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BILL TEXT

CHAPTER 603

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INTRODUCED BY Senator Calderon

FEBRUARY 27, 2009

An act to add Section 21610 to the Business and Professions Code, relating to junk.

LEGISLATIVE COUNSEL'S DIGEST

SB 627, Calderon. Catalytic converters: junk dealers and recyclers.

(1) Existing law prohibits a junk dealer or recycler from providing payment for nonferrous material, as defined, unless the payment is made by cash or check, the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale, and the dealer or recycler obtains a photograph or video of the seller and certain other identifying information, as specified, which information is to be retained by the dealer or recycler for 2 years. Existing law requires a junk dealer or recycler to allow for periodic inspection of any premises maintained for purposes of determining compliance with the recordkeeping requirements, and, upon inspection, to produce his or her sales and purchase records.

This bill would require a core recycler, as defined, that accepts, ships, or sells used catalytic converters to maintain specified information regarding the purchase and sale of the catalytic converters for not less than 2 years. The bill would prohibit a core recycler from providing payment for a catalytic converter unless the payment is made by check, the check is mailed or provided no earlier than 3 days after the date of sale, unless the seller is a business, and the core recycler obtains a photograph or video of the seller, a written statement regarding the origin of the catalytic converter, and certain other identifying information, as specified. The bill would except from this requirement 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. The bill would apply more limited information collection requirements to, and provide an exemption from the other requirements of the bill for, core recyclers accepting catalytic converters from licensed auto dismantlers or certain recyclers. The bill would require a core recycler to provide this information for inspection by local law enforcement upon demand. The bill would

provide that a person who violates these requirements would be guilty of a misdemeanor and would impose specified punishment upon conviction. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program.

(2) 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.

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

SECTION 1. Section 21610 is added to the Business and Professions Code, to read:

21610. (a) 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.

(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 his or her 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 business, the written record shall include the name, address, and telephone number of the business.

(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 vehicle identification number.

(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 he or she has obtained the catalytic converter, including the business, if applicable, as shown on a signed transfer document.

(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 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 business, 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 business may receive immediate payment. A seller that is a business that has a contract with a core recycler or a seller that is a licensed auto dismantler 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.

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

(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.

(f) Core recyclers accepting catalytic converters from licensed auto dismantlers or from recyclers 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) Date of transaction.

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

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

(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.

(1) 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 subdivision (f), the provisions of this section do not apply to a core recycler who holds a written agreement with a business or recycler regarding the transactions.

SEC. 2. 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.