SPONSOR: Rep. Morrison & Sen. Hansen
Reps. Baumbach, Bolden, Briggs King, Bush, Cooke, Heffernan, K. Johnson, Osienski, Ramone, Romer, K. Williams, Wilson-Anton; Sens. Huxtable, Mantzavinos, Sokola, Sturgeon, Townsend

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 78

AN ACT TO AMEND TITLE 21 AND TITLE 24 OF THE DELAWARE CODE RELATING TO CATALYTIC CONVERTERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 75, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7502. License requirements; exception.

(e) Any other provision of this chapter notwithstanding, in a case in which an automotive recycler is purchasing or selling a catalytic converter, as defined in section § 2301 of Title 24, the automotive recycler must comply with the requirements of Chapter 23 of Title 24 relating to the purchase and sale of catalytic converters.

Section 2. Amend Chapter 23, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline and by redesignating accordingly as follow:

§ 2301. Definitions.

As used in this chapter:

(3) "Catalytic converter" means a used, detached catalytic converter that is used for controlling the exhaust emissions from motor vehicles, and that contains a catalyst metal, but does not include a catalytic converter that has been tested, certified, and labeled for reuse in accordance with U.S. Environmental Protection Agency regulations.

§ 2302. Reporting requirements.

(b) (1) Every scrap metal processor shall create a record and provide information regarding scrap metal acquired via an electronic format to be determined by the Secretary of Safety and Homeland Security with respect to any of the following articles purchased or otherwise acquired:

a. Copper.

b. Silver.

c. Gold.

d. Brass.

e. Platinum.

f. Bronze.

g. Automobiles or automobile parts displaying a vehicle identification number (vin).

h. Lead-acid batteries.

i. Catalytic converters.

(2) ~~Such record shall include, at a minimum,~~ The record required by paragraph (b)(1) of this section must include all of the following information:

a. The date and time of ~~purchase;~~ purchase.

b. The type and grade of scrap ~~metal;~~ metal, where applicable.

c. If payment is based on weight, the weight of each type and grade of scrap ~~metal;~~ metal.

d. The amount or other consideration for the scrap ~~metal;~~ metal or other items.

e. The registration plate number, ~~make~~ make, and model of the vehicle used in the delivery of scrap ~~metal;~~ metal or other items.

f. The name and address of the individual from whom the scrap metal ~~is acquired;~~ or other items are acquired.

g. The signature ~~of:~~ of both of the following:

1. The individual from whom the scrap metal ~~is acquired; and,~~ or other items are acquired.

2. The scrap metal ~~processor; and~~ processor.

h. For each individual from whom the scrap metal processor acquires scrap ~~metal:~~ metal or other items, one of the following:

1. The date of birth and driver's ~~license; or,~~ license.

2. Identification information about the individual from a valid state-issued photo identification card that provides a physical description of the individual, including the sex, race, distinguishing features, and approximate age, ~~height~~ height, and weight of the individual.

(3) Scrap metal processors ~~will~~ must collect a photograph of the seller and all information pertaining to the seller, required on the electronic form, for every transaction regardless of value.

(4) In addition to the requirements set forth in paragraph (a)(2) of this section, for the purchase or acquisition of a catalytic converter, a scrap metal processor or other authorized purchaser must also record all of the following:

a. The business license number of the seller.

b. The name or identification of the employee responsible for making the purchase.

c. A description of the catalytic converter including any obvious markings such as paint, labels, or engravings that would aid in the identification of the catalytic converter.

d. A signed statement from the individual receiving consideration for the purchase stating that he or she is the rightful owner of the catalytic converter or is authorized to sell the catalytic converter.

e. A photocopy or scanned copy of the driver's license or state-issued photo identification card of the individual selling or transferring the catalytic converter to the scrap metal processor, which includes the type of card and any distinctive number on the card.

f. A digital photograph or video recording of the individual delivering or receiving consideration for the catalytic converter with the individual's facial features clearly visible and a digital photograph or video of the catalytic converter, as delivered or sold, with the type of metal property identifiable. The date and time of the purchase shall be digitally recorded on the digital photograph or video recording.

(d) Pawnbrokers, secondhand dealers and scrap metal processors shall record the name of the person making the record entry and shall make that information available to police.

(e) The information provided on the forms under this section shall be stored and maintained by the pawnbroker, secondhand ~~dealer~~ dealer, or scrap metal processor for a period of 1 year and shall be provided to police immediately upon request.

§ 2304. Holding period.

(b) Every scrap metal processor subject to this chapter must keep for a period of 72 hours from the date and time the item was electronically reported, not including holidays or weekends, all copper or brass articles purchased or received from any person before selling, shipping or otherwise disposing of same, except that there shall be no holding period for articles meeting all of the following criteria:

(1) That are purchased or received from a commercially licensed ~~entity;~~ entity.

(2) That are of the type commonly purchased or received from commercial ~~entities; and~~ entities.

(3) For which payment is made directly to the commercial entity and not to the individual delivering the articles.

(c) An individual authorized to purchase a catalytic converter under §2307(c) of this title must withhold payment to the seller of a catalytic converter for 48 hours. During this time period the purchaser must keep the catalytic converter intact and safe from alteration, damage, or commingling and must place an identifying tag or other suitable identification on the catalytic converter.

§ 2307. Prohibited transactions.

(a) No pawnbroker, secondhand dealer or scrap metal processor subject to this chapter shall knowingly purchase or acquire any article, ware or merchandise:

(1) From any person or persons under the age of 18 unless that person or person is:

a. Recycling aluminum cans; or

b. Accompanied by a parent, ~~grandparent or guardian;~~ grandparent, or guardian and is not selling a catalytic converter.

(c) No individual may ~~A scrap metal processor may not~~ purchase or sell a catalytic converter from an individual unless the individual, at the time of purchase or sale, provides identification ~~as:~~ that shows the individual is one of the following:

(1) ~~A licensed automotive dismantler and recycler or scrap metal processor; or~~ A scrap metal processor licensed under this chapter.

(2) An automotive recycler licensed under Chapter 75 of Title 21.

~~(2)~~ (3) An agent or employee of a licensed ~~commercial enterprise.~~ scrap metal processor or automotive recycler.

(e) A catalytic converter may not be purchased with cash. Payment must be made in the form of a check payable to the licensed individual or licensed entity selling the catalytic converter.

(f) An entity or individual authorized to sell a catalytic converter under subsection (c) of this section may not provide false, fraudulent, altered, or counterfeit information or documentation to the purchaser of a catalytic converter.

(g) The purchase and sale of a catalytic converter must occur between the hours of 6:00 a.m. and 9:00 p.m.

(h) The sale of a catalytic converter must occur at a fixed business address of an individual authorized to purchase a catalytic converter under subsection (c) of this section.

(i) In addition to any other penalty authorized under this chapter, possession of a catalytic converter in violation of this chapter will be considered possession of contraband and the catalytic converter may be subject to seizure and forfeiture.

SYNOPSIS

This Act updates the definition of a catalytic converter and limits the purchase or sale of a catalytic converter to a licensed automotive recycler or licensed scrap metal processor, and their respective employees and agents. The Act prohibits minors from selling catalytic converters. The Act specifies the amount of time the catalytic converter must be held before sale as well as what contact information must be obtained from the purchaser and seller as well as identification information on the catalytic converter and requires the information be maintained for 1 year. The Act places a 48 hour hold on payments and limits payment form to checks and limits the time of day and location for the sale of a catalytic converter. The Act requires the licensed sellers to make the purchasers' and sellers' contact information available to the police. This Act makes a catalytic converter, in violation of this chapter, considered contraband and, possession thereof, subject to seizure and forfeiture. This Act is for the purpose of regulating the purchase and sale of catalytic converters and for the purpose of assisting law enforcement in response to the high level of catalytic converter theft that has occurred in Delaware. This Act also makes technical changes to conform existing law to the standards of the Delaware Legislative Drafting Manual.