STATE OF NEW YORK

10362--A

IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Buttenschon) -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, the general business law and the insurance law, in relation to imposing certain restrictions on catalytic converters

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The vehicle and traffic law is amended by adding a new article 12-E to read as follows:

ARTICLE 12-E

CATALYTIC CONVERTERS

Section 399-u. Catalytic converters.

§ 399-u. Catalytic converters. 1. For the purposes of this article the following terms shall have the following meanings:

(a) "Catalytic converter" means an exhaust emission control device which modifies exhaust gas from an internal combustion engine by catalyzing a redox reaction.

(b) "Used or scrap catalytic converter" means a catalytic converter that was previously installed in a vehicle and which has been removed from such vehicle in whole or in part.

2. A used or scrap catalytic converter shall only be purchased or otherwise accepted by an entity which is licensed as either a scrap processor or as a vehicle dismantler pursuant to this chapter.

3. A scrap processor or vehicle dismantler which purchases one or more used or scrap catalytic converters shall:

(a) Record the date of purchase, the name of the seller, and the seller's residential or business address;

(b) Make and retain a copy of the government issued photographic identification card used to verify the identity of any natural person from whom such used or scrap catalytic converters were purchased; and

(c) Record the unique identification number, if any, affixed to each such used or scrap catalytic converter purchased from a seller.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 2. Subdivision (d) of section 301 of the vehicle and traffic law is amended by adding a new paragraph 5 to read as follows:

(5) (a) The commissioner shall establish and maintain a catalytic converter record program to enable a facility performing such inspections pursuant to this section to:

(i) Indelibly mark or engrave a vehicle catalytic converter with a readily observable unique serial number if such catalytic convert is not already marked; and

(ii) Maintain a record of the make, model, vehicle type, vehicle identification number and the unique serial number marked, engraved or otherwise affixed to each such catalytic converter.

(b) For the purposes of this paragraph the term "catalytic converter" shall have the same meaning as defined in section three hundred ninety-nine-u of this title.

§ 3. The vehicle and traffic law is amended by adding a new section 415-d to read as follows:

§ 415-d. Catalytic converter serial number requirements. No retail dealer shall sell a new or used motor vehicle or parts of vehicles for which a certificate of title has been issued by the commissioner or which would be eligible to have such a certificate of title issued unless the vehicle catalytic converter has been indelibly marked or engraved with a readily observable unique serial number. Such dealer shall maintain a record of the make, model, vehicle type, vehicle identification number and the unique serial number marked, engraved or otherwise affixed to each such catalytic converter.

§ 4. Section 69-e of the general business law, as added by chapter 431 of the laws of 1976, is amended to read as follows:

§ 69-e. Definitions. 1. "Scrap metal processing facility" shall mean an establishment engaged primarily in the purchase, processing and shipment of ferrous and/or non-ferrous scrap[~~, the end product of which is the production of raw material for remelting purposes for steel mills, foundaries, smelters, refiners, and similar users~~] **metal and/or end of life vehicles but shall not include a redemption center, dealer or distributor as such terms are defined in section 27-1003 of the environmental conservation law or an electronic waste collection, consolidation or recycling facility as such terms are defined in section 27-2601 of the environmental conservation law**.

2. "Scrap processor" shall mean any person, association, partnership or corporation operating and maintaining a "scrap metal processing facility".

3. "Government issued photographic identification" shall mean any current and valid official form of identification issued by the government of the United States of America, a state, territory, protectorate, or dependency of the United States of America, a county, municipality or subdivision thereof, any public agency or department thereof, or any public employer, which requires and bears the photograph of the person to whom it is issued.

4. "Catalytic converter" shall mean an exhaust emission control device which modifies exhaust gas from an internal combustion engine by catalyzing a redox reaction.

5. "End of life vehicle" shall mean any motor vehicle sold, given, or otherwise disposed of as junk or salvage.

6. "Scrap catalytic converter" shall mean a catalytic converter that was previously installed in a vehicle and which has been removed from such vehicle in whole or in part.

§ 5. Section 69-g of the general business law, as amended by chapter 302 of the laws of 2007, is amended to read as follows:

§ 69-g. Records. 1. [~~Such~~] A scrap [~~processor~~] metal processing facility shall record [~~(i) each purchase of any pig or pigs of metal, bronze or brass castings or parts thereof, sprues or gates or parts thereof, utility wire or brass car journals, or of metal beer kegs, and (ii)~~] each purchase of [~~iron, steel~~] ferrous and/or nonferrous scrap or an end of life vehicle for a price of fifty dollars or more, and preserve such record for a period of three years; which record shall show the date of purchase, the name of the seller, [~~his~~] the seller's residence or business address [~~by street, number, city, village or town~~], the driver's license number or information from a government issued photographic identification card, [~~if any, of such person, or by such description as will reasonably locate the seller,~~] and the type and quantity of such purchase[~~; and the~~]. The scrap processor shall cause such record to be signed by the seller or his or her agent. It shall be unlawful for any seller to refuse to furnish such information or to furnish incorrect or incomplete information. Such scrap processor shall also make and retain a copy of the government issued photographic identification card used to verify the identity of [~~the~~] any natural person from whom the scrap metal was purchased and shall retain this copy in a separate book, register or electronic archive [~~for two years from the date of purchase~~].

2. Such records shall be available for inspection by [~~the police department of the state or the municipality in which the establishment is located~~] law enforcement personnel or a state regulatory agency.

3. a. A scrap metal processing facility shall be licensed as a scrap processor or a vehicle dismantler pursuant to section three hundred ninety-nine-u of the vehicle and traffic law prior to the purchase and/or acceptance of one or more scrap catalytic converters.

b. A scrap metal processing facility which purchases one or more scrap catalytic converters shall:

(i) record the date of purchase, the name of the seller, and the seller's residential or business address;

(ii) make and retain a copy of the government issued photographic identification card used to verify the identity of any natural person from whom such scrap catalytic converters were purchased; and

(iii) record the unique identification number, if any, affixed to each such catalytic converter purchased from each seller.

4. No later than June first, two thousand twenty-three, all scrap metal processing facility shall install and maintain an electronic video recording system at all customer scales and at all points of sale located on the premises of the scrap metal processing facility. Electronic video records shall be maintained in an electronic archive for a period of no less than one hundred twenty days from the date when such electronic video record was made. Such electronic video record shall be available for inspection upon demand by law enforcement personnel or a state regulatory agency.

§ 6. Section 69-h of the general business law is renumbered section 69-i and two new sections 69-h and 69-j are added to read as follows:

§ 69-h. Government scraps. Notwithstanding any provision of law, rule or regulation to the contrary, it shall be unlawful for a scrap metal processing facility to purchase as scrap any metal items bearing markings of any governmental entity, utility company, cemetery or railroad unless such items are offered for sale by an employee or agent thereof

with the express written authorization of any such governmental entity, utility company, cemetery or railroad.

§ 69-j. Preemption of local laws. The provisions of sections sixty-nine-g and sixty-nine-h of this article shall supersede and preempt all rules, regulations, codes, statutes or ordinances of all cities, counties, municipalities and local agencies which would:

1. Regulate the purchase or sale of scrap metal;

2. Impose record keeping or reporting requirements in a manner which conflicts with or imposes additional record keeping requirements other than those set forth within this article;

3. Require a scrap metal processing facility to hold scrap material for a specified period of time prior to the processing or sale of said scrap material; or

4. Specify a manner of payment for such scrap metal.

§ 7. Section 69-i of the general business law, as added by chapter 431 of the laws of 1976 and as renumbered by section six of this act, is amended to read as follows:

§ 69-i. Penalty. 1. [~~Each violation of this article by a scrap processor shall be a violation subject to a fine of not more than two hundred dollars, unless such violation shall be wilful, in which event it shall be a misdemeanor except, however, the scrap processor shall not be liable for any violation of this article by a seller, his agent, or a purported seller or agent~~] A person found to have violated a provision of this article shall be guilty of a violation and liable for a fine of not more than one thousand dollars and/or imprisonment for a term of not more than fifteen days.

2. [~~Each violation of this article by a seller or his agent shall be a misdemeanor.~~] A person found to have violated any provision of this article for a second time within a two-year period shall be guilty of a misdemeanor and subject to a criminal fine of not more than five thousand dollars and/or imprisonment for a term of not more than one year.

3. If a defendant has gained money or property through the commission of any misdemeanor or violation pursuant to this section and upon conviction thereof, the court, in lieu of imposing the fine authorized for the offense pursuant to subdivision one or two of this section, may sentence such defendant to pay an amount, fixed by the court, not to exceed double the amount of such defendant's gain from the commission of the offense.

§ 8. Section 2336 of the insurance law is amended by adding a new subsection (i) to read as follows:

(i) Any schedule of rates or rating plan for non-commercial private passenger automobile insurance shall also provide for an actuarially appropriate reduction in premium charges for property damage liability, comprehensive and collision coverage with respect to automobiles equipped with a catalytic converter upon which a unique marking or engraving has been made.

§ 9. This act shall take effect January 1, 2023. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.