

By: Leach, Harless

H.B. No. 4110

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of metal recycling; increasing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A-3, Chapter 1956, Occupations Code, is amended by adding Section 1956.0321 to read as follows:

Sec. 1956.0321. ADDITIONAL REQUIREMENTS REGARDING PURCHASE OF CATALYTIC CONVERTER. (a) In addition to the requirements of Section 1956.032, a person attempting to sell a catalytic converter to a metal recycling entity shall provide to the metal recycling entity:

(1) the year, make, model, and vehicle identification number for the vehicle from which the catalytic converter was removed; and

(2) a copy of the certificate of title or other documentation indicating that the person has an ownership interest in the vehicle described by Subdivision (1).

(b) A metal recycling entity may not purchase a catalytic converter from a seller who does not comply with the requirements of Subsection (a).

(c) A metal recycling entity may not purchase a catalytic converter unless the entity determines that the catalytic converter is consistent with the manufacturer's specifications for a catalytic converter from the vehicle for which the seller provided

1 information under Subsection (a)(1).

2 (d) A metal recycling entity shall mark, in the manner
3 prescribed by the commission by rule, each catalytic converter
4 purchased by the entity with a unique number.

5 (e) A metal recycling entity shall keep an accurate
6 electronic record or an accurate and legible written record of each
7 purchase of a catalytic converter made in the course of the entity's
8 business. The record must be in English and include:

9 (1) the information required by Section 1956.033;

10 (2) the vehicle information provided under Subsection
11 (a)(1);

12 (3) a copy of the documentation described by
13 Subsection (a)(2); and

14 (4) the unique number marked on the catalytic
15 converter under Subsection (d).

16 SECTION 2. Section 1956.033(b), Occupations Code, is
17 amended to read as follows:

18 (b) The record must be in English and include:

19 (1) the place, date, and amount of the purchase;

20 (2) the name and address of the seller in possession of
21 the regulated material purchased;

22 (3) the identifying number of the seller's personal
23 identification document;

24 (4) a description made in accordance with the custom
25 of the trade of the commodity type and quantity of regulated
26 material purchased;

27 (5) the information required by Sections

1 1956.032(a)(2) and (3);

2 (6) as applicable:

3 (A) the identifying number of the seller's air
4 conditioning and refrigeration contractor license displayed under
5 Section 1956.032(a)(4)(A);

6 (B) a copy of the seller's air conditioning and
7 refrigeration technician registration displayed under Section
8 1956.032(a)(4)(B);

9 (C) a copy of the documentation described by
10 Section 1956.032(a)(4)(C); or

11 (D) a copy of the documentation described by
12 Section 1956.032(a)(4)(D);

13 (7) if applicable, a copy of the documentation
14 described by Section 1956.032(a)(5);

15 (8) a copy of the documentation described by Section
16 1956.032(g); ~~and~~

17 (9) a copy of the documentation described by Section
18 1956.0381(b); and

19 (10) a clear and legible thumbprint of the seller.

20 SECTION 3. Section 1956.0331, Occupations Code, is amended
21 by adding Subsection (a-1) to read as follows:

22 (a-1) If the regulated metal purchased is a catalytic
23 converter, the photograph or recording under Subsection (a) must
24 accurately depict:

25 (1) each open end of the catalytic converter; and

26 (2) all sides of the catalytic converter.

27 SECTION 4. Section 1956.034, Occupations Code, is amended

1 to read as follows:

2 Sec. 1956.034. PRESERVATION OF RECORDS. A metal recycling
3 entity shall preserve each record required by Sections 1956.032,
4 1956.0321, and 1956.033 until the second anniversary of the date
5 the record was made. The records must be kept in an easily
6 retrievable format and must be available for inspection as provided
7 by Section 1956.035 not later than 72 hours after the time of
8 purchase.

9 SECTION 5. Section 1956.035(a), Occupations Code, is
10 amended to read as follows:

11 (a) On request, a metal recycling entity shall permit a
12 peace officer of this state, a representative of the department, or
13 a representative of a county, municipality, or other political
14 subdivision that issues a license or permit under Section
15 1956.003(b) to inspect, during the entity's usual business hours:

16 (1) a record required by Section 1956.0321 or
17 1956.033;

18 (2) a digital photograph or video recording required
19 by Section 1956.0331;

20 (3) regulated material in the entity's possession; or

21 (4) an application for a cash transaction card
22 submitted to the entity.

23 SECTION 6. Section 1956.036(a), Occupations Code, is
24 amended to read as follows:

25 (a) Except as provided by Subsections (b) and (d), not later
26 than the close of business on a metal recycling entity's second
27 working day after the date of the purchase or other acquisition of

1 material for which a record is required under Section 1956.0321 or
2 1956.033, the entity shall send an electronic transaction report to
3 the department via the department's Internet website. Except as
4 provided by Subsection (d-1), the report must contain the
5 information required to be recorded under Sections 1956.0321 and
6 ~~[Section]~~ 1956.033.

7 SECTION 7. Section 1956.037(a), Occupations Code, is
8 amended to read as follows:

9 (a) A metal recycling entity may not dispose of, process,
10 sell, or remove from the premises an item of regulated metal unless:

11 (1) the entity acquired the item more than:

12 (A) eight days, excluding weekends and holidays,
13 before the disposal, processing, sale, or removal, if the item is a
14 cemetery vase, receptacle, or memorial made from a regulated
15 material other than aluminum material;

16 (B) five days, excluding weekends and holidays,
17 before the disposal, processing, sale, or removal, if the item is a
18 catalytic converter; or

19 (C) [~~(B)~~] 72 hours, excluding weekends and
20 holidays, before the disposal, processing, sale, or removal, if the
21 item is not an item described by Paragraph (A) or (B); or

22 (2) the entity purchased the item from a
23 manufacturing, industrial, commercial, retail, or other seller
24 that sells regulated material in the ordinary course of its
25 business.

26 SECTION 8. Section 1956.0381, Occupations Code, is amended
27 by adding Subsection (c) to read as follows:

1 (c) Notwithstanding Subsection (a), a metal recycling
2 entity may not pay a seller more than \$25 in cash for a purchase of
3 regulated metal.

4 SECTION 9. Sections 1956.040(a) and (b-1), Occupations
5 Code, are amended to read as follows:

6 (a) A person commits an offense if the person knowingly
7 violates Section 1956.038. An offense under this subsection is a
8 state jail felony [~~Class A misdemeanor~~] unless it is shown on trial
9 of the offense that the person has previously been convicted of a
10 violation of this subchapter, in which event the offense is a [~~state~~
11 ~~jail~~] felony of the third degree.

12 (b-1) An offense under Subsection (b) is a state jail felony
13 [~~Class A misdemeanor~~] unless it is shown on trial of the offense
14 that the person has previously been convicted under Subsection (b),
15 in which event the offense is a felony of the third degree [~~state~~
16 ~~jail felony~~].

17 SECTION 10. Subchapter A, Chapter 2305, Occupations Code,
18 is amended by adding Section 2305.0051 to read as follows:

19 Sec. 2305.0051. RECORDS RELATED TO CATALYTIC CONVERTERS.

20 (a) The owner of a garage or repair shop that sells to a metal
21 recycling entity registered under Chapter 1956 a catalytic
22 converter that the person removed in connection with a motor
23 vehicle repair shall maintain a record of all repairs for the
24 vehicle that includes:

25 (1) the name and address of the vehicle's owner; and

26 (2) copies of all related invoices.

27 (b) Notwithstanding Section 2305.006(a), a record required

1 by this section shall be kept until at least the second anniversary
2 of the date of the repair.

3 SECTION 11. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect on the date the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense occurred
10 before that date.

11 SECTION 12. This Act takes effect September 1, 2021.