SB-55 Vehicles: catalytic converters. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL NO. 55

Introduced by Senators Umberg and Portantino
(Coauthors: Senators Allen, Dodd, Jones, and Stern)
(Coauthors: Assembly Members Connolly, Santiago, and Schiavo)

December 06, 2022

An act to amend Section 21610 of the Business and Professions Code, and to ~~add~~ *add, repeal, and add* Section 24020 ~~to~~ *of* the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 55, as amended, Umberg. Vehicles: catalytic converters.

Existing law requires a core recycler that accepts, ships, or sells used catalytic converters to maintain specified information regarding the purchase and sale of the catalytic converters. Existing law prohibits a core recycler from providing payment for a catalytic converter unless, among other requirements, the payment is made by check, as specified.

This bill, in addition to payment by check, would allow for payment by credit card or any other form of traceable payment other than cash.

Existing law licenses and regulates motor vehicle dealers and retailers. Existing law prohibits a motor vehicle dealer or retailer from selling any motor vehicle that is not in compliance with the requirements enumerated in the Vehicle Code.

This bill would prohibit a dealer or retailer from selling a new or used motor vehicle equipped with a catalytic converter unless the catalytic converter has been permanently marked, as defined, with the vehicle identification number of the vehicle to which it is attached. *The bill would, until January 1, 2025, exempt from this prohibition a vehicle purchased from a dealer licensed in this state who is also licensed in another state and does not have a warranty service facility in this state.* A violation of this provision would be punishable as an infraction.

By creating a new infraction, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.
Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 21610 of the Business and Professions Code is amended to read:

21610. (a) For the purposes of this section, the following terms have the following meanings:

(1) For the purposes of this section, the term "core recycler" means a person or business, including a recycler or junk dealer, that buys used individual catalytic converters, transmissions, or other parts previously removed from a vehicle. A person or business that buys a vehicle that may contain these parts is not a core recycler.

(2) "Commercial enterprise" includes any of the following:

(A) An automobile dismantler licensed pursuant to Chapter 3 (commencing with Section 11500) of Division 5 of the Vehicle Code.

(B) A core recycler that maintains a fixed place of business for the purpose of obtaining catalytic converters pursuant to this section.

(C) A motor vehicle manufacturer, dealer, or lessor-retailer licensed pursuant to Division 5 (commencing with Section 11100) of the Vehicle Code.

(D) An automotive repair dealer licensed pursuant to Chapter 20.3 (commencing with Section 9880) of Division 3.

(E) Any other licensed business that may reasonably generate, possess, or sell used catalytic converters.

(b) A core recycler who accepts a catalytic converter for recycling shall maintain a written record that contains all of the following:

(1) The place and date of each sale or purchase of a catalytic converter made in the conduct of their business as a core recycler.

(2) The name, valid driver's license number, and state of issue, or California-issued identification number, of the seller of the catalytic converter and the vehicle license number, including state of issue of a motor vehicle used in transporting the catalytic converter to the core recycler's place of business. If the seller is a commercial enterprise, the written record shall include the name, physical business address, business telephone number, and the business license number or tax identification number of the commercial enterprise.

(3) A description of the catalytic converters purchased or sold, including the item type and quantity, amount paid for the catalytic converter, and identification number, if any, and the year, make, model, and vehicle identification number of the vehicle from which the catalytic converter was removed.

(4) A statement indicating either that the seller of the catalytic converter is the owner of the catalytic converter, or the name of the person from whom the seller obtained the catalytic converter, including the business, if applicable, as shown on a signed transfer document.

(5) If applicable, a copy of the title of the vehicle from which the catalytic converter accepted was removed that shows the vehicle identification number matches the number permanently marked on the catalytic converter.

(c) A core recycler engaged in the selling or shipping of used catalytic converters to other recyclers or smelters shall retain information on the sale that includes all of the following:

(1) The name and address of each person to whom the catalytic converter is sold or disposed of.

(2) The quantity of catalytic converters being sold or shipped.

(3) The amount that was paid for the catalytic converters sold in the transaction.

(4) The date of the transaction.

(d) A core recycler shall not provide payment for a catalytic converter unless all of the following requirements are met:

(1) The payment is made by check, credit card, or any other traceable form of payment other than cash, and provided to the seller by either of the following:

(A) (i) Except as provided in clause (ii), mailed to the seller at the address provided pursuant to paragraph (3).

(ii) For a seller that is a commercial enterprise, mailed to the seller's business address.

(B) (i) Except as provided in clause (ii), collected by the seller from the recycler on the third business day after the date of sale.

(ii) A seller that is a commercial enterprise may receive immediate payment by check or by debit card or credit card.

(2) At the time of sale, the core recycler obtains a clear photograph or video of the seller.

(3) (A) Except as provided in subparagraph (B), the core recycler obtains a copy of the valid driver's license of the seller or the seller's agent containing a photograph and an address of the seller or the seller's agent, or a copy of a state or federal government-issued identification card containing a photograph and an address of the seller or the seller's agent.

(B) If the seller prefers to have the check for the catalytic converter mailed to an alternative address, other than a post office box, the core recycler shall obtain a copy of a driver's license or identification card described in subparagraph (A) and a gas or electric utility bill addressed to the seller at the alternative address with a payment due date no more than two months prior to the date of sale. For the purpose of this subparagraph, "alternative address" means an address that is different from the address appearing on the seller's driver's license or identification card.

(4) The core recycler obtains a clear photograph or video of the catalytic converter being sold. If applicable, the photograph or video shall capture the permanent marking of the vehicle identification number.

(5) At the time of sale, the core recycler obtains a written statement from the seller indicating how the seller obtained the catalytic converter.

(6) The seller is a person described in Section 10852.5 of the Vehicle Code.

(e) The requirements of subdivision (d) shall not apply to a core recycler that buys used catalytic converters, transmissions, or other parts removed from a vehicle if the core recycler and the seller have a written agreement for the transaction, provided that the written agreement includes a log or other regularly updated record of all catalytic converters received pursuant to the agreement that describes each catalytic converter with sufficient particularity, including any identification numbers or markings, so that each of those catalytic converters in the core recycler's inventory can reasonably be matched to its description in the agreement.

(f) Notwithstanding subdivision (b), core recyclers accepting catalytic converters from commercial enterprises who hold a written agreement with a business that sells catalytic converters for recycling purposes are required to collect only the following information:

(1) Name of seller or agent acting on behalf of the seller.

(2) The seller's physical business address and business telephone number.

(3) The seller's business license number or tax identification number.

(4) Date of transaction.

(5) Number of catalytic converters received in the course of the transaction.

(6) Amount of money that was paid for catalytic converters in the course of the transaction.

(7) A copy of the written agreement.

(g) A core recycler shall keep and maintain the information required pursuant to this section for not less than two years.

(h) A core recycler shall make the information required pursuant to this section available for inspection by local law enforcement upon demand.

(i) A person who makes, or causes to be made, a false or fictitious statement regarding any information required pursuant to this section is guilty of a misdemeanor.

(j) A person who violates the requirements of this section is guilty of a misdemeanor.

(k) Upon conviction, a person who knowingly and willfully violates the requirements of this section shall be punished as follows:

(1) For a first conviction, by a fine of one thousand dollars ($1,000).

(2) (A) For a second conviction, by a fine of not less than two thousand dollars ($2,000).

(B) In addition to the fine imposed pursuant to subparagraph (A), the court may order the defendant to cease engaging in the business of a core recycler for a period not to exceed 30 days.

(3) (A) For a third and subsequent conviction, by a fine of not less than four thousand dollars ($4,000).

(B) In addition to the fine imposed pursuant to subparagraph (A), the court shall order the defendant to cease engaging in the business of a core recycler for a period not less than one year.

(l) The provisions of this section apply to core recyclers and do not apply to a subsequent purchaser of a catalytic converter who is not a core recycler. Other than subdivisions (f) to (j), inclusive, this section does not apply to a core recycler who holds a written agreement with a commercial enterprise regarding the transactions, provided that the written agreement includes a log or other regularly updated record of all catalytic converters received pursuant to the agreement that describes each catalytic converter with sufficient particularity, including any identification numbers or markings, so that each of those catalytic converters in the core recycler's inventory can reasonably be matched to its description in the agreement.

SEC. 2. Section 24020 is added to the Vehicle Code, to read:

24020. (a) No dealer or person holding a retail seller's permit shall sell a new or used vehicle equipped with a catalytic converter unless the catalytic converter has been permanently marked with the vehicle identification number (VIN) of the vehicle to which it is attached.

(b) This section does not apply to any of the following:

(1) A collector motor vehicle.

(2) A vehicle sold in any of the of the following circumstances:

(A) By a licensed automobile dismantler after being reported for dismantling pursuant to Section 11520.

(B) By or through a salvage pool after obtaining a salvage certificate pursuant to Section 11515, a nonrepairable vehicle certificate pursuant to Section 11515.2, a certificate of title for a vehicle described in subdivision (f) of Section 11515 or subdivision (f) of Section 11515.2, or a similar ownership document issued by another state.

(C) By or through a salvage disposal auction. For purposes of this section, "salvage disposal auction" means an auction where a person or entity, engaged primarily in the business of selling total loss salvage vehicles on behalf of insurance companies and that has more than eight business locations in California, sells total loss salvage vehicles.

(D) By or through a wholesale motor vehicle auction. For purposes of this section, "wholesale motor vehicle auction" means an auction where the dealer conducting the auction does not take ownership of the vehicle and the vehicle is sold to a nonretail buyer for resale.

(3) A vehicle where the buyer declines the seller's offer to permanently mark the catalytic converter pursuant to subdivision (a) and the dealer discloses the catalytic converter permanent marking as a body part marking product in accordance with Sections 2981 and 2982.2 of the Civil Code.

(4) A vehicle purchased from a dealer licensed in this state who is also licensed in another state and does not have a warranty servicing facility in this state.

(c) As used in this section, "permanently marked" means prominently engraved, etched, welded, metal stamped, acid marked, or otherwise permanently imprinted using a similarly reliable method of imparting a lasting mark on the exterior case of the catalytic converter.

(d) This section shall become inoperative on January 1, 2025, and as of that date is repealed.

SEC. 3. *Section 24020 is added to the Vehicle Code, to read:*

24020. *(a) No dealer or person holding a retail seller's permit shall sell a new or used vehicle equipped with a catalytic converter unless the catalytic converter has been permanently marked with the vehicle identification number (VIN) of the vehicle to which it is attached.*

(b) This section does not apply to any of the following:

(1) A collector motor vehicle.

(2) A vehicle sold in any of the of the following circumstances:

(A) By a licensed automobile dismantler after being reported for dismantling pursuant to Section 11520.

(B) By or through a salvage pool after obtaining a salvage certificate pursuant to Section 11515, a nonrepairable vehicle certificate pursuant to Section 11515.2, a certificate of title for a vehicle described in subdivision (f) of Section 11515 or subdivision (f) of Section 11515.2, or a similar ownership document issued by another state.

(C) By or through a salvage disposal auction. For purposes of this section, "salvage disposal auction" means an auction where a person or entity, engaged primarily in the business of selling total loss salvage vehicles on behalf of insurance companies and that has more than eight business locations in California, sells total loss salvage vehicles.

(D) By or through a wholesale motor vehicle auction. For purposes of this section, "wholesale motor vehicle auction" means an auction where the dealer conducting the auction does not take ownership of the vehicle and the vehicle is sold to a nonretail buyer for resale.

(3) A vehicle where the buyer declines the seller's offer to permanently mark the catalytic converter pursuant to subdivision (a) and the dealer discloses the catalytic converter permanent marking as a body part marking product in accordance with Sections 2981 and 2982.2 of the Civil Code.

(c) As used in this section, "permanently marked" means prominently engraved, etched, welded, metal stamped, acid marked, or otherwise permanently imprinted using a similarly reliable method of imparting a lasting mark on the exterior case of the catalytic converter.

(d) This section shall become operative on January 1, 2025.

~~**SEC. 3.**~~***SEC. 4.*** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.