

1-1 By: Leach, et al. (Senate Sponsor - Alvarado) H.B. No. 4110
1-2 (In the Senate - Received from the House May 17, 2021;
1-3 May 17, 2021, read first time and referred to Committee on Natural
1-4 Resources & Economic Development; May 22, 2021, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 9, Nays 0; May 22, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			
1-15	<u>X</u>			
1-16	<u>X</u>			
1-17	<u>X</u>			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 4110 By: Alvarado

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the regulation of metal recycling; increasing a
1-22 criminal penalty.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section [1956.001](#), Occupations Code, is amended
1-25 by adding Subdivision (2-a) to read as follows:

1-26 (2-a) "Catalytic converter" includes any material removed
1-27 from a catalytic converter.

1-28 SECTION 2. Subchapter [A-3](#), Chapter [1956](#), Occupations Code,
1-29 is amended by adding Section [1956.0321](#) to read as follows:

1-30 Sec. 1956.0321. ADDITIONAL REQUIREMENTS REGARDING PURCHASE
1-31 OF CATALYTIC CONVERTER. (a) In addition to the requirements of
1-32 Section [1956.032](#), a person attempting to sell a catalytic converter
1-33 to a metal recycling entity shall provide to the metal recycling
1-34 entity:

1-35 (1) the year, make, model, and vehicle identification
1-36 number for the vehicle from which the catalytic converter was
1-37 removed; and

1-38 (2) a copy of the certificate of title or other
1-39 documentation indicating that the person has an ownership interest
1-40 in the vehicle described by Subdivision (1).

1-41 (b) A metal recycling entity may not purchase a catalytic
1-42 converter from a seller who does not comply with the requirements of
1-43 Subsection (a).

1-44 (c) A metal recycling entity may not purchase a catalytic
1-45 converter unless the entity determines that the catalytic converter
1-46 is consistent with the manufacturer's specifications for a
1-47 catalytic converter from the vehicle for which the seller provided
1-48 information under Subsection (a)(1).

1-49 (d) A metal recycling entity shall mark, in the manner
1-50 prescribed by the commission by rule, each catalytic converter
1-51 purchased by the entity with a unique number.

1-52 (e) A metal recycling entity shall keep an accurate
1-53 electronic record or an accurate and legible written record of each
1-54 purchase of a catalytic converter made in the course of the entity's
1-55 business. The record must be in English and include:

1-56 (1) the information required by Section [1956.033](#);

1-57 (2) the vehicle information provided under Subsection
1-58 (a)(1);

1-59 (3) a copy of the documentation described by
1-60 Subsection (a)(2); and

1-61 (4) the unique number marked on the catalytic

2-1 converter under Subsection (d).
 2-2 SECTION 3. Section 1956.033(b), Occupations Code, is
 2-3 amended to read as follows:
 2-4 (b) The record must be in English and include:
 2-5 (1) the place, date, and amount of the purchase;
 2-6 (2) the name and address of the seller in possession of
 2-7 the regulated material purchased;
 2-8 (3) the identifying number of the seller's personal
 2-9 identification document;
 2-10 (4) a description made in accordance with the custom
 2-11 of the trade of the commodity type and quantity of regulated
 2-12 material purchased;
 2-13 (5) the information required by Sections
 2-14 1956.032(a)(2) and (3);
 2-15 (6) as applicable:
 2-16 (A) the identifying number of the seller's air
 2-17 conditioning and refrigeration contractor license displayed under
 2-18 Section 1956.032(a)(4)(A);
 2-19 (B) a copy of the seller's air conditioning and
 2-20 refrigeration technician registration displayed under Section
 2-21 1956.032(a)(4)(B);
 2-22 (C) a copy of the documentation described by
 2-23 Section 1956.032(a)(4)(C); or
 2-24 (D) a copy of the documentation described by
 2-25 Section 1956.032(a)(4)(D);
 2-26 (7) if applicable, a copy of the documentation
 2-27 described by Section 1956.032(a)(5);
 2-28 (8) a copy of the documentation described by Section
 2-29 1956.032(g); ~~and~~
 2-30 (9) a copy of the documentation described by Section
 2-31 1956.0381(b); and
 2-32 (10) if the regulated material purchased is a
 2-33 catalytic converter, a clear and legible thumbprint of the seller
 2-34 unless the seller presents to the metal recycling entity a valid
 2-35 cash transaction card issued under Section 1956.0382.
 2-36 SECTION 4. Section 1956.034, Occupations Code, is amended
 2-37 to read as follows:
 2-38 Sec. 1956.034. PRESERVATION OF RECORDS. A metal recycling
 2-39 entity shall preserve each record required by Sections 1956.032,
 2-40 1956.0321, and 1956.033 until the second anniversary of the date
 2-41 the record was made. The records must be kept in an easily
 2-42 retrievable format and must be available for inspection as provided
 2-43 by Section 1956.035 not later than 72 hours after the time of
 2-44 purchase.
 2-45 SECTION 5. Section 1956.035(a), Occupations Code, is
 2-46 amended to read as follows:
 2-47 (a) On request, a metal recycling entity shall permit a
 2-48 peace officer of this state, a representative of the department, or
 2-49 a representative of a county, municipality, or other political
 2-50 subdivision that issues a license or permit under Section
 2-51 1956.003(b) to inspect, during the entity's usual business hours:
 2-52 (1) a record required by Section 1956.0321 or
 2-53 1956.033;
 2-54 (2) a digital photograph or video recording required
 2-55 by Section 1956.0331;
 2-56 (3) regulated material in the entity's possession; or
 2-57 (4) an application for a cash transaction card
 2-58 submitted to the entity.
 2-59 SECTION 6. Section 1956.036(a), Occupations Code, is
 2-60 amended to read as follows:
 2-61 (a) Except as provided by Subsections (b) and (d), not later
 2-62 than the close of business on a metal recycling entity's second
 2-63 working day after the date of the purchase or other acquisition of
 2-64 material for which a record is required under Section 1956.0321 or
 2-65 1956.033, the entity shall send an electronic transaction report to
 2-66 the department via the department's Internet website. Except as
 2-67 provided by Subsection (d-1), the report must contain the
 2-68 information required to be recorded under Sections 1956.0321 and
 2-69 [Section] 1956.033.

3-1 SECTION 7. Section 1956.037(a), Occupations Code, is
3-2 amended to read as follows:

3-3 (a) A metal recycling entity may not dispose of, process,
3-4 sell, or remove from the premises an item of regulated metal unless:

3-5 (1) the entity acquired the item more than:

3-6 (A) eight days, excluding weekends and holidays,
3-7 before the disposal, processing, sale, or removal, if the item is a
3-8 cemetery vase, receptacle, or memorial made from a regulated
3-9 material other than aluminum material;

3-10 (B) five days, excluding weekends and holidays,
3-11 before the disposal, processing, sale, or removal, if the item is a
3-12 catalytic converter; or

3-13 (C) ~~[(B)]~~ 72 hours, excluding weekends and
3-14 holidays, before the disposal, processing, sale, or removal, if the
3-15 item is not an item described by Paragraph (A) or (B); or

3-16 (2) the entity purchased the item from a
3-17 manufacturing, industrial, commercial, retail, or other seller
3-18 that sells regulated material in the ordinary course of its
3-19 business.

3-20 SECTION 8. Section 1956.040, Occupations Code, is amended
3-21 by amending Subsections (a) and (b-1) and adding Subsection (b-2)
3-22 to read as follows:

3-23 (a) A person commits an offense if the person knowingly
3-24 violates Section 1956.038. Except as otherwise provided by this
3-25 subsection, an [An] offense under this subsection is a Class A
3-26 misdemeanor unless it is shown on trial of the offense that the
3-27 person has previously been convicted of a violation of this
3-28 subchapter, in which event the offense is a state jail felony. An
3-29 offense under this subsection involving a catalytic converter is a
3-30 state jail felony unless it is shown on trial of the offense that
3-31 the person has previously been convicted of a violation of this
3-32 subchapter involving a catalytic converter, in which event the
3-33 offense is a felony of the third degree.

3-34 (b-1) Except as otherwise provided by Subsection (b-2), an
3-35 [An] offense under Subsection (b) is a Class A misdemeanor unless it
3-36 is shown on trial of the offense that the person has previously been
3-37 convicted under Subsection (b), in which event the offense is a
3-38 state jail felony.

3-39 (b-2) An offense under Subsection (b)(1) in which the
3-40 regulated material purchased was a catalytic converter is a state
3-41 jail felony unless it is shown on trial of the offense that the
3-42 person has previously been convicted of an offense under Subsection
3-43 (b)(1) in which the regulated material purchased was a catalytic
3-44 converter, in which event the offense is a felony of the third
3-45 degree.

3-46 SECTION 9. Subchapter A, Chapter 2305, Occupations Code, is
3-47 amended by adding Section 2305.0051 to read as follows:

3-48 Sec. 2305.0051. RECORDS RELATED TO CATALYTIC CONVERTERS.

3-49 (a) The owner of a garage or repair shop that sells to a metal
3-50 recycling entity registered under Chapter 1956 a catalytic
3-51 converter that the person removed in connection with a motor
3-52 vehicle repair shall maintain a record of all repairs for the
3-53 vehicle that includes:

- 3-54 (1) the name and address of the vehicle's owner; and
- 3-55 (2) copies of all related invoices.

3-56 (b) Notwithstanding Section 2305.006(a), a record required
3-57 by this section shall be kept until at least the second anniversary
3-58 of the date of the repair.

3-59 SECTION 10. The change in law made by this Act applies only
3-60 to an offense committed on or after the effective date of this Act.
3-61 An offense committed before the effective date of this Act is
3-62 governed by the law in effect on the date the offense was committed,
3-63 and the former law is continued in effect for that purpose. For
3-64 purposes of this section, an offense was committed before the
3-65 effective date of this Act if any element of the offense occurred
3-66 before that date.

3-67 SECTION 11. This Act takes effect September 1, 2021.