

Recommended Amendments to “An Act To Restrict Sales of Catalytic Converters Removed from Motor Vehicles – LD 796

M.R.S.A 30-A §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.
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.~~

Commented [rt1]: This loophole allows the catalytic black market to thrive. A contract is the same as a bill of sale, and a bill of sale is a joke that can be written on the back of a grocery receipt with a crayon.

M.R.S.A 30-A §3773. Maintenance of records and statements

The records required under [section 3772, subsection 3](#) must be:

1. Retain for one year. Retained for a period of one year ~~for unrestricted scrap metals~~; and
2. ~~Retain for three years. Retained for a period of three years for restricted scrap metals in section 3775~~

Commented [rt2]: The same as tracking scrap sales from a minor, restricted scrap sale tracking information should certainly be the same, and longer than a standard acceptable transaction.

M.R.S.A 30-A §3775. Restrictions on the purchase and sale of scrap metal

A seller may not sell and a scrap metal processor may not purchase 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:

15. Catalytic converters. Catalytic converters ~~and non-ferrous metals comprising the catalytic converters.~~

~~This section does not apply to transactions in which a licensed scrap metal processor with an approved municipal permit purchases, transfers or otherwise conveys scrap metal to another licensed scrap metal processor with an approved municipal permit.~~

Commented [rt3]: Theft is not for the purpose of acquiring a catalytic converter, but for the precious metal value used for quick cash, and in demand for electronic devices, wind turbines, and solar systems.

Commented [rt4]: This may intend to meet the purpose stated in LD 796 regarding an inspection mechanic certificate, but should have a local permitting approval component to reinforce the intent and remove intrastate or interstate portability of stolen products.

M.R.S.A 30-A §3775-A. Holding period; inspection

1. ~~Seven~~Thirty-day hold. If a law enforcement officer has a reasonable suspicion that scrap metal being held by a scrap metal processor is stolen or related to criminal activity, the officer may issue a written order to the scrap metal processor, specifying the scrap metal that must be retained and the length of time, which may not exceed ~~7-30~~ days, that the scrap metal processor must retain the identified scrap metal.
2. Additional ~~730~~-day hold. Prior to the expiration of the time period of the hold pursuant to subsection 1, a law enforcement officer may impose an additional hold period, which may not

exceed ~~7-30~~ days. The law enforcement officer imposing the additional hold shall provide the scrap metal processor with a written description of the scrap metal to be retained and the length of time the scrap metal processor must retain the identified scrap metal.

M.R.S.A 30-A §3778. Violation; penalties

2. Penalties. In addition to any other penalties provided by law, the following penalties apply to violations of this subchapter:

A. A person who violates this subchapter commits a civil violation for which a fine of ~~\$1,000~~~~\$5,000~~ must be adjudged;

B. A person who violates this subchapter after having previously been adjudicated of violating this subchapter commits a civil violation for which a fine of ~~\$3,000~~~~\$15,000~~ must be adjudged; and

C. A person who violates this subchapter after having previously been adjudicated of violating this subchapter more than once commits a civil violation for which a fine of ~~\$4,500~~~~\$20,000~~ must be adjudged and is prohibited from acting as a scrap metal processor for ~~6 months~~~~2 years~~.

M.R.S.A 17-A §405. Burglary of motor vehicle

1. A person is guilty of burglary of a motor vehicle if:

B. The person violates [paragraph A](#), and the person forcibly enters a motor vehicle that is locked.

Violation of this paragraph is a Class C crime; or

C. The person forcibly removes motor vehicle parts for resale, knowing that the person is not licensed or privileged to do so, with the intent to commit a crime therein. Violation of this paragraph is a Class C Crime

M.R.S.A 17-A §403. Possession or transfer of burglar's tools

1. A person is guilty of possession or transfer of burglar's tools if that person:

A. Possesses or makes any tool, implement, instrument or other article that is adapted, designed or commonly used for advancing or facilitating crimes involving unlawful entry into property, property theft for acquiring scrap metal for resale, or crimes involving forcible breaking of safes or other

containers or depositories of property, including, but not limited to, an electronic device used as a code grabber or a master key designed to fit more than one lock, with intent to use such tool, implement, instrument or other article to commit any such criminal offense. Violation of this paragraph is a Class E crime; or

M.R.S.A 17-A §359. Receiving stolen property

1. A person is guilty of theft if:

B. The person violates [paragraph A](#) and:

Commented [rt5]: The hold period is not a deterrent for current scrap receivers and 14 days maximum is insufficient for understanding and curtailing these types of black market activities.

Commented [rt6]: A regulatory deterrent for scrap receivers, regardless, needs to be updated for monetary inflation.

Commented [rt7]: Maine has no legal definition for this activity in its 14 year old laws regarding motor vehicle burglary. At best, those caught doing this can only be evaluated under 17-A section 806 or 807 of the criminal code (mischief), and often don't have the money to pay the fines and fees (which is why they were stealing in the first place) and are let go with a slap on the wrist. You can't squeeze blood from a rock, if someone has no money they steal, when they are caught you can't make them magically cough up money. There has to be incarceration and drug/mental health treatment. 17-A Section 359, 403, and 405 have the same issue, as well as the fact that they are near 20 year old laws that don't even account for burglary tools being used for and acting on removing material from the "outside" of a vehicle, which is a problem that is increasingly prevalent in Maine and across the country (due to multiple recessions, opioid profiteering, and wind-solar-telcom single-generation resource speculation (e.g. increased mining operations and scrap value increases due to precious metal depletion to build infrastructure and devices)). In regard to 17-A Section 359, this type of act has no clear definition in Maine Statute (e.g. cordless sawzaws and pipe cutters removing components from the exterior of vehicles)

Commented [rt8]: This supports validity and enforcement of 17-A section 359 subsection 2 and 17-A section 405 (definition) At best, those caught doing this can only be evaluated under 17-A section 806 or 807 of the criminal code (mischief), and often don't have the money to pay the fines and fees (which is why they were stealing in the first place) and are let go with a slap on the wrist. You can't squeeze blood from a rock, if someone has no money they steal, when they are caught you can't make them magically cough up money. There has to be incarceration and drug/mental health treatment. 17-A Section 359, 403, and 405 have the same issue, as well as the fact that they are near 20 year old laws that don't even account for burglary tools being used for and acting on removing material from the "outside" of a vehicle, which is a problem that is increasingly prevalent in Maine and across the country (due to multiple recessions, opioid profiteering, and wind-solar-telcom single-generation resource speculation (e.g. increased mining operations and scrap value increases due to precious metal depletion to build infrastructure and devices)). In regard to 17-A Section 359, this type of act has no clear definition in Maine Statute (e.g. cordless sawzaws and pipe cutters removing components from the exterior of vehicles)

(4) The value of the property is more than ~~\$1,000~~\$500 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is ~~more-less than \$500-but not more than \$1,000.~~ Violation of this subparagraph is a Class D crime; or

Commented [rt9]: Catalytic converter theft has a much higher impact in this age and these ranges, and should be adjusted to reflect that.

M.R.S.A 10 §1105. Profiteering in necessities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

C. "Necessities" includes food for human or animal consumption; potable water; **pharmaceutical products, including prescription medications;** wearing apparel; shoes; building materials; gas and electricity for light, heat and power; ice; fuel of all kinds; and fertilizer and fertilizer ingredients; together with tools, utensils, implements, machinery and equipment required for the actual production or manufacture of the same. "Necessities" includes any other vital or necessary good or service except those:

(2) As to which the State's authority is preempted; or

~~(3) Furnished or provided by:~~

~~(a) Insurers; or~~

~~(b) Nonprofit hospitals, medical service organizations or health maintenance organizations authorized to transact business within the State pursuant to Title 24 and Title 24-A.~~

Commented [rt10]: A nationwide opioid epidemic is the result of corporate pharmaceutical monopolization and profiteering in western medicine, exacerbating mental health issues, poverty, and crimes such as this black market.