

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 141

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

George K. Muñoz

AN ACT

RELATING TO RECYCLED METALS; ADDING PALLADIUM, PLATINUM AND
RHODIUM TO THE DEFINITION OF "REGULATED MATERIAL"; ADDING
REQUIREMENTS TO PURCHASE OR OTHERWISE RECEIVE A CATALYTIC
CONVERTER; REQUIRING A RECORD OF THE PURCHASE OF PALLADIUM,
PLATINUM OR RHODIUM; REQUIRING THAT A SECONDHAND METAL DEALER
REPORT TO THE APPLICABLE LAW ENFORCEMENT AGENCY FOR PURCHASES
OF OR WHEN A SELLER FAILS TO PROVIDE A PRIOR RECEIPT OR
NOTARIZED DECLARATION FOR A CATALYTIC CONVERTER, PALLADIUM,
PLATINUM OR RHODIUM; CREATING A DATABASE TO TRACK DATA;
REQUIRING THAT A SECONDHAND METAL DEALER PAY BY CHECK FOR A
CATALYTIC CONVERTER, PALLADIUM, PLATINUM OR RHODIUM; ALLOWING
THE INSPECTION OF RECORDS OF TRANSACTIONS INVOLVING CATALYTIC
CONVERTERS, PALLADIUM, PLATINUM OR RHODIUM; IMPOSING CRIMINAL
PENALTIES.

underscoring material = new
~~[bracketed material]~~ = delete

underscoring material = new
[bracketed material] = delete

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

2 SECTION 1. Section 57-30-2 NMSA 1978 (being Laws 2008,
3 Chapter 29, Section 2, as amended) is amended to read:

4 "57-30-2. DEFINITIONS.--As used in the Sale of Recycled
5 Metals Act:

6 A. "aluminum material" means a product made from
7 aluminum, an aluminum alloy or an aluminum byproduct.
8 "Aluminum material" includes an aluminum beer keg but does not
9 include other types of aluminum cans used to contain a food or
10 beverage;

11 B. "bronze material" means:
12 (1) a cemetery vase, receptacle or memorial
13 made from bronze;
14 (2) bronze statuary; or
15 (3) material readily identifiable as bronze;

16 C. "business day" means any calendar day except
17 Sunday and the following holidays: New Year's day; President's
18 day; Memorial day; Independence day; Labor day; Indigenous
19 Peoples' day; Armistice day and Veterans' day; Thanksgiving
20 day; Christmas day; Martin Luther King, Jr.'s birthday; and any
21 other legal public holiday of the state of New Mexico or the
22 United States;

23 D. "copper or brass material" means:
24 (1) insulated or noninsulated copper wire,
25 hardware or cable of the type used by a public utility,

.226713.1

underscoring material = new
~~[bracketed material] = delete~~

1 commercial mobile radio service carrier or common carrier that
2 consists of at least twenty-five percent copper; or

3 (2) a copper or brass item of a type commonly
4 used in construction or by a public utility, commercial mobile
5 radio service carrier or common carrier;

6 E. "department" means the regulation and licensing
7 department;

8 F. "lead material" means:

9 (1) a lead-acid battery; or

10 (2) material readily identifiable as being
11 made of or containing lead;

12 G. "peace officer" means any full-time salaried and
13 commissioned or certified law enforcement officer of a police
14 or sheriff's department that is part of or administered by the
15 state or a political subdivision of the state;

16 H. "personal identification document" means:

17 (1) a driver's license;

18 (2) a military identification card; or

19 (3) a passport issued by the United States or
20 by another country and recognized by the United States;

21 I. "regulated material" means:

22 (1) aluminum material;

23 (2) bronze material;

24 (3) copper or brass material;

25 (4) steel material;

.226713.1

underscoring material = new
[bracketed material] = delete

- 1 (5) lead material;
- 2 (6) a utility access cover;
- 3 (7) a water meter cover;
- 4 (8) a road or bridge guard rail;
- 5 (9) a highway or street sign;
- 6 (10) a traffic directional or control sign or
- 7 signal; ~~[or]~~
- 8 (11) a catalytic converter that is not part of
- 9 an entire motor vehicle; or
- 10 (12) palladium, platinum or rhodium;

11 J. "secondhand metal dealer" means a scrap metal
12 processor in the business of operating or maintaining a scrap
13 metal yard in a physical location in which scrap metal or
14 cast-off regulated material is purchased for shipment, sale or
15 transfer;

16 K. "steel material" means a product made from an
17 alloy of iron, chromium, nickel or manganese, including
18 stainless steel beer kegs; and

19 L. "superintendent" means the superintendent of
20 regulation and licensing."

21 SECTION 2. Section 57-30-2.4 NMSA 1978 (being Laws 2012,
22 Chapter 29, Section 16 and Laws 2012, Chapter 33, Section 16,
23 as amended) is amended to read:

24 "57-30-2.4. RESTRICTED TRANSACTIONS--ADDITIONAL
25 DOCUMENTATION REQUIRED--REQUIRED RECORD AND PAYMENT FOR

.226713.1

underscoring material = new
~~[bracketed material] = delete~~

1 CATALYTIC CONVERTERS.--

2 A. A secondhand metal dealer shall not knowingly
3 purchase or otherwise receive any of the following without
4 written documentation indicating that the seller or offeror is
5 the rightful owner or has permission from the rightful owner
6 and that the material was otherwise lawfully obtained:

7 (1) infrastructure grade regulated material
8 that has been burned to remove insulation, unless the seller
9 can produce written proof that the regulated material was
10 lawfully burned;

11 (2) regulated material where the
12 manufacturer's make, model, serial or personal identification
13 number or other identifying marks engraved or etched upon the
14 material have been conspicuously removed or altered;

15 (3) regulated material marked with the name,
16 initials or otherwise identified as the property of an
17 electrical company, a telephone company, a cable company, a
18 water company or other utility company, a railroad or a
19 governmental entity;

20 (4) a utility access cover;

21 (5) a water meter cover;

22 (6) a road or bridge guard rail;

23 (7) a highway or street sign;

24 (8) a traffic directional or control sign or
25 signal;

.226713.1

underscored material = new
[bracketed material] = delete

1 (9) a metal beer keg that is clearly marked as
2 being the property of the beer manufacturer; or

3 (10) a catalytic converter that is not part of
4 an entire motor vehicle.

5 B. The department shall promulgate rules that more
6 specifically describe the type of documentation required before
7 a secondhand metal dealer may engage in a transaction described
8 in this section.

9 C. A secondhand metal dealer shall not purchase or
10 otherwise receive any regulated material that the secondhand
11 metal dealer knows is not lawfully possessed by the person
12 offering to sell or provide the regulated material.

13 D. A secondhand metal dealer shall not knowingly
14 purchase or otherwise receive a catalytic converter unless
15 [~~(1)~~] the seller or offeror [~~presents a~~] verifies the seller's
16 or offeror's identity by presenting a valid personal
17 identification document and [~~(2)~~] the secondhand metal dealer
18 makes a record of the transaction, to be maintained for at
19 least three years from the date of the transaction, that shall
20 include:

21 [~~(a)~~] (1) a photocopy or digital image of the
22 seller's or offeror's personal identification document;

23 [~~(b)~~] (2) a written statement signed by the
24 seller or offeror certifying that the seller or offeror has the
25 lawful right to sell and dispose of the catalytic converter;

.226713.1

underscored material = new
[bracketed material] = delete

1 (3) the date, [~~and~~] time and place of the
2 transaction;

3 (4) the amount paid for the catalytic
4 converter;

5 [~~(e)~~] (5) the name, address, telephone number,
6 occupation and signature of the seller or offeror;

7 [~~(d)~~] (6) the license plate number and vehicle
8 identification number of the vehicle used to transport the
9 catalytic converter to the secondhand metal dealer, if
10 applicable;

11 [~~(e)~~] (7) a photocopy or digital image of the
12 legal document or affidavit demonstrating ownership by the
13 seller or offeror; [~~and~~

14 (~~f~~)—~~photographs~~] (8) a digital image of the
15 catalytic converter;

16 (9) a digital image of the seller or offeror;

17 (10) a description, including serial numbers
18 and other identifying marks, when practical, of the catalytic
19 converter; and

20 (11) a copy of a receipt provided by the
21 seller or offeror that describes with particularity the:

22 (a) catalytic converter that is being
23 offered for sale;

24 (b) name of the person or business that
25 issued the receipt;

.226713.1

underscoring material = new
[bracketed material] = delete

1 (c) date of purchase by the seller or
2 offeror; and

3 (d) price, if any, of the catalytic
4 converter when obtained by the seller or offeror; or

5 (12) if a copy of a receipt is not available,
6 a notarized declaration by the seller or offeror that describes
7 with particularity the:

8 (a) catalytic converter that is being
9 offered for sale;

10 (b) name of the person who sold or
11 otherwise transferred the item to the seller or offeror;

12 (c) date of sale or transfer of the
13 item; and

14 (d) price, if any, of the catalytic
15 converter when obtained by the seller or offeror.

16 E. The secondhand metal dealer, after purchasing or
17 otherwise receiving a catalytic converter, shall:

18 (1) attach a tag to the catalytic converter
19 that includes the year, make, model, license plate number and
20 vehicle identification number of the vehicle from which the
21 catalytic converter was removed and the name of the seller or
22 offeror;

23 (2) report the purchase to the applicable law
24 enforcement agency, the record of which shall be maintained in
25 the department of public safety's database; and

.226713.1

underscored material = new
[bracketed material] = delete

1 (3) maintain possession of the catalytic
2 converter for a period of at least sixty days before selling or
3 otherwise disposing of the catalytic converter.

4 F. If the seller or offeror does not provide a copy
5 of the receipt or notarized declaration as required by
6 Subsection D of this section, the secondhand metal dealer shall
7 not purchase or otherwise receive the catalytic converter and
8 shall report the attempted sale to the applicable law
9 enforcement agency.

10 G. A record of transaction made pursuant to
11 Subsection D of this section may be examined at any time during
12 normal business hours by a peace officer or the attorney
13 general, a prosecuting attorney, the chief law enforcement
14 officer of the investigating law enforcement agency or the
15 superintendent or the designees of those individuals.

16 H. Payment for a catalytic converter shall be made
17 by check payable to the seller. The check may be mailed to the
18 address shown on the seller's personal identification document
19 or picked up personally by the seller at the secondhand metal
20 dealer's place of business."

21 SECTION 3. Section 57-30-5 NMSA 1978 (being Laws 2008,
22 Chapter 29, Section 5, as amended) is amended to read:

23 "57-30-5. RECORD OF PURCHASE--REQUIREMENTS FOR PALLADIUM,
24 PLATINUM OR RHODIUM.--

25 A. A secondhand metal dealer in this state shall

underscoring material = new
[bracketed material] = delete

1 keep an accurate and legible written record, to be maintained
2 for at least three years from the date of the transaction, in a
3 form approved by the department, of each purchase made in the
4 course of the dealer's business of:

- 5 (1) copper or brass material;
- 6 (2) bronze material;
- 7 (3) lead material;
- 8 (4) aluminum material in excess of ten pounds;

9 [~~or~~]

10 (5) steel material in excess of one ton,
11 except that a written record shall be kept of each purchase of
12 a stainless steel beer keg; or

- 13 (6) palladium, platinum or rhodium.

14 B. The record shall be in English and shall
15 include:

- 16 (1) the place and date of the purchase;
- 17 (2) the name and address of each person from
18 whom the regulated material is purchased or obtained;

- 19 (3) [~~the identifying number~~] a copy of the
20 personal identification document of each person from whom the
21 regulated material is purchased or obtained;

- 22 (4) the year, make, model and license plate
23 number of the motor vehicle used to transport the regulated
24 material;

- 25 (5) a description made in accordance with the

.226713.1

underscoring material = new
[bracketed material] = delete

1 custom of the trade of the type and quantity of regulated
2 material purchased;

3 (6) the statement required by Paragraph (2) of
4 Subsection A of Section 57-30-4 NMSA 1978; and

5 (7) the digital images, receipt or notarized
6 declaration and written documentation required for certain
7 transactions pursuant to Subsections C and D of this section
8 and, if applicable, Section 57-30-2.4 NMSA 1978 [if
9 applicable].

10 C. A secondhand metal dealer may take a digital
11 [~~photograph~~] image, with a date and time stamp, of:

12 (1) the seller of the regulated material; and

13 (2) the regulated material in the form in
14 which it was purchased or obtained by the secondhand metal
15 dealer.

16 D. For the purchase of palladium, platinum or
17 rhodium, a secondhand metal dealer shall also:

18 (1) require that the seller verify the
19 seller's identity by presenting a valid personal identification
20 document;

21 (2) take a digital image of:

22 (a) the seller of the palladium,
23 platinum or rhodium;

24 (b) the seller's personal identification
25 document; and

.226713.1

underscoring material = new
[bracketed material] = delete

1 (c) each individual item of palladium,
2 platinum or rhodium in the form in which it was purchased or
3 obtained by the secondhand metal dealer;

4 (3) make a copy of a receipt provided by the
5 seller or, if a receipt is not available, a notarized
6 declaration by the seller, that describes with particularity:

7 (a) the exact item that is being offered
8 for sale;

9 (b) the name of the person who issued
10 the receipt or, in the case of a notarized declaration, the
11 name of the person who sold or otherwise transferred the item
12 to the seller;

13 (c) the date of sale of the item; and

14 (d) the price of the item when obtained
15 by the seller; and

16 (4) make payment by check payable to the
17 seller. The check may be mailed to the address shown on the
18 seller's personal identification document or picked up
19 personally by the seller at the secondhand metal dealer's place
20 of business.

21 E. If the seller does not provide a copy of the
22 receipt or notarized declaration pursuant to Paragraph (3) of
23 Subsection D of this section, the secondhand metal dealer shall
24 not purchase the palladium, platinum or rhodium and shall
25 report the attempted sale to the applicable law enforcement

.226713.1

underscored material = new
[bracketed material] = delete

1 agency."

2 SECTION 4. Section 57-30-6 NMSA 1978 (being Laws 2008,
3 Chapter 29, Section 6, as amended by Laws 2012, Chapter 29,
4 Section 5 and by Laws 2012, Chapter 33, Section 5) is amended
5 to read:

6 "57-30-6. PRESERVATION OF RECORDS.--A secondhand metal
7 dealer shall preserve each record required by Section 57-30-5
8 NMSA 1978 until the [~~first~~] third anniversary of the date the
9 record was made."

10 SECTION 5. Section 57-30-7 NMSA 1978 (being Laws 2008,
11 Chapter 29, Section 7, as amended by Laws 2012, Chapter 29,
12 Section 6 and by Laws 2012, Chapter 33, Section 6) is amended
13 to read:

14 "57-30-7. INSPECTION OF RECORDS [~~BY PEACE OFFICERS~~]--
15 HOLDS ON PROPERTY.--

16 A. Upon request, a secondhand metal dealer shall
17 produce to a peace officer, the attorney general, a prosecuting
18 attorney, the chief law enforcement officer of the
19 investigating law enforcement agency or the superintendent or
20 the designees of those individuals during the dealer's usual
21 business hours the requested record of purchase as required by
22 [~~Section~~] Sections 57-30-2.4 and 57-30-5 NMSA 1978.

23 B. If a peace officer determines, through an
24 investigation or examination of the records kept by the
25 secondhand metal dealer, that the dealer may be in possession

.226713.1

underscoring material = new
[bracketed material] = delete

1 of stolen property or property that constitutes evidence in a
2 criminal investigation, the peace officer may place a hold on
3 the property prohibiting the sale or removal of the property
4 from the premises. The hold may remain in effect for up to
5 five days or until the hold is lifted or the property is
6 seized, whichever occurs earlier.

7 C. The inspecting peace officer shall inform the
8 secondhand metal dealer of the person's status as a peace
9 officer."

10 SECTION 6. A new section of the Sale of Recycled Metals
11 Act is enacted to read:

12 "[NEW MATERIAL] LAW ENFORCEMENT DATABASE--PREVENTION
13 PROGRAM.--

14 A. The department of public safety shall establish
15 a database for collecting and maintaining information reported
16 pursuant to the Sale of Recycled Metals Act.

17 B. The department of public safety shall initiate a
18 program to encourage residents to take measures to prevent and
19 deter the theft of catalytic converters, including having auto
20 service centers paint catalytic converters with high
21 temperature orange paint appropriate for automobiles and
22 engrave the vehicle identification number on the catalytic
23 converter."

24 SECTION 7. A new section of the Sale of Recycled Metals
25 Act is enacted to read:

.226713.1

1 "[NEW MATERIAL] CRIMINAL PENALTIES.--

2 A. Any person who violates or falsifies a statement
3 required by Section 57-30-2.4 NMSA 1978 that involves a
4 catalytic converter is guilty of a fourth degree felony and
5 shall be sentenced in accordance with the provisions of Section
6 31-18-15 NMSA 1978.

7 B. Any person who violates or falsifies a statement
8 required by Section 57-30-2.4 NMSA 1978 that does not involve a
9 catalytic converter is guilty of a misdemeanor and shall be
10 sentenced in accordance with the provisions of Section 31-19-1
11 NMSA 1978.

12 C. Any person who violates or falsifies a statement
13 required by Section 57-30-5 NMSA 1978 that involves the
14 purchase of palladium, platinum or rhodium is guilty of a
15 fourth degree felony and shall be sentenced in accordance with
16 the provisions of Section 31-18-15 NMSA 1978.

17 D. Any person who violates or falsifies a statement
18 required by Section 57-30-5 NMSA 1978 that does not involve the
19 purchase of palladium, platinum or rhodium is guilty of a
20 misdemeanor and shall be sentenced in accordance with the
21 provisions of Section 31-19-1 NMSA 1978."

22 SECTION 8. Section 30-15-8 NMSA 1978 (being Laws 2022,
23 Chapter 56, Section 50) is amended to read:

24 "30-15-8. CRIMINAL DAMAGE TO PROPERTY BY THEFT OR
25 ATTEMPTED THEFT OF REGULATED MATERIAL--PENALTY.--

.226713.1

underscored material = new
[bracketed material] = delete

1 A. Criminal damage to property by theft or
2 attempted theft of regulated material consists of the unlawful
3 taking or attempted taking of any regulated material from
4 another that results in any damage to real or personal
5 property. Whoever commits criminal damage to property by theft
6 or attempted theft of regulated material resulting in property
7 damage or property loss, based on the fair market value of that
8 damage or loss, in an amount of:

9 (1) less than one thousand dollars (\$1,000) is
10 guilty of a petty misdemeanor;

11 (2) one thousand dollars (\$1,000) or more but
12 less than two thousand five hundred dollars (\$2,500) is guilty
13 of a misdemeanor; or

14 (3) two thousand five hundred dollars (\$2,500)
15 or more is guilty of a fourth degree felony.

16 B. Whoever commits criminal damage to property by
17 theft or attempted theft of a catalytic converter is guilty of
18 a fourth degree felony.

19 ~~[B.]~~ C. For the purposes of this section:

20 (1) "aluminum material" means wire or coil
21 products made from aluminum, an aluminum alloy or an aluminum
22 byproduct;

23 (2) "copper or brass material" means:

24 (a) insulated or noninsulated copper
25 wire, hardware or cable of the type used by a public utility,

.226713.1

underscored material = new
[bracketed material] = delete

1 commercial mobile radio service carrier or common carrier that
2 consists of at least twenty-five percent copper; or

3 (b) a copper or brass item of a type
4 commonly used in construction or by a public utility,
5 commercial mobile radio service carrier or common carrier;

6 (3) "regulated material" means:

- 7 (a) aluminum material;
- 8 (b) copper or brass material;
- 9 (c) steel material;
- 10 (d) a utility access cover;
- 11 (e) a water meter cover;
- 12 (f) a road or bridge guard rail;
- 13 (g) a highway or street sign;
- 14 (h) a traffic directional or control
15 sign or signal; or
- 16 (i) a catalytic converter that is not

17 part of an entire motor vehicle; and

18 (4) "steel material" means infrastructure-
19 grade or construction products made from an alloy of iron,
20 chromium, nickel or manganese.

21 [~~C.~~] D. Nothing in this section shall be construed
22 to preclude a claim made pursuant to any other section of law."

23 SECTION 9. APPLICABILITY.--The provisions of Sections 2
24 through 4 of this act apply to transactions made on or after
25 January 1, 2025.

.226713.1

underscoring material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2025.

- 18 -