

1 HB117
2 216104-2
3 By Representatives Lee and Wood (R)
4 RFD: Judiciary
5 First Read: 13-JAN-22

8 SYNOPSIS: Under existing law, a secondary metals
9 recycler is prohibited from entering into cash
10 transactions in excess of \$50 for the purchase of a
11 catalytic converter.

12 Also under existing law, a secondary metals
13 recycler is prohibited from purchasing certain
14 metal property, including a catalytic converter,
15 unless the seller of the catalytic converter
16 provides a signed statement stating that he or she
17 is the rightful owner of the property or has been
18 authorized to sell the property.

19 This bill would provide certain requirements
20 for the purchase, possession, and sale of certain
21 used, detached catalytic converters, and would
22 provide criminal penalties for a violation.

23 Amendment 621 of the Constitution of Alabama
24 of 1901, now appearing as Section 111.05 of the
25 Official Recompilation of the Constitution of
26 Alabama of 1901, as amended, prohibits a general
27 law whose purpose or effect would be to require a

1 new or increased expenditure of local funds from
2 becoming effective with regard to a local
3 governmental entity without enactment by a 2/3 vote
4 unless: it comes within one of a number of
5 specified exceptions; it is approved by the
6 affected entity; or the Legislature appropriates
7 funds, or provides a local source of revenue, to
8 the entity for the purpose.

9 The purpose or effect of this bill would be
10 to require a new or increased expenditure of local
11 funds within the meaning of the amendment. However,
12 the bill does not require approval of a local
13 governmental entity or enactment by a 2/3 vote to
14 become effective because it comes within one of the
15 specified exceptions contained in the amendment.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 Relating to crimes and offenses; to add Section
22 13A-8-37.3 to the Code of Alabama 1975, and to amend Sections
23 13A-8-31.1 and 13A-8-37.1, Code of Alabama 1975, to provide
24 requirements for the purchase, possession, and sale of certain
25 catalytic converters; to provide criminal penalties for a
26 violation; and in connection therewith would have as its
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds within the meaning of Amendment 621
2 of the Constitution of Alabama of 1901, now appearing as
3 Section 111.05 of the Official ReCompilation of the
4 Constitution of Alabama of 1901, as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 13A-8-37.3 is added to the Code
7 of Alabama 1975, to read as follows:

8 §13A-8-37.3.

9 (a) It is unlawful for any person to purchase, or
10 otherwise acquire, a used, detached catalytic converter, or
11 any nonferrous part thereof, unless all of the following
12 apply:

13 (1) The person is registered as a secondary metals
14 recycler under Section 13A-8-31.2.

15 (2) The sale or purchase occurs at the fixed
16 business address of a secondary metals recycler that is a
17 party to the transaction. For purposes of this subdivision,
18 "fixed business address" of the secondary metals recycler
19 means the address of the business that is registered with the
20 Alabama Criminal Justice Information Center pursuant to
21 Section 13A-8-31.2; provided, however, the term may also
22 include the licensed address of a secondary metals recycler,
23 new or used motor vehicle dealer, automotive repair service,
24 motor vehicle manufacturer, licensed automotive dismantler and
25 parts recycler, or distributor of catalytic converters, who
26 sells or purchases the used, detached catalytic converter.

1 (3) The person has maintained all of the information
2 required under Section 13A-8-31 regarding the transaction.

3 (b) (1) Both of the following apply to the person who
4 possesses or sells a used, detached catalytic converter:

5 a. The person is a registered secondary metals
6 recycler, licensed new or used motor vehicle dealer, licensed
7 automotive repair service, motor vehicle manufacturer,
8 licensed automotive dismantler and parts recycler, or licensed
9 distributor of catalytic converters, and a copy of the
10 seller's valid business license is received and maintained by
11 the person at the time of the transaction.

12 b. The person provides the purchaser with all of the
13 following information for the motor vehicle from which the
14 catalytic converter or part thereof was taken:

15 1. The name of the person that removed the catalytic
16 converter.

17 2. The name of the person for whom the removal was
18 completed.

19 3. The make and model of the vehicle from which the
20 catalytic converter was removed.

21 4. The vehicle identification number of the vehicle
22 from which the catalytic converter was removed.

23 5. The part number or other identifying number of
24 the catalytic converter that was removed.

25 6. A copy of the driver's license or nondriver
26 identification card of the seller of the catalytic converter.

1 7. A copy of the certificate of title or certificate
2 of registration showing the seller's ownership interest in the
3 vehicle.

4 (2) Before each purchase or acquisition of a used,
5 detached catalytic converter or part thereof, the secondary
6 metals recycler, including an agent, employee, or
7 representative thereof, shall do both of the following:

8 a. Verify, by obtaining the applicable
9 documentation, that the person transferring or selling the
10 used, detached catalytic converter acquired it legally and has
11 the right to transfer it or sell it.

12 b. Retain a record of the applicable verification
13 and other information required under Section 13A-8-31, and
14 note in the business records of the secondary metals recycler
15 any obvious markings on the used, detached catalytic
16 converter, such as paint, labels, or engravings, that would
17 aid in the identification of the catalytic converter.

18 (c) Each catalytic converter that is purchased,
19 possessed, obtained, sold, transported, or otherwise acquired
20 in violation of this section is a separate violation of this
21 section.

22 (d) A person who violates this section is guilty of
23 a Class A misdemeanor on a first violation. On a second or
24 subsequent violation within a 10-year period, the person is
25 guilty of a Class C felony.

1 (e) A used, detached catalytic converter possessed
2 in violation of this section is contraband, subject to seizure
3 and forfeiture as provided pursuant to Section 20-2-93.

4 (f) For purposes of this section, a used, detached
5 catalytic converter does not include a catalytic converter
6 that has been tested, certified, and labeled for reuse in
7 accordance with applicable U.S. Environmental Protection
8 Agency Clean Air Act regulations.

9 Section 2. (a) It is unlawful for a possessor or
10 seller of a used, detached catalytic converter, or any
11 nonferrous part of a catalytic converter, to provide any
12 false, fraudulent, altered, or counterfeit information or
13 documentation as required by Section 13A-8-37.3, Code of
14 Alabama 1975.

15 (d) A person who commits a violation of this section
16 is guilty of a Class A misdemeanor. On a second or subsequent
17 violation within a 10-year period, the person is guilty of a
18 Class C felony.

19 Section 3. Sections 13A-8-31.1 and 13A-8-37.1, Code
20 of Alabama 1975, are amended to read as follows:

21 "§13A-8-31.1.

22 "(a) A secondary metals recycler may not enter into
23 any cash transactions in excess of fifty dollars (\$50) for
24 copper, copper/aluminum air conditioning coils, or catalytic
25 ~~convertors~~ converters, or any items described in subdivision
26 (a) (2) or (a) (10) of Section 13A-8-37, or any cash transaction
27 in excess of five hundred dollars (\$500) for all other metals

1 in payment for the purchase of metal property. Payment by
2 check may be made payable only to the person whose information
3 was recorded pursuant to Section 13A-8-31.

4 "(b) It shall be unlawful for a secondary metals
5 recycler to purchase metal property from a person younger than
6 18 years of age.

7 "(c) Metal property may not be purchased between the
8 hours of 9:00 P.M. and 6:00 A.M.

9 "(d) Any person who intentionally violates the
10 requirements of this section shall be guilty of a Class B
11 misdemeanor for a first offense, a Class A misdemeanor for a
12 second offense, and a Class C felony for a third or subsequent
13 offense within a 10-year period.

14 "§13A-8-37.1.

15 "(a) It is unlawful for a secondary metals recycler
16 to purchase the following property unless a copy of verifiable
17 documentation in addition to the signed statement required by
18 subdivision (a) (6) of Section 13A-8-31 is provided to the
19 secondary metals recycler that the seller is the owner of the
20 property:

21 "(1) Catalytic ~~convertors~~ converters that are not
22 part of an entire motor vehicle.

23 "(2) Metal property of a telephone company, an
24 electric company, a cable company, a water company, another
25 utility, or a railroad marked or otherwise identified as such.

26 "(3) Copper wire that has been burned to remove the
27 insulation, unless verifiable documentation is provided that

1 the source of the copper wire was in a building destroyed by
2 fire.

3 "(4) A copper, aluminum, or aluminum-copper
4 condensing or evaporating coil, including its tubing or rods,
5 from a heating or air conditioning unit, excluding scrap from
6 window air conditioning units and automobile condenser coils,
7 unless any one of the following criteria are satisfied:

8 "a. The condenser coils are being sold by a licensed
9 contractor, HVAC contractor, plumber, or electrician and a
10 current and valid license with number is provided at the time
11 of sale and copied or scanned by the secondary metals recycler
12 at the time of sale.

13 "b. The condenser coils are being sold by a person
14 with verifiable documentation, such as a receipt or work
15 order, indicating that the condenser coils are the result of a
16 replacement of an air conditioner unit or condenser coils
17 performed by a licensed contractor.

18 "(5) Utility access covers, manhole covers, or storm
19 drain covers, unless the seller is a company that deals in the
20 manufacture or sale of the aforementioned products.

21 "(6) Grave markers, vases, memorials, statues,
22 plaques, or other bronze objects used at a cemetery or other
23 location where deceased persons are interred or memorialized
24 or any other metal historic markers or monuments or the
25 attached support or post to either, unless the seller is a
26 company that deals in the manufacture or sale of the
27 aforementioned products.

1 "(7) Any metal property that has been brightly
2 painted or marked to deter theft of the property.

3 "(8) Ventilation fans or similar fans designed to
4 supply fresh air to workers in confined spaces, such as
5 underground mines or other similar circumstances.

6 "(b) Any person in violation of this section shall
7 be guilty of a Class B felony."

8 Section 4. Although this bill would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds, the bill is excluded from further
11 requirements and application under Amendment 621, as amended
12 by Amendment 890, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of Alabama of 1901,
14 as amended, because the bill defines a new crime or amends the
15 definition of an existing crime.

16 Section 5. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.