

SENATE BILL NO. 2299

Introduced by

Senators Vedaa, Hogue, Kannianen, Paulson

Representative Louser

1 A BILL for an Act to create and enact three new sections to chapter 51-35 of the North Dakota
2 Century Code, relating to scrap metal dealer registration, catalytic converters, and catalytic
3 converter theft; to amend and reenact sections 51-35-01, 51-35-02, 51-35-03, and 51-35-04 of
4 the North Dakota Century Code, relating to purchases by scrap metal dealers; and to provide a
5 penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 51-35-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **51-35-01. Definitions.**

10 As used in this chapter, unless the context otherwise requires:

- 11 1. "Alloy" means a combination of a metal and carbon or other metals.
- 12 2. "Business records" means records of any purchase or transaction that involves the
13 receipt of scrap metals made in the ordinary course of business and includes written
14 receipts, books or similar records, or electronically stored records, but does not
15 include correspondence, tax returns, or financial statements.
- 16 3. "Catalytic converter" means a motor vehicle exhaust system component attached to
17 the motor vehicle which reduces vehicle emissions by breaking down harmful exhaust
18 emissions.
- 19 4. "Detached used catalytic converter" means a catalytic converter previously removed
20 from a motor vehicle, or any nonferrous part of a catalytic converter previously
21 removed from a motor vehicle. The term does not include a catalytic converter
22 incidentally included in a mixed load of ferrous or nonferrous scrap metal.
- 23 5. "Ferrous metals" means those metals that will attract a magnet, and includes alloys of
24 those metals.

1 ~~4.6.~~ "Law enforcement officer" or "peace officer" means a public servant authorized by law
2 or by a government agency or branch to enforce the law and to conduct or engage in
3 investigations or prosecutions for violations of law.

4 ~~5.7.~~ "Nonferrous metals" means those metals that will not normally attract a magnet,
5 including copper, brass, aluminum, bronze, lead, zinc, platinum, and nickel ~~and~~
6 ~~includes; alloys of those metals; and metals contained within detached used catalytic~~
7 converters.

8 ~~6.8.~~ "Scrap metal" means ferrous or nonferrous metals purchased primarily for reuse or
9 recycling, including metals combined with other materials at the time of purchase or
10 acquisition, ~~and including; insulated and uninsulated wire and cable; and detached~~
11 used catalytic converters. Scrap metal does not include automobiles, automobile
12 hulks, or any aluminum food or beverage containers.

13 ~~7.9.~~ "Scrap metal dealer" means a person, ~~as defined in subsection 8 of section 1-01-49,~~
14 engaged in the business of purchasing, ~~selling,~~ trading, or bartering scrap metal, and
15 includes all employees of the scrap metal dealer. A scrap metal dealer must have a
16 fixed business premises, shall obtain a sales and use tax permit from the tax
17 commissioner, and shall register with the attorney general as a scrap metal dealer
18 under section 5 of this Act.

19 **SECTION 2. AMENDMENT.** Section 51-35-02 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **51-35-02. Records of purchase, trade, barter, or transaction required.**

- 22 1. Every scrap metal dealer shall keep business records of any purchase, trade, barter,
23 or other transaction that involves the receipt of scrap metals worth over ~~twenty-five~~fifty
24 dollars. The business records must include the following information:
- 25 a. The date, time, and place of each purchase or transaction;
 - 26 b. A description of the scrap metal received and the weight and type of scrap metal
27 received;
 - 28 c. The amount paid to the person selling or delivering the scrap metal and the
29 manner of payment, including check or electronic transfer;
 - 30 d. The name and address of the person selling or delivering the scrap metal; and

- 1 e. A photocopy of a valid government-issued identification card or driver's license
2 and which must include the seller's or deliverer's full name, photograph, date of
3 birth, and signature.
- 4 f. For a detached used catalytic converter, either:
- 5 (1) Written evidence of ownership of the catalytic converter purchased from the
6 person, including a bill of sale, a receipt for repair of the vehicle the catalytic
7 converter was removed from, or the title, registration, or other ownership
8 documentation for the vehicle from which the catalytic converter was
9 removed; or
- 10 (2) A signed statement of ownership by the seller.
- 11 2. Every scrap metal dealer shall keep the business records required under this section
12 at the business premises of the scrap metal dealer or other reasonably available
13 location within this state for seven years after the date of each purchase or transaction
14 for which business records are required under this section.
- 15 3. A scrap metal dealer may not pay cash for scrap metal purchases or transactions over
16 one thousand dollars or for any purchase or transaction over one hundred dollars for a
17 detached used catalytic converter, but may only pay by check or electronic transfer.
- 18 4. Each scrap metal dealer's premises must be kept open during regular business hours
19 for inspection by a law enforcement officer and each scrap metal dealer's business
20 records and business inventory must be made available for inspection by a law
21 enforcement officer at all times during reasonable business hours or at reasonable
22 times if ordinary hours of business are not kept. All business records required under
23 this section for transactions involving a detached used catalytic converter must be
24 made available for inspection by a law enforcement officer upon request ~~at any~~
25 ~~location used for or suspected as locations for transactions of detached used catalytic~~
26 ~~converters.~~
- 27 5. Before a law enforcement officer may conduct an inspection under this section, the
28 law enforcement officer shall inform the scrap metal dealer that the individual is a law
29 enforcement officer and shall inform the scrap metal dealer of the purpose of the
30 inspection. The law enforcement officer shall comply with all reasonable and
31 customary safety requirements of the scrap metal dealer on the business premises.

1 6. The scrap metal dealer may require a law enforcement officer to sign an inspection log
2 that includes the officer's name and serial or badge number and the date, time, and
3 purpose for the inspection.

4 7. The provisions of this chapter shall take precedence over and supersede any local
5 ordinance adopted by a political subdivision that regulates scrap metal transactions.

6 **SECTION 3. AMENDMENT.** Section 51-35-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **51-35-03. Exemptions.**

9 1. Section 51-35-02 does not apply to:

10 ~~4.~~ a. Purchases from another scrap metal dealer who regularly conducts scrap metal
11 business in this state.

12 ~~2.~~ b. Purchases from government agencies.

13 ~~3.~~ c. Purchases of scrap metal, excluding detached used catalytic converters, from
14 persons regularly engaged in the business of manufacturing metals or regularly
15 engaged in the business of generating and selling metals at retail or wholesale,
16 including scrap processing or manufacturing that produces byproducts for scrap.

17 ~~4.~~ d. Purchases from a person with a business registered with the secretary of state
18 which is regularly engaged in the business of manufacturing catalytic converters
19 or vehicles, or regularly engaged in the business of generating detached used
20 catalytic converters in the ordinary course of the seller's business.

21 ~~5.~~ e. Purchases of scrap metal, excluding detached used catalytic converters, from
22 persons regularly engaged in the generation or transmission of electricity, or in
23 telephone, telegraph, or cable communications, if the person provides the scrap
24 metal dealer with a bill of sale or other written evidence of ownership of the scrap
25 metal purchased from the person.

26 2. Excluding a detached used catalytic converter, section 51-35-02 and section 5 of this
27 Act do not apply to the purchase, trade, or barter of scrap metal, between an owner or
28 agent of a residential, commercial, or agricultural property and another person, for the
29 purpose of removing scrap metal, from the owner or agent's residential, commercial,
30 or agricultural property. This subsection applies only to the initial transaction between

1 the owner or agent and the person removing the scrap metal, and does not apply to a
2 subsequent sale of the same scrap metal.

3 **SECTION 4. AMENDMENT.** Section 51-35-04 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **51-35-04. Penalty.**

- 6 1. A scrap metal dealer ~~who~~that willfully fails to comply with recordkeeping under section
7 51-35-02 is guilty of a class B misdemeanor.
- 8 2. A scrap metal dealer ~~who~~that willfully buys, receives, possesses, or conceals stolen
9 scrap metal, and the scrap metal is less than five hundred dollars in value is guilty of a
10 class A misdemeanor.
- 11 3. A scrap metal dealer ~~who~~that willfully buys, receives, possesses, or conceals stolen
12 scrap metal, and the scrap metal exceeds five hundred dollars in value or the scrap
13 metal includes a detached used catalytic converter that is subject to the requirements
14 of this chapter without exemption, is guilty of a class C felony.
- 15 4. A person that willfully fails to comply with section 6 of this Act is guilty of a class B
16 misdemeanor.

17 **SECTION 5.** A new section to chapter 51-35 of the North Dakota Century Code is created
18 and enacted as follows:

19 **Registration.**

- 20 1. A person may not act as a scrap metal dealer or represent to the public the person is a
21 scrap metal dealer unless the person is registered under this chapter.
- 22 2. The attorney general shall issue a certificate of registration to an applicant that:
23 a. Applies as directed by the attorney general;
24 b. Presents any relevant evidence relating to the applicant's qualifications as
25 required by the attorney general; and
26 c. Has a fixed business premises that is properly zoned according to local
27 ordinances for the business conducted.
- 28 3. The attorney general may establish qualifications, requirements, and penalties for
29 noncompliance with registration requirements for the holder of a certificate of
30 registration under this chapter.

1 **SECTION 6.** A new section to chapter 51-35 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Catalytic converters.**

- 4 1. Unless the person is registered with the attorney general as a scrap metal dealer
5 under section 5 of this Act, a person may not purchase, trade for, or pledge to buy a
6 detached used catalytic converter, or offer or advertise to purchase, trade for, or
7 pledge to buy a detached used catalytic converter.
- 8 2. Unless the seller is exempt under ~~subsection 4~~ subdivision d of subsection 1 of section
9 51-35-03, a person wishing to sell a detached used catalytic converter shall do so in
10 person at the fixed business premises of a scrap metal dealer registered with the
11 attorney general.

12 **SECTION 7.** A new section to chapter 51-35 of the North Dakota Century Code is created
13 and enacted as follows:

14 **Catalytic converter theft - Penalty.**

- 15 1. A person commits the offense of theft of a catalytic converter if the person willfully
16 takes ~~or attempts to take~~ possession of, carries away, or exercises control over a
17 catalytic converter with intent to deprive the rightful owner of the catalytic converter.
- 18 2. Except as provided under subsection 3, an offense under this section is a:
- 19 a. Class B misdemeanor if the replacement value of the catalytic converter
20 unlawfully obtained including any repair costs is less than two hundred dollars.
- 21 b. Class A misdemeanor if the replacement value of the catalytic converter
22 unlawfully obtained including any repair costs is two hundred dollars or more but
23 less than one thousand dollars.
- 24 c. Class C felony if the replacement value of the catalytic converter unlawfully
25 obtained including any repair costs is one thousand dollars or more.
- 26 3. An offense under this section is a class C felony if the offense is a third or subsequent
27 offense, regardless of the replacement value of the catalytic converter. For purposes
28 of this subsection, a first and second offense include a conviction, acceptance of, or
29 other form of preliminary disposition before the sentencing on the present violation for
30 an offense under this section.