FILED ON: 10/17/2022

HOUSE . . . . . No. 5356

Substituted by the House, on motion of Ms. Garlick of Needham, for a Bill relative to the theft of vehicle catalytic converters (House, No. 4722). October 17, 2022.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to the sale of old metals and vehicle catalytic converters.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith penalties for the unauthorized sale of old metals and catalytic converters, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 266 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by adding the following section:-

Section 148. (a) For the purposes of this section, "automobile" shall mean an automobile as defined in section 1 of chapter 90 and any vehicle that is required under law to have a catalytic converter.

(b) For the purposes of this section, "automobile parts" shall mean the different pieces of a car, which are manufactured separately and used to build or repair cars.

(c) For the purposes of this section, "catalytic converter" shall mean an automobile exhaust-system component containing a catalyst that causes conversion of harmful gases

including, but not limited to, carbon monoxide and uncombusted hydrocarbons into mostly harmless products including, but not limited to, water and carbon dioxide.

(d) Every person licensed to purchase, sell, barter or deal in old metals shall record all transactions for which a license is required pursuant to sections 54, 54A, 56 or 58 of chapter 140 or section 1 of chapter 140B.

The licensee shall, upon request from the chief of police of the city or town where the licensee is licensed, send any records created pursuant to this subsection to the chief of police.

The record created pursuant to this section shall include the following:

(1) the date of transaction for the old or used metals;

(2) the name, address, telephone number and signature of the person from whom the old or used metals were purchased or received;

(3) a photocopy or digital image of the person's photo identification;

(4) the license plate number and vehicle identification number of the vehicle used to transport the old or used metals to the licensee, whenever applicable;

(5) a description of the old or used metals;

(6) a photograph of the old or used metals;

(7) photocopies or digital images of the bill of sale or other legal document demonstrating ownership by the seller or offeror; and

(8) the price paid by the licensee for the old or used metals.

Nothing in this subsection shall require additional recordkeeping for junked autos or automobile parts in excess of what is required by law.

The licensee shall retain records established pursuant to this subsection for a period of 2 years from the date of the transaction. This paragraph shall not relieve a licensee of any other record retention requirements imposed by law.

This subsection shall not apply to the purchase of old metals from a person who is licensed to engage in the business of purchasing, selling, bartering or dealing in junk, old metals or second hand articles and who has previously created a record in accordance with this subsection and provides a written statement affirming such record at the time of the transaction.

(e) No person or entity licensed pursuant to said section 54, 54A or 58 of said chapter 140 as a junk dealer, a second hand dealer, motor vehicle repair shop, an automobile graveyard, or a junkyard as defined in said section 56 of chapter 140 or said section 1 of said chapter 140B shall purchase, accept or acquire a catalytic converter from another person or entity unless the seller or offeror presents proof of identification in addition to a bill of sale or other legal document demonstrating ownership of the catalytic converter. The licensee shall preserve photocopies or digital images of the documentation.

Any person or entity licensed pursuant to said sections 54, 54A or 58 of said chapter 140 as a junk dealer, a second-hand dealer, a motor vehicle repair shop or a storage facility for dismantled, junked or abandoned vehicles as defined in said section 56 of chapter 140 or said section 1 of chapter 140B shall keep records of all transactions listed in this subsection. The licensee shall make available to the chief of police or the chief's designee any records created

according to this subsection upon request by the chief or the chief's designee. The following shall be included in the records prepared pursuant to this subsection:

(1) the date of transaction;

(2) the name, address, telephone number and signature of the person from whom the catalytic converter was purchased or received;

(3) a photocopy or digital image of the person's photo identification;

(4) the license plate number and vehicle identification number of the vehicle used to transport the catalytic converter to the licensee, whenever applicable;

(5) a description of the catalytic converter;

(6) a photograph of the catalytic converter;

(7) photocopies or digital images of the bill of sale or other legal document demonstrating ownership by the seller or offeror; and

(8) the price paid by the licensee for the catalytic converter.

Records created pursuant to this subsection shall be maintained for 3 years from the date of acquisition of the property.

Any person or entity licensed pursuant to said sections 54, 54A or 58 of said chapter 140 as a junk dealer, a second hand dealer, motor vehicle repair shop, an automobile graveyard, or a junkyard as defined in said section 56 of said chapter 140 or said section 1 of said chapter 140B shall retain the catalytic converter received for a period of 10 days. Throughout the holding

period, the catalytic converter shall be kept separate and distinct from other property and shall not be deformed or treated in any way that might damage or affect its identity.

All persons or entities involved in the sale and purchasing of a catalytic converter shall use a company check as a method of payment.

Violations of this subsection shall be punished by a fine of not less than $100 nor more than $500, or by imprisonment for not less than 1 day nor more than 30 days in a jail or house of correction, or a fine of $2,500.00, or by community service for not more than 10 days. Each day that a violation of this subsection or any such ordinance or resolution continues is a separate crime.

This subsection shall not apply to licensees' acquisitions or purchases of whole motor vehicles.

No scrap metal business may enter into a transaction to purchase or receive private metal property from any person who is not a commercial enterprise or owner of the vehicle from which the catalytic converter was removed. No scrap metal business may enter into a transaction with an owner of a vehicle from which a catalytic converter was removed unless the owner provides the year, make, model and vehicle identification number for the vehicle from which it was removed.

All persons or entities licensed pursuant to said sections 54, 54A or 58 of said chapter 140 as junk dealer, a second hand dealer, motor vehicle repair shop, an automobile graveyard or a junkyard as defined in said section 56 of said chapter 140 or said section 1 of said chapter 140B shall, in the sale of a catalytic converter, use a company check to purchase the vehicle part.

(f) The respective city's or town's police department shall enforce the provisions of subsection (e). If an alleged violation occurs, the police department shall issue a citation that will require the license holder to appear for a show cause hearing before their municipal licensing board. If, after a hearing, the board finds a violation has occurred, the board shall impose a civil fine of $300 for the first offense, $550 for the second offense and $700 for any subsequent offense. In addition to the fine imposed for this offense, the individual shall be fined $100 for each additional catalytic converter sold. Additionally, the board may suspend or revoke the license for any violations of the conditions or restrictions imposed upon the issuance of such license, or any rules and regulations governing the conduct of any such licensee, established by the respective municipal licensing board, or by the commonwealth; in addition, such license may be revoked at any time for causes other than those specified above, including violation of the General Laws. If a license holder maintains the license for 36 consecutive months without a violation, any new violation will be treated as a first offense.