

Senate Bill 70

By: Senators Jones of the 10th, Sims of the 12th, Seay of the 34th, Jones II of the 22nd,
Merritt of the 9th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
2 relating to secondary metals recyclers, so as to provide that it shall be illegal for certain
3 persons to purchase, possess, obtain, or sell or attempt to purchase, possess, obtain, or sell
4 used, detached catalytic converters; to provide for a definition; to provide that certain
5 catalytic converters and the vehicles transporting them are contraband; to provide for
6 penalties; to provide for related matters; to provide for an effective date and applicability; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
11 secondary metals recyclers, is amended in Code Section 10-1-350, relating to definitions, by
12 adding a new paragraph to read as follows:

13 “(16) 'Used, detached catalytic converter' means motor vehicle exhaust system parts that
14 are used for controlling the exhaust emissions from motor vehicles and that contain a
15 catalyst metal, but shall not include a catalytic converter that has been tested, certified,

16 and labeled for reuse pursuant to the federal Clean Air Act, 42 U.S.C. Section 7401, et
17 seq."

18 **SECTION 2.**

19 Said article is further amended by adding a new subsection to Code Section 10-1-351,
20 relating to verifiable documentation required, to read as follows:

21 "(d)(1) It shall be unlawful for any person to purchase or to solicit the sale or purchase
22 of a used, detached catalytic converter, or any nonferrous metals of a catalytic converter,
23 unless such person is a secondary metals recycler registered in accordance with Code
24 Section 10-1-359.1 and compliant with all other requirements prescribed by this article.

25 (2) It shall be unlawful for any person to possess, transport, or sell a used, detached
26 catalytic converter, or any nonferrous metals of a catalytic converter, unless such person
27 is authorized to buy, possess, transport, or sell catalytic converters pursuant to
28 subsection (c) of this Code section and is in possession of the licenses, registrations, or
29 other documentation required by that subsection.

30 (3) Each used, detached catalytic converter obtained in violation of this subsection shall
31 constitute a separate offense."

32 **SECTION 3.**

33 Said article is further amended in Code Section 10-1-355, relating to conditions and
34 limitations on payments for regulated metal property and exception for transaction between
35 business entities, by revising subsection (e) as follows:

36 "(e) The provisions of this Code section shall not apply to any transaction between
37 business entities other than those involving transactions for catalytic converters or used,
38 detached catalytic converters."

39

SECTION 4.

40 Said article is further amended by revising Code Section 10-1-358, relating to purchases of
41 regulated metal property exempted from application of article, as follows:

42 "10-1-358.

43 This article shall not apply to purchases of regulated metal property, other than catalytic
44 converters, from:

45 (1) Organizations, corporations, or associations registered with the state as charitable,
46 philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored
47 organizations or associations or from any nonprofit corporations or associations;

48 (2) A law enforcement officer acting in an official capacity;

49 (3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof
50 of such status to the secondary metals recycler;

51 (4) Any public official acting under judicial process or authority who has presented proof
52 of such status to the secondary metals recycler;

53 (5) A sale on the execution, or by virtue, of any process issued by a court if proof thereof
54 has been presented to the secondary metals recycler; or

55 (6) A manufacturing, industrial, or other commercial vendor that generates ~~or~~ and sells
56 regulated metal property in the ordinary course of its business, provided that such vendor
57 is not a secondary metals recycler."

58

SECTION 5.

59 Said article is further amended by revising Code Section 10-1-359.2, relating to penalties for
60 violations, as follows:

61 "10-1-359.2.

62 (a) Except as provided for in subsection (d) of Code Section 10-1-359.1, any person who
63 buys or sells regulated metal property in violation of any provision of this article:

64 (1) For a first offense, shall be guilty of a misdemeanor;

65 (2) For a second offense, shall be guilty of a misdemeanor of a high and aggravated
66 nature; and

67 (3) For a third or subsequent offense, shall be guilty of a felony and, upon conviction
68 thereof, shall be punished by imprisonment for not less than one nor more than ten years.

69 (b) Each used, detached catalytic converter obtained in violation of subsection (d) of Code
70 Section 10-1-351 shall constitute a separate offense under this Code section.

71 (c) Any person who buys or sells regulated metal property in violation of any provision
72 of this article shall be liable in a civil action to any person who was the victim of a crime
73 involving such regulated metal property for the full value of the regulated metal property,
74 any repairs and related expenses incurred as a result of such crime, litigation expenses, and
75 reasonable attorneys' fees."

76 **SECTION 6.**

77 Said article is further amended by revising Code Section 10-1-359.3, relating to forfeiture
78 and items declared contraband, as follows:

79 "10-1-359.3.

80 (a) As used in this Code section, the term:

81 (1) 'Crime' means:

82 (A) Theft by taking in violation of Code Section 16-8-2, theft by conversion in
83 violation of Code Section 16-8-4, or theft by receiving stolen property in violation of
84 Code Section 16-8-7 if the subject of the theft was regulated metal property;

85 (B) Criminal damage to property in the first degree in violation of paragraph (2) of
86 subsection (a) of Code Section 16-7-22; or

87 (C) A criminal violation of this article.

88 (2) 'Proceeds' shall have the same meaning as set forth in Code Section ~~16-13-49~~ 9-16-2.

89 (3) 'Property' shall have the same meaning as set forth in Code Section ~~16-13-49~~ 9-16-2.

90 (b) Except as otherwise provided for in subsection (c) of this Code section, the
91 following are declared to be contraband, and no person shall have a property right in them:
92 (1) Any property which is, directly or indirectly, used or intended for use in any manner
93 to facilitate a crime and any proceeds derived or realized therefrom; and
94 (2) Any weapon possessed, used, or available for use in any manner to facilitate a crime.
95 (c) Any used, detached catalytic converter obtained by a person convicted of violating
96 subsection (d) of Code Section 10-1-351 and any vehicle used in the transportation of such
97 used, detached catalytic converter shall be declared contraband. Such property shall be
98 subject to forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9;
99 provided, however, that such civil forfeiture proceedings for any vehicle seized pursuant
100 to this subsection, including the reporting requirements set forth in Code Section 9-16-7,
101 shall be stayed during the pendency of criminal proceedings unless otherwise agreed to by
102 the owner or interest holder of such vehicle.
103 ~~(e)~~(d) Any property subject to forfeiture pursuant to subsection (b) of this Code section
104 shall be forfeited in accordance with the procedures set forth in ~~Code Section 16-13-49~~
105 Chapter 16 of Title 9."

106 **SECTION 7.**

107 This Act shall become effective on July 1, 2023, and shall apply to all transactions occurring
108 on and after such date.

109 **SECTION 8.**

110 All laws and parts of laws in conflict with this Act are repealed.