

CITY of ALBUQUERQUE

TWENTY SEVENTH COUNCIL

COUNCIL BILL NO. O-26-32 ENACTMENT NO. _____

SPONSORED BY: Renée Grout and Tammy Fiebelkorn

1 **ORDINANCE**

2 **AMENDING THE “SECONDHAND CATALYTIC CONVERTER PURCHASE**
3 **ORDINANCE;” RENAMING IT THE “SALE OF RECYCLED METALS**
4 **ORDINANCE;” EXPANDING THE SCOPE TO INCLUDE COPPER OR BRASS**
5 **MATERIALS; UPDATING REPORTING AND RECORDKEEPING**
6 **REQUIREMENTS; AND MANDATING THE FORM OF TENDER FOR**
7 **TRANSACTIONS SUBJECT TO THIS ORDINANCE.**

8 **WHEREAS, a catalytic converter is part of the exhaust system of vehicles**
9 **with internal combustion engines that converts pollutant gases into less toxic**
10 **pollutants; and**

11 **WHEREAS, catalytic converters contain precious metals including**
12 **platinum, palladium, and rhodium; and**

13 **WHEREAS, copper and brass are widely used in vehicles, construction,**
14 **and utility systems due to their conductivity and durability; and**

15 **WHEREAS, catalytic converters, copper, and brass have significant resale**
16 **value and are frequently stolen; and**

17 **WHEREAS, thefts of catalytic converters, copper, and brass have increased**
18 **in recent years; and**

19 **WHEREAS, thieves typically steal catalytic converters from trucks, SUVs,**
20 **and other vehicles with high ground clearance, and thieves also target hybrid**
21 **vehicles which have higher amounts of precious metals in their catalytic**
22 **converters; and**

23 **WHEREAS, thieves generally sell the catalytic converters to secondhand**
24 **metal dealers or “scrap yards” which then sell catalytic converters to**
25 **recycling facilities to reclaim the precious metals inside; and**

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

1 WHEREAS, copper and brass theft in Albuquerque is a major issue that
2 threatens infrastructure, businesses, and residents alike, causing significant
3 damage and severe disruptions; and

4 WHEREAS, the resale of stolen catalytic converters, copper, and brass
5 result in significant financial harm to vehicle owners, property owners, and the
6 community; and

7 WHEREAS, additional regulations and safeguards regarding the resale of
8 catalytic converters, copper, and brass, including enhanced reporting
9 requirements, may serve as a deterrent to theft and assist law enforcement
10 investigations.

11 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY
12 OF ALBUQUERQUE:

13 SECTION 1. Article 21 in Chapter 13 of the Revised Ordinances of
14 Albuquerque 1994 is hereby amended as follows:

15 § 13-21-1 SHORT TITLE.

16 This Ordinance shall be known and cited as the [~~“Secondhand Catalytic
17 Converter Purchase Ordinance.”~~] [“Sale of Recycled Metals Ordinance.”]

18 § 13-21-2 PURPOSE. The purposes of this article include to:

19 (A) Ensure a sound system of acquiring catalytic converters by and
20 through secondhand metal dealers, to prevent frauds and theft, and ensure
21 fair reporting practices;

22 (B) Provide for recordkeeping [and reporting] requirements for the
23 purchase of catalytic converters by secondhand metal dealers;

24 (C) Prohibit secondhand metal dealers from purchasing or receiving
25 catalytic converters not lawfully possessed and to prevent criminal damage to
26 property by theft of a catalytic converter that is disconnected from a motor
27 vehicle in accordance with ROA 1994, §§ 8-6-22, 12-3-7, and 12-3-8; [~~and~~]

28 [(D) Facilitate timely access by law enforcement to catalytic converter
29 transaction information through electronic reporting to the Albuquerque
30 Police Department’s electronic reporting system, currently known as
31 LeadsOnline;]

1 [(E) Deter property crime related to the theft of copper or brass
2 materials throughout the City by requiring secondhand metal dealers to
3 maintain detailed records of purchases; and

4 [(F)] [(D)] Promote the health, safety, and welfare of the City by
5 implementing minimum accountability standards for secondhand metal dealer
6 businesses and help limit vulnerability of these businesses to becoming
7 unwitting participants in the cycle of property crime.

8 § 13-21-3 DEFINITIONS. For the purpose[s] of this article, the following
9 definitions shall apply unless the context clearly indicates or requires a
10 different meaning.

11 [COPPER OR BRASS MATERIAL. Insulated or non-insulated copper
12 wire, hardware, or cable of the type used by a public utility, commercial mobile
13 radio service carrier, or common carrier that consists of at least twenty-five
14 percent copper; or a copper or brass item of a type commonly used in
15 construction or by a public utility, commercial mobile radio service carrier, or
16 common carrier.]

17 PROPERTY UNIT ENFORCEMENT OFFICIAL. Any sworn officer within
18 the Property Crimes Division of the Albuquerque Police Department, or any
19 person specifically assigned to the enforcement or administration of this
20 article.

21 SECONDHAND CATALYTIC CONVERTER. A catalytic converter, other
22 than a new and unused catalytic converter, that is not part of an entire motor
23 vehicle.

24 SECONDHAND METAL DEALER. A scrap metal processor in the
25 business of operating or maintaining a scrap metal yard in a physical location
26 in which scrap metal or cast-off regulated material is purchased for shipment,
27 sale[,] or transfer.

28 § 13-21-4 [SECONDHAND CATALYTIC CONVERTER TRANSACTIONS-]
29 RECORDKEEPING [AND REPORTING].

30 [(A) RECORDKEEPING.] ~~[In addition to the reporting and recordkeeping~~
31 ~~required by the “Sale of Recycled Metals Act” NMSA 1978[,] §§ 57-30-1~~
32 ~~through 57-30-14, every]~~ [Every] secondhand metal dealer shall keep a record
33 of each purchase of a secondhand catalytic converter. The record shall be

1 preserved for a period of [at least three years] ~~[one year]~~ from the date the
2 secondhand catalytic converter was purchased. Each entry shall include:

3 ~~[(A)]~~ [(1)] The name, address, and date of birth of the seller as indicated
4 on a valid government-issued photo identification card, a notation as to the
5 type of identification card, the jurisdiction that issued the same and the
6 identification card number;

7 [(2) The license plate number and vehicle identification number of the
8 vehicle used to transport the catalytic converter to the secondhand metal
9 dealer, if applicable;]

10 ~~[(B)]~~ [(3)] The year, make, model, and VIN for the vehicle from which the
11 catalytic converter was removed. The secondhand metal dealer must
12 determine [and document] that the catalytic converter presented is consistent
13 with the manufacturer's specifications for a catalytic converter from the
14 vehicle which the seller provided information for; and

15 ~~[(C)]~~ [(4)] A copy of the certificate of title or other verifiable
16 documentation indicating that the ~~[person]~~ [seller] has an ownership interest
17 in the vehicle from which the catalytic converter was removed.

18 ~~[(D)]~~ [(5)] The recordkeeping requirements [in this section] ~~[of § 13-21-4(B)~~
19 ~~and 13-21-4(C)]~~ shall not apply to a purchase that meets the following
20 requirements:

21 ~~[(1)]~~ [(a)] The seller of the secondhand catalytic converter is an
22 automotive recycler licensed by the State of New Mexico pursuant to NMSA
23 1978, § 66-4-1.1(A), who manages its inventory of secondhand catalytic
24 converters using a stock numbering system. The stock numbering system
25 must use a unique number that can be readily linked to VIN of the vehicle of
26 origin.

27 [(B) REPORTING. Every secondhand metal dealer shall electronically report
28 each purchase of a secondhand catalytic converter to the Albuquerque Police
29 Department's electronic reporting system, currently known as "LeadsOnline,"
30 or any successor reporting system designated in writing by the Chief of
31 Police.

1 (1) Each transaction shall be reported no later than 12:00 noon on the
2 secondhand metal dealer's next business day following the date the
3 secondhand catalytic converter was purchased.

4 (2) Each report shall include, at a minimum, the recordkeeping information
5 required under ROA 1994, section 13-21-4(A), along with the date and time of
6 the transaction and the dealer's transaction identifier.

7 (4) In the event that the City's electronic reporting system is temporarily
8 unavailable, the secondhand metal dealer shall maintain all records required
9 by ROA 1994, section 13-21-4(A) and shall submit the information by an
10 alternative method approved by the Chief of Police, and subsequently upload
11 the information when the system becomes available.]

12 § 13-21-5 INSPECTION [OF CATALYTIC CONVERTERS AND COPPER
13 OR BRASS MATERIAL BY PROPERTY UNIT ENFORCEMENT OFFICIAL];
14 HOLDING PERIOD.

15 (A) Any property unit enforcement official may inspect the full premises
16 of the secondhand metal dealer's place of business during normal business
17 hours, and have free access to inspect all secondhand catalytic converters
18 [and copper or brass material], and the corresponding transaction records
19 required by this article. The business being inspected may escort the property
20 unit enforcement official throughout the inspection process.

21 (B) No secondhand metal dealer shall sell, or otherwise dispose of, alter
22 in any way, or remove any catalytic converter [and copper or brass material]
23 from their business premises within 15 days from the date said catalytic
24 converter was received.

25 [§ 13-21-6 COPPER OR BRASS MATERIALS TRANSACTIONS-
26 RECORDKEEPING.

27 (A) A secondhand metal dealer in this state shall keep an accurate and
28 legible written record, in a form approved by the department, of each purchase
29 made in the course of the dealer's business of copper or brass materials. Such
30 record shall be in English and shall include the following information:

31 (1) the place, date, and time of the purchase;

32 (2) the name and address of each person from whom the copper or
33 brass material was purchased or obtained;

1 (3) the identifying number of the personal identification document of
2 each person from whom the copper or brass material is purchased or
3 obtained, including, if applicable, a contractor's license number and
4 qualifying party number as required by the Construction Industries
5 Licensing Act, NMSA 1978, sections 60-13-1 to -59;
6 (4) the year, make, model and license plate number of the motor vehicle
7 used to transport the copper or brass material, if applicable;
8 (5) a description, made in accordance with the custom of the trade, of
9 the type and quantity of copper or brass material purchased; and
10 (6) a signed, written statement provided by the secondhand metal deal
11 er that the person selling the copper or brass material is the legal owner
12 of or is lawfully entitled to sell the copper or brass material.

13 (B) During the transaction, a secondhand metal dealer may take a digital
14 photograph, with a date and time stamp, of:

15 (1) the seller of the copper of brass material, and

16 (2) the copper or brass material in the form in which it was purchased or
17 obtained by the secondhand metal dealer.

18 (C) A secondhand metal dealer shall preserve each record required by this
19 section until the first anniversary of the date the record was made.

20 § 13-21-7 PAYMENT BY CHECK

21 A secondhand metal dealer or the dealer's agent, employee, or
22 representative shall pay for all purchases subject to this ordinance only by
23 check.

24 §13-21-98 RELATIONSHIP TO STATE LAW.

25 The recordkeeping and reporting requirements of this Ordinance
26 supplement and do not replace the secondhand metal dealer's obligations
27 under the Sale of Recycled Metals Act, NMSA 1978, sections 57-30-1 through
28 57-30-14. This Ordinance shall be construed to be consistent with, and no
29 more stringent than, state requirements.]

30 § 13-21-99 PENALTY.

31 (A) Any secondhand metal dealer [found to have violated] [violating] any of
32 the provisions of this article shall be deemed guilty of a misdemeanor and
33 upon conviction thereof shall be subject to the penalty provisions set forth in

1 § 1-1-99 of this code of ordinances. Each day of violation shall be considered
2 a separate offense.

3 (B) Notwithstanding the above, the city may also pursue the penalties
4 permitted under NMSA 1978~~[]~~ § 30-16D-7, “Operating a Chop Shop” and
5 NMSA 1978, §§ 57-30-1 et seq., the “Sale of Recycled Metals Act” for
6 infractions related to the purchase, sale, or acquisition of any catalytic
7 converter that is disconnected from a motor vehicle.

8 SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause,
9 word or phrase of this ordinance is for any reason held to be invalid or
10 unenforceable by any court of competent jurisdiction, such decision shall not
11 affect the validity of the remaining provisions of this ordinance. The Council
12 hereby declares that it would have passed this ordinance and each section,
13 paragraph, sentence, clause, word or phrase thereof irrespective of any
14 provision being declared unconstitutional or otherwise invalid.

15 SECTION 3. COMPILATION. Section ‘1’ of this Ordinance amends, is
16 incorporated in, and is to be compiled as part of the Revised Ordinances of
17 Albuquerque, New Mexico, 1994.

18 SECTION 4. EFFECTIVE DATE. This Ordinance takes effect five days after
19 publication by title and general summary.
20
21
22
23
24
25
26
27
28
29
30
31
32
33

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion