identification card, passport or other form of government-issued photo identification. The scrap metal processor shall photocopy the form of photo identification presented and record the distinct identifying number of that photo identification. If the proof of identification contains a photograph that is faded, out of date or otherwise indiscernible, the scrap metal processor shall photograph the seller. A scrap metal

processor purchasing vehicles or vehicle parts from a licensed recycler shall obtain a copy of the seller's recycler license. A scrap metal processor shall keep these proof of identification records in a secure, nonpublic location and, unless otherwise permitted by law, may not publish, reproduce, distribute or disclose these records for any other purpose than that described in section 3773, subsection 2. Information required under this paragraph may be maintained for repeat sellers in a relational database that allows the scrap metal processor to record the information one time and relate future purchase records to that information;

B. The date of the scrap metal purchase transaction;

C. A general description of the predominant types of scrap metal purchased, which must be made in accordance with the custom of the trade;

D. A general description of the configuration of the scrap metal and whether the material is insulated;

E. The weight, quantity or volume, recorded in accordance with the custom of the trade, of the scrap metal purchased;

F. The consideration paid;

G. A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal on a form provided by the buyer that conspicuously bears the warning that making a false statement is a Class D crime under Title 17A, section 453; and [PL 2011, c. 545, §6 (AMD).] This section does not apply to transactions in which a scrap metal processor purchases, transfers or otherwise conveys scrap metal to another scrap metal processor or purchases made from a licensed recycler.

H. The make, model and number and state of issue of the license plate of the vehicle being used to deliver the scrap metal.

I. The full vehicle identification number or the stock number and recycler license number from a detached catalytic converter. An unmarked catalytic converter may not be purchased and must be reported to the Secretary of State.

§3773. Maintenance of records and statements

The records required under section 3772, subsection 3 must be:

1. **Retain for ~~one~~ five years.** Retained for a period of ~~one year~~ five years; and
2. **Availability.** Made available to any law enforcement office of the State or of any municipality or county.

§3775. Restrictions on the purchase and sale of scrap metal

1. License Required. A scrap metal processor may not purchase or acquire vehicles or vehicle parts unless properly licensed as a recycler under the provisions of 29-A M.R.S. Section 1101.

2. Documentation of Certain Items. A seller may not sell and a scrap metal processor may not purchase or acquire the following scrap metal unless the seller provides to the scrap metal processor, in addition to the requirements of section 3772, subsection 3, a signed statement at the time of sale that the property subject to this transaction is not stolen property to the best of the seller's knowledge, and that the seller is the owner or is otherwise authorized to sell the scrap metal:

1. A. Marked with certain initials. Scrap metal marked with the initials of an electrical, telephone, cable or other public utility or a beer manufacturer;

2. B. Utility access covers. Utility access covers;

3. C. Street lights. Street light poles and fixtures;

4. D. Guard rails. Road and bridge guard rails;

5. E. Street signs. Highway or street signs;

6. F. Water meter covers. Water meter covers;

7. G. Beer kegs. Metal beer kegs or keg pieces including those made of stainless steel that are clearly marked as being the property of the beer manufacturer. Beer kegs or keg pieces may not be sold or purchased pursuant to this subchapter if the brewer's markings have been obliterated or made illegible;

8. H. Traffic signs. Traffic directional and control signs;

9. I. Traffic signals. Traffic light signals;

10. J. Marked; governmental entity. Any scrap metal marked with the name of a governmental entity;

11. K. Marked; utility or railroad. Property owned by a telephone, cable, electric, water or other utility or by a railroad and marked or otherwise identified as such;

12. L. Certain construction or utility materials. Unused and undamaged building construction or utility materials consisting of copper pipe, tubing or wiring or aluminum wire;

13. M. Historical markers. Historical markers;

14. N. Grave markers. Grave markers and vases; and

15. Q. Catalytic converters. Catalytic converters.

This section does not apply to transactions in which a scrap metal processor purchases, transfers or otherwise conveys scrap metal to another scrap metal processor- or purchases made from a licensed recycler.