

ACT No. 373

2023 Regular Session

HOUSE BILL NO. 547

BY REPRESENTATIVE RISER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

AN ACT

To amend and reenact the heading of Part II-B of Chapter 21 of Title 37 of the Louisiana Revised Statutes of 1950, R.S. 37:1891, 1892(2) and (4), 1893(A), (B), (C)(1) and (4)(a), (d), and (e), and (E), 1894(2), 1895(A)(introductory paragraph) and (C), and 1896(A) and (D) and to enact R.S. 37:1893.1 through 1893.6 and 1895(A)(7), relative to catalytic converter sales law; to provide for catalytic converter transfers; to provide for definitions; to provide for license requirements; to provide for notice to an applicant; to provide for procedures for a denial, revocation, or suspension of a license; to provide for licensing hearings and appeals by the Louisiana Used Motor Vehicle Commission; to provide for certain cease and desist orders; to provide for certain penalties and fines; to provide for procedures for an abandoned catalytic converter business; to provide for certain exceptions; to provide for recordkeeping for the purchase and sale of a catalytic converter; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The heading of Part II-B of Chapter 21 of Title 37 of the Louisiana Revised Statutes of 1950, R.S. 37:1891, 1892(2) and (4), 1893(A), (B), (C)(1) and (4)(a), (d), and (e), and (E), 1894(2), 1895(A)(introductory paragraph) and (C), and 1896(A) and (D) are hereby amended and reenacted and R.S. 37:1893.1 through 1893.6 and 1895(A)(7) are hereby enacted to read as follows:

PART II-B. CATALYTIC CONVERTER ~~PURCHASERS~~ TRANSFERS

§1891. Short title

This Part shall be known and may be cited as the "Louisiana Catalytic Converter ~~Sales~~ Transfer Law".

1 §1892. Definitions

2 * * *

3 (2) "Catalytic converter ~~purchaser dealer~~" is means a person licensed by the
4 commission to ~~buy~~ purchase or sell used or detached catalytic converters pursuant
5 to the provisions of this Part.

6 * * *

7 (4) "Person" means any natural or juridical person and includes any firm,
8 association, corporation, limited liability company, partnership, trust, or two or more
9 natural or juridical persons having a joint or common interest. Person also includes
10 a transient merchant as defined by R.S. 37:1901.

11 §1893. License required; application

12 A.(1) No person shall do business as a catalytic converter ~~purchaser dealer~~
13 in this state without having first obtained a ~~business~~ catalytic converter dealer license
14 from the commission and either of the following:

15 (a) An occupational license from a local government if an occupational
16 license is required in the jurisdiction where the business is conducted.

17 (b) A transient merchant license pursuant to R.S. 37:1902.

18 (2) Any person desiring a license as a catalytic converter ~~purchaser dealer~~
19 shall make an application in writing, specifying the address of the building where the
20 business is to be carried on. A license issued pursuant to this Part shall be valid for
21 two years.

22 B.(1) It shall be unlawful for any person, ~~firm, association, corporation,~~
23 ~~limited liability company, or trust~~ to engage in the business of purchasing or selling
24 used or detached catalytic converters in this state without first obtaining a license as
25 required by this Section unless the person acquired the catalytic converter from the
26 owner of the vehicle in the normal course of business.

27 (2) Any person, ~~firm, association, corporation, limited liability company, or~~
28 ~~trust that~~ who engages in the business of purchasing or selling used or detached
29 catalytic converters pursuant to this Section shall obtain and hold a current license

1 to engage in the business of purchasing or selling used or detached catalytic
2 converters.

3 C.(1) The commission shall create a form to be used as an application for
4 licensure as a ~~purchaser of used~~ catalytic converter dealer ~~converters~~ and shall
5 provide the form to an applicant.

6 * * *

7 (4)(a) Upon submission of an application, an applicant shall pay all
8 applicable fees in accordance with ~~this Section~~ R.S. 32:791(D). If an application is
9 denied and the license is not issued, the commission shall return all licensing fees to
10 the applicant.

11 * * *

12 (d) Any licensee ~~changing~~ that changes its name, mailing address, or
13 ownership shall notify the commission within ten calendar days of the change.
14 Failure to timely notify the commission of a change of name, mailing address, or
15 ownership ~~or shall~~ be in violation of this ~~Section~~ Part.

16 (e) Any licensee ~~ceasing~~ that ceases to maintain its business locations shall
17 surrender its license to the commission within ten calendar days. ~~and any failure~~
18 Failure to do so timely surrender the license shall constitute a violation of this Part.

19 * * *

20 E. The commission ~~shall~~ may promulgate rules to implement the provisions
21 of this Section.

22 §1893.1. Denial, revocation, or suspension of license; grounds; unauthorized acts

23 A. Except as otherwise provided in this Section, the commission may deny
24 an application for a license issued pursuant to the provisions of this Part for any of
25 the following reasons:

26 (1) Receiving satisfactory proof of unfitness of the applicant pursuant to the
27 standards established by this Part or in rules or regulations adopted and promulgated
28 by the commission.

1 (2) Finding that the applicant has been convicted of a felony crime.

2 (3) Finding a material false statement made by the applicant on any
3 application for licensure in accordance with the provisions of this Part.

4 (4) Finding the applicant has, under a previous license, committed a violation
5 of any law or rule or regulation adopted and promulgated by the commission.

6 (5) Finding the applicant is an immediate family member, the former
7 employee, or a former business associate of a dealer whose license was previously
8 revoked or suspended by the commission, and the applicant intends to operate the
9 same or substantially the same business as operated by the revoked licensee, or the
10 revoked licensee will be participating in the business with the applicant. As used in
11 this Paragraph, "immediate family" shall have the meaning ascribed in R.S.
12 42:1102(13).

13 B. The commission may revoke or suspend a license, issue a fine or penalty,
14 or enjoin a catalytic converter dealer for any of the following reasons:

15 (1) Changing conditions after the license has been granted resulting in failure
16 to maintain the qualifications for licensure.

17 (2) Committing a fraudulent act in selling, purchasing, or dealing in catalytic
18 converters.

19 (3) Engaging in his business in such a manner as to cause injury to the public
20 or those with whom he is dealing.

21 (4) Violating any provision of this Part or any rule or regulation adopted by
22 the commission, or any provision of law not administered by the commission.

23 C. In the performance of its duties in accordance with this Part, the
24 commission may obtain from the Department of Public Safety and Corrections and
25 other governmental agencies information relating to the criminal records of
26 applicants for licensure pursuant to this Part.

27 §1893.2. Applicant notification of licensure or denial; procedures for denial of
28 license

29 A. The executive director of the commission shall notify in writing each
30 applicant for licensure of the action taken by the commission on an application.

1 B.(1) An applicant who has been denied a license shall be notified of the
 2 grounds for denial as set forth in R.S. 37:1893.1.

3 (2) An applicant whose application has been denied may request in writing
 4 a review of the denial by the commission within thirty days from receipt of the
 5 denial.

6 C.(1) The commission shall hear all denials upon reasonable notice to the
 7 applicant.

8 (2) An applicant who requests a review of the denial of his application shall
 9 provide either written or oral support for his request. Without such support, the
 10 request for review shall be denied.

11 (3) The commission shall either affirm or reverse the denial following the
 12 review of the denial.

13 D. The commission's decision to affirm the denial shall be final when
 14 rendered. The applicant may appeal the decision as provided in R.S. 37:1893.3.
 15 §1893.3. Notice; hearings; appeals

16 A. Any licensee charged with violating the provisions of this Part shall be
 17 entitled to a hearing on the alleged violation.

18 B.(1) The commission shall determine whether the licensee has violated any
 19 provisions of this Part or any rules and regulations promulgated by the commission.

20 (2) The commission shall serve the licensee with written notice of the
 21 hearing at least twenty calendar days prior to conducting the hearing on the alleged
 22 violation.

23 (3) The commission shall serve the notice of the hearing on the licensee by
 24 certified or registered mail to the address for the licensee as provided on the
 25 licensee's application, by personal physical service on the licensee, by service on an
 26 employee of a dealer, or by posting notice at the entrance of the licensed premises
 27 where the alleged violation occurred.

1 (4) The notice shall contain the time and place of the hearing, the alleged
2 violation, the facts in support of the alleged violation, the penalty, if any, and the
3 rights of the licensee during the hearing.

4 (5) If the alleged violation was first presented to the commission by a
5 complaint filed with the commission, a copy of the notice shall be mailed to the
6 complainant by United States mail.

7 C.(1) Any party to a hearing shall have the right to compel the attendance of
8 witnesses by requesting the issuance of subpoenas. The commission shall issue a
9 subpoena requested in writing no later than ten days prior to the hearing. The party
10 requesting a subpoena to be issued shall pay all witness fees in accordance with R.S.
11 13:3661, as well as the estimated cost to be incurred in the delivery of the subpoenas.

12 (2) The commission may compel the attendance of its own witnesses by the
13 issuance of subpoenas.

14 D. The commission shall consider a pleading filed by the licensee no later
15 than five days prior to the hearing.

16 E.(1) The commission may impose sanctions including restrictions on a
17 license, revocation or suspension of a license, civil fines, restitution or injunction,
18 assessment of all costs of the hearing including the commission's attorney fees,
19 witness fees, travel expenses and per diem of commissioners, and the requirement
20 that the licensee attend a four-hour educational seminar within three months of the
21 hearing decision. The commission may also enter into stipulations.

22 (2) The findings and orders of the commission shall be reduced to writing
23 and served on the licensee in any manner consistent with the service provided for in
24 Paragraph (B)(3) of this Section.

25 (3) A decision of the commission to revoke or suspend a license or enjoin
26 a licensee shall be final and enforceable when rendered.

27 (4) A civil penalty imposed by the commission shall become payable thirty
28 days from the date the order is served on the licensee.

1 F.(1) An appeal of a decision by the commission to deny, revoke, or suspend
2 a license shall not constitute a stay of the decision of the commission.

3 (2) An appeal of a decision of the commission shall be heard in accordance
4 with the Administrative Procedure Act.

5 §1893.4. Injunctions; cease and desist orders

6 A. The commission may institute injunctive actions in courts of competent
7 jurisdiction in the name of the state without cost, bond, or deposit to enforce the
8 provisions of this Part.

9 B. A person who violates or threatens to violate any provision of this Part or
10 rule or regulation promulgated by the commission may be enjoined from committing
11 or continuing the violation or engaging in any business for which a license has been
12 issued in accordance with this Part. In addition to any other proper venue, the parish
13 of East Baton Rouge shall constitute a proper venue for the institution by the
14 commission of judicial actions authorized pursuant to this Part.

15 C. All costs, including reasonable attorney fees set by the court incurred by
16 the commission, shall be borne by the person who has been so enjoined.

17 D.(1) If it appears to the commission at any time that a person is violating
18 the provisions of this Part or any rule or order of the commission issued pursuant to
19 this Part, it shall notify the person engaged in such conduct to appear and show cause
20 why a cease and desist order shall not be issued prohibiting the proscribed conduct.
21 An interlocutory cease and desist order may be granted with or without bond or other
22 undertaking if any of the following conditions exists:

23 (a) Such an order is necessary for the performance of the duties delegated to
24 the commission by this Part or is otherwise necessary or convenient to maintaining
25 the status quo between two or more adverse parties before the commission.

26 (b) A party before the commission is entitled to relief demanded of the
27 commission, and all or part of the relief requires the restraint of some act prejudicial
28 to the party.

1 (c) A person is performing or is about to perform or is procuring or allowing
2 the performance of an act relating to the subject of a contested case pending before
3 the commission, and the act would tend to render the commission's order in that case
4 ineffectual.

5 (d) Substantial injury to the rights of a person subject to the jurisdiction of
6 the commission is threatened irrespective of any remedy at law.

7 (2) An interlocutory cease and desist order shall remain in effect until it is
8 vacated or incorporated into a final commission order. A permanent cease and desist
9 order may be issued without regard to the enumerations in Paragraph (1) of this
10 Subsection but only in accordance with the provisions of this Part pertaining to the
11 issuance of final commission orders.

12 (3) Appeal of an interlocutory cease and desist order shall be made to the
13 commission prior to seeking judicial review in accordance with the provisions of this
14 Part. Appeal of a permanent cease and desist order shall be conducted pursuant to the
15 provisions of this Part pertaining to judicial review of final orders.

16 §1893.5. Civil penalties

17 A. A license shall not be granted to an applicant if the commission
18 determines that an applicant is not qualified to receive a license. A license may be
19 suspended or revoked or a civil penalty may be imposed by the commission if the
20 commission determines that a licensee is guilty of violating any provisions of this
21 Part or the rules and regulations of the commission. The commission may also
22 impose a civil penalty against a person who is determined by the commission to have
23 violated any of the provisions of this Part or the rules and regulations of the
24 commission.

25 B.(1) No civil penalty imposed for a violation shall exceed two thousand
26 dollars for each day such violation continues.

27 (2) On a second or subsequent violation, no civil penalty imposed shall
28 exceed three thousand dollars for each day such second or subsequent violation
29 continues. A lapse of at least one day following the first or previous violation shall
30 occur to constitute a second or subsequent violation.

1 C. A civil penalty imposed by the commission may be suspended in whole
2 or in part at the discretion of the commission.

3 D. Upon the failure of a person to timely pay a civil penalty imposed by the
4 commission when civil penalty is due, the commission is entitled to recover by suit
5 or otherwise all costs of collection, including court costs, deposition, and other
6 discovery costs, and reasonable attorney fees incurred by the commission in
7 collecting such civil penalty.

8 §1893.6. Abandonment of business; revocation of license

9 A. A business location shall be considered abandoned upon any of the
10 following:

11 (1) The business is closed during the posted business hours for a period of
12 more than two weeks without notice to the commission.

13 (2) The business telephone, as provided on the dealer's license application,
14 is disconnected or no longer in service.

15 (3) The business sign has been removed.

16 B. When a business location of a catalytic converter dealer is abandoned, the
17 license of the dealer shall be revoked without a hearing if a request for a hearing on
18 the revocation is not made within five business days following the posting of a notice
19 on the front door of the abandoned business.

20 §1894. Exceptions

21 The provisions of this Part shall not apply to either of the following:

22 * * *

23 (2) A person possessing not more than ~~one~~ the used detached catalytic
24 ~~converter~~ converters from one vehicle owned by the person ~~if there is documentation~~
25 ~~to indicate how the detached catalytic converter was acquired.~~

26 §1895. Requirements of purchaser and seller; recordkeeping

27 A. Except as otherwise provided for in this Section, it is unlawful for any
28 person not licensed as a dealer by the commission pursuant to this Chapter to
29 possess, obtain, or otherwise acquire, transport, or sell more than ~~one~~ the used; or
30 ~~detached catalytic converter~~ converters from one vehicle owned by the person or any

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 nonferrous part of a catalytic converter without providing all of the following
2 documentation to law enforcement upon request:

3 * * *

4 (7) The year, make, model, and vehicle identification number of the vehicle
5 from which the catalytic converter was detached.

6 * * *

7 C. Any person who purchases a used; or detached catalytic converter shall
8 obtain a signed statement from the seller prior to the purchase attesting that the
9 catalytic converter has been paid for or is owned by the seller. A failure of the
10 purchaser to obtain a statement from the seller shall be prima facie evidence of the
11 fraudulent intent and guilty knowledge on the part of the purchaser within the
12 meaning of this Part and shall be sufficient to warrant a conviction. A purchaser who
13 obtains the required statement from the seller shall be exonerated from any
14 fraudulent, willful, or criminal knowledge within the meaning of this Chapter.

15 * * *

16 §1896. Failure to comply; criminal penalty

17 A. Anyone acting as an unlicensed catalytic converter purchaser or seller,
18 who obtains, possesses, acquires, or transports used or detached catalytic converters
19 or who provides false, fraudulent, altered, or counterfeit information or
20 documentation in violation of the provisions of this Part shall be fined not less than
21 five hundred dollars and be imprisoned not less than thirty days nor more than sixty
22 days per violation as provided for in Subsection D of this Section.

23 * * *

24 D.(1) Each unlawfully obtained, possessed, or transported used; or detached
25 catalytic converter is a separate violation that subjects the individual or entity to a
26 separate charge.

27 (2) Each fraudulent, altered, or counterfeit information or documentation is
28 a separate violation that subjects the individual or entity to a separate charge.

1 (3) Upon conviction, the court may order the individual or entity to pay
2 restitution for the value of the repair and replacement of the catalytic converter or be
3 held liable as otherwise provided by law.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____