

## ACT 88

S.B. NO. 2279

A Bill for an Act Relating to Catalytic Converters.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in recent years, the State has seen an increase in the number of catalytic converters being stolen from vehicles and resold for profit. Catalytic converters contain precious metals such as palladium, platinum, and rhodium, making catalytic converters highly sought after by thieves due to their high resale value. Catalytic converters are essential to motor vehicles, as they remove toxic elements from the exhaust stream, and thus are federally mandated to be installed on a vehicle. A catalytic converter can be stolen in less than sixty seconds, which can cause extensive damage to a vehicle, leading to hundreds, if not thousands of dollars in repair costs.

The purpose of this Act is to:

- (1) Establish provisions to regulate the purchase of catalytic converters by used motor vehicle parts dealers and palladium, platinum, and rhodium by scrap dealers and recyclers;
- (2) Subject persons who violate certain provisions of the used motor vehicle parts and accessories law and scrap dealer law to a class C felony;
- (3) Establish the class C felony offense of theft of catalytic converter; and
- (4) Require each county police department to maintain a database of certain reported information and initiate education programs to encourage its residents to take measures to prevent catalytic converter thefts.

SECTION 2. Chapter 289, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§289-A Statement required; catalytic converter.** (a) Every licensee, before the purchase of a catalytic converter within the State, shall obtain a written statement signed by the seller certifying that the seller has the lawful right to sell and dispose of the catalytic converter. This statement shall also contain the:

- (1) Seller’s name, business or residence address, and occupation;
- (2) Description, including serial numbers and other identifying marks, when practical, of every catalytic converter;
- (3) Amount paid to the seller;
- (4) Date, time, and place of the sale; and
- (5) License plate number of any vehicle used to deliver the property to the place of purchase.

(b) The seller shall provide a copy of a receipt that describes, with particularity:

- (1) The exact item that is being offered for sale;
- (2) The name of the person who issued the receipt;

- (3) The date of sale of the item before the item's being offered to the licensee; and
- (4) The price, if any, of the item when obtained by the seller.
- (c) If a receipt is not available, the seller shall provide to the licensee a notarized declaration that describes with particularity:
  - (1) The exact item that is being offered for sale;
  - (2) The name of the person who sold or otherwise transferred the item to the seller;
  - (3) The date of sale of the item; and
  - (4) The price, if any, of the item when obtained by the seller.
- (d) If the seller does not provide a copy of the receipt or the notarized declaration as required by subsection (b) or (c), respectively, the licensee shall not purchase the catalytic converter, in whole or in part, and shall report the attempted sale to the applicable county police department.
- (e) Upon purchase of any catalytic converter, in whole or in part, the licensee shall take one or more separate photographs of each individual catalytic converter offered for sale.
- (f) The licensee shall require the seller to verify the seller's identity by presenting a valid photo identification card or driver's license issued by a federal or state government agency authorized to issue valid identification. The licensee shall:

- (1) Take a photograph of the seller; and
- (2) Make a photocopy of the photo identification card or driver's license of the seller.
- (g) The licensee shall keep at the licensee's place of business:
  - (1) The signed written statement required by subsection (a);
  - (2) The receipt or notarized declaration required by subsection (b) or (c);
  - (3) Photographs required by subsection (e); and
  - (4) The photograph of the seller and a photocopy of the seller's photo identification card or driver's license required by subsection (f),

for a period of three years after the date of purchase. The statement, receipt or notarized declaration, photographs of each individual catalytic converter offered for sale, and photograph of the seller and photocopy of the seller's photo identification may be examined at any time by the director of finance, chief of police, attorney general, prosecuting attorney, or their designees.

(h) Every licensee, when the licensee purchases a catalytic converter within the State, shall attach a tag to the catalytic converter that shall include the year, make, model, license plate number, and vehicle identification number of the vehicle from which the catalytic converter was removed and the name of the seller. The licensee shall report the purchase to the applicable county police department, the record of which shall be maintained in the police department's database. The licensee shall maintain possession of the purchased catalytic converter for a period of sixty days before selling, exchanging, recycling, or otherwise disposing of the catalytic converter.

**§289-B Payment for catalytic converter purchased by licensee; check; mailing.** If a licensee purchases a catalytic converter, payment for the catalytic converter shall be made by check payable to the seller. At the time of sale of the catalytic converter, the seller shall present to the licensee a valid photo identification card or driver's license of the seller issued by a federal or state government agency authorized to issue valid identification. The check may be mailed to the address shown on the identification, or the licensee may arrange for the check to be picked up personally by the seller at the place of business of the licensee."

SECTION 3. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

**“§708- Theft of catalytic converter.** (1) A person commits the offense of theft of catalytic converter if the person commits theft of a catalytic converter.

(2) For the purposes of this section, “catalytic converter” shall have the same meaning as that term is defined in section 289-1.

(3) Theft of catalytic converter is a class C felony.”

SECTION 4. Section 289-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Catalytic converter” means a device that is incorporated in a motor vehicle’s exhaust system and contains a catalyst for converting pollutant gas emissions into less harmful emissions, regardless of whether the device has been removed from a motor vehicle’s exhaust system.”

SECTION 5. Section 289-8, Hawaii Revised Statutes, is amended to read as follows:

**“§289-8 Penalties.** (a) Whoever violates any of the provisions of this chapter or any lawful rule or regulation promulgated by the director of finance under authority of this chapter, for the violation of which no penalty is provided by law, shall be fined not less than \$25 nor more than \$500.

(b) Any person who violates section 289-2, 289-A, or 289-B shall be guilty of a class C felony.”

SECTION 6. Section 445-233, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) If the scrap presented for purchase is copper, palladium, platinum, rhodium, a beer keg, or an urn, in whole or in part, the seller shall provide a copy of a receipt that describes, with particularity:

- (1) The exact item that is being offered for sale;
- (2) ~~[Who]~~ The name of the person who issued the receipt;
- (3) The date of sale of the item ~~[prior to]~~ before the item’s being offered to the scrap dealer; and
- (4) The price, if any, of the item when obtained by the seller.”

2. By amending subsections (d) through (f) to read:

“(d) If the seller does not provide a copy of the receipt or the notarized declaration as required by [subsections] subsection (b) [and] or (c), respectively, the scrap dealer shall not purchase the copper, palladium, platinum, rhodium, beer keg, or urn, in whole or in part, and shall report the attempted sale to the applicable county police[-] department.

(e) ~~[If the scrap dealer purchases]~~ Upon purchase of any copper, palladium, platinum, rhodium, beer keg, or urn, in whole or in part, the scrap dealer shall take ~~[a photograph of]~~ one or more separate photographs of [all of the copper, beer keg, or urn,] each individual item offered for sale.

(f) The scrap dealer shall ~~[also]~~ require the seller to verify the seller’s identity by presenting a valid photo identification card or driver’s license issued by a federal or state government agency authorized to issue valid identification. If the scrap being offered for sale is copper, palladium, platinum, rhodium, a beer keg, or an urn, in whole or in part, the scrap dealer shall:

- (1) Take a photograph of the seller; ~~[or]~~ and

- (2) Make a photocopy of the identification card or driver's license of the seller.”

SECTION 7. Section 445-233.5, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

**“~~[[§445-233.5]]~~ Payment [of] for copper, palladium, platinum, or rhodium purchased by scrap dealer or recycler; check; mailing.** (a) If the scrap dealer or recycler, as applicable, purchases any copper, palladium, platinum, or rhodium, payment for the copper, palladium, platinum, or rhodium shall be made by check payable to the seller. At the time of sale of the copper, palladium, platinum, or rhodium, the seller shall present to the scrap dealer or recycler a valid photo identification card or driver's license of the seller issued by a federal or state government agency authorized to issue valid identification. The check may be mailed to the address shown on the identification, or the scrap dealer or recycler may arrange for the check to be picked up personally by the seller at the place of business of the scrap dealer or recycler.”

SECTION 8. Section 445-235, Hawaii Revised Statutes, is amended to read as follows:

**“~~§445-235~~ Prohibitions; penalty.** (a) Any person who violates section 445-232, 445-233, or 445-233.5, or any person who falsifies a statement required by section 445-233, shall be guilty of a misdemeanor ~~[and shall be sentenced in accordance with chapter 706, except that the court shall impose a minimum sentence of:];~~ provided that any person who:

- (1) Violates section 445-233 or 445-233.5; or
- (2) Falsifies a statement required by section 445-233,

that involves the purchase of palladium, platinum, or rhodium, shall be guilty of a class C felony.

(b) In addition to any penalties the court may impose pursuant to subsection (a), the court shall order, at minimum:

- (1) A fine of \$1,000 for the first offense;
- (2) A fine of \$3,000 for the second offense; and
- (3) A fine of \$5,000 and the suspension of the scrap dealer's license for a period of six months for the third or subsequent offense; provided that if the third or subsequent offense occurs within a five-year period from the occurrence of two prior offenses, the scrap dealer shall be subject to license revocation.”

SECTION 9. Each county police department shall:

- (1) Establish a database for collecting and maintaining the information reported pursuant to section 2 of this Act; and
- (2) Initiate an education program to encourage its residents to take personal measures to prevent catalytic converter thefts, including having an auto service center paint their vehicle's catalytic converter with high temperature orange paint appropriate for automobiles and have a service technician engrave the vehicle identification number on the catalytic converter as a preventative measure to deter thieves from stealing or attempting to sell or scrap a catalytic converter.

SECTION 10. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 12. This Act shall take effect on January 1, 2023; provided that section 3 and section 4 of this Act shall take effect upon its approval.

(Approved June 17, 2022.)

**Note**

1. Edited pursuant to HRS §23G-16.5.