

Stricken language would be deleted from and underlined language would be added to present law.
Act 264 of the Regular Session

State of Arkansas
94th General Assembly
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As Engrossed: H2/14/23 H2/27/23

A Bill

HOUSE BILL 1365

By: Representatives Holcomb, Barker, Beaty Jr., M. Berry, Cozart, Eubanks, L. Fite, Fortner, J. Mayberry, McClure, Richmond, Rye, Unger, Vaught, Watson, D. Whitaker, Wooten
By: Senators Gilmore, *J. Payton*

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING RECORDS MAINTAINED
BY SCRAP METAL RECYCLERS; TO CREATE OFFENSES FOR
THEFT OF A CATALYTIC CONVERTER AND UNAUTHORIZED
POSSESSION OF A CATALYTIC CONVERTER; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING RECORDS
MAINTAINED BY SCRAP METAL RECYCLERS; AND
TO CREATE OFFENSES FOR THEFT OF A
CATALYTIC CONVERTER AND UNAUTHORIZED
POSSESSION OF A CATALYTIC CONVERTER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 5, Chapter 36, Subchapter 1, is amended to add an additional section to read as follows:

5-36-126. Theft of a catalytic converter – Unauthorized possession of a catalytic converter.

(a) As used in this section:

(1) "Catalytic converter" means an exhaust emission control device that reduces toxic gases and pollutants from internal combustion engines; and

(2) "Permanently marked" means marked in a permanent manner, including without limitation engraving or permanent ink, that clearly and



legibly indicates the:

(A) Date the catalytic converter was removed from the motor vehicle; and

(B) Vehicle identification number of the motor vehicle the catalytic converter was removed from.

(b) A person commits theft of a catalytic converter if he or she commits, aids, or is an accomplice to a commission of theft of property under § 5-36-103(a) and the property is a catalytic converter.

(c) A person commits unauthorized possession of a catalytic converter if the person:

(1) Knowingly possesses a catalytic converter that has been removed from a motor vehicle and that is not permanently marked; and

(2) Is not:

(A) The owner of the motor vehicle from which the catalytic converter was removed; or

(B) Possessing the catalytic converter in the ordinary course of the person's business.

(d) There is a presumption that a person is possessing the catalytic converter in the ordinary course of the person's business if the person engages in any of the following businesses:

(1) An automotive wrecking and salvage yard;

(2) A scrap metal recycler;

(3) A licensed vehicle dealer or licensed vehicle converter;

(4) A licensed salvage vehicle dealer;

(5) A licensed vehicle storage facility;

(6) A garage or shop that is engaged in the business of repairing motor vehicles;

(7) A towing company;

(8) A used automotive parts recycler;

(9) A person who holds a vehicle dealer number;

(10) A motor vehicle demolisher;

(11) A for-hire carrier, including without limitation a person who provides services such as mail, freight, or package delivery by air, water, rail, or surface transportation;

(12) A person located out of state and regulated by another state in the performance of a business activity under subdivisions (d)(1)-

(11) of this section; or

(13) An employee of or independent contractor providing services to a person described in subdivisions (d)(1)-(11) of this section and who possesses the catalytic converter when acting within the course and scope of the person's employment or independent contractor services.

(e) The presumption established under subsection (d) of this section does not apply to a person who knows that the catalytic converter was unlawfully removed from a motor vehicle or otherwise unlawfully obtained.

(f)(1) Theft of a catalytic converter is a Class C felony.

(2) The court may order a person convicted of theft of a catalytic converter to pay restitution for the value of the repair or replacement of the catalytic converter.

(g) Unauthorized possession of a catalytic converter is a:

(1) Class C felony if the person:

(A) Has a prior conviction for unauthorized possession of a catalytic converter; or

(B) In the course of the unauthorized possession of a catalytic converter, the person commits or attempts, conspires, or solicits another person to commit an offense related to a catalytic converter; or

(2) Class D felony if otherwise committed.

Section 2. Arkansas Code § 17-44-101(7), concerning the definition of scrap metal, is amended to read as follows:

(7)(A) "Scrap metal" means bits and pieces of metal parts that:

(i) may May be combined together with bolts or soldering; and

(ii) can Can be recycled when worn or superfluous.

(B) "Scrap metal" includes detached catalytic converters;

SECTION 3. Arkansas Code § 17-44-109(a)(1), concerning a buyer of used catalytic converters, is amended to read as follows:

(a)(1) A buyer of a used catalytic converter ~~other than a scrap metal recycler~~ shall file an electronic record of the used catalytic converter purchase.

SECTION 4. Arkansas Code § 17-44-109(b), concerning a buyer of used

catalytic converters, is amended to read as follows:

(b) The buyer of a used catalytic converter ~~other than a scrap metal recycler:~~

(1) Shall maintain a receipt of the electronic record entry as a record of the purchase of a used catalytic converter; and

(2) Is subject to the penalties under § 17-44-102(f)(2)(B) for failure to file an electronic report of the purchase of a used catalytic converter.

SECTION 5. Arkansas Code § 17-44-109(e)(1), concerning a buyer of used catalytic converters, is amended to read as follows:

(e)(1) A buyer of a used catalytic converter ~~other than a scrap metal recycler must~~ shall be registered with the county sheriff.

/s/Holcomb

APPROVED: 3/13/23