

1 §1891. Short title

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

4 §1892. Definitions

5 * * *

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

9 * * *

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

14 §1893. License required; application

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

18 (a) An occupational license from an occupational licensing board if an
19 occupational license is required in the jurisdiction where the business is conducted.

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

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

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

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

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

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

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

9 (5) Finding the applicant is an immediate family member, the former
10 employee, or a former business associate of a dealer whose license was previously
11 revoked or suspended by the commission, and the applicant intends to operate the
12 same or substantially the same business as operated by the revoked licensee, or the
13 revoked licensee will be participating in the business with the applicant. As used in
14 this Paragraph, "immediate family" shall have the meaning ascribed in R.S.
15 42:1102(13).

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

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

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

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

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

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

1 §1893.2. Applicant notification of licensure or denial; procedures for denial of
2 license

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

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

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

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

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

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

17 D. The commission's decision to affirm the denial shall be final when
18 rendered. The applicant may appeal the decision as provided in R.S. 37:1893.3.

19 §1893.3. Notice; hearings; appeals

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

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

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

27 (3) The commission shall serve the notice of the hearing on the licensee by
28 certified or registered mail to the address for the licensee as provided on the
29 licensee's application, by personal physical service on the licensee, by service on an

1 employee of a dealer, or by posting notice at the entrance of the licensed premises
2 where the alleged violation occurred.

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

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

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

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

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

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

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

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

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

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

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

7 §1893.4. Injunctions; cease and desist orders

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

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

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

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

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

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

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

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

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

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

19 §1893.5. Civil penalties

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

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

1 §1895. Requirements of purchaser and seller; recordkeeping

2 A. Except as otherwise provided for in this Section, it is unlawful for any
3 person not licensed as a dealer by the commission pursuant to R.S. 32:781(3) or (4)
4 to possess, obtain, or otherwise acquire, transport, or sell more than ~~one~~ the used; or
5 detached catalytic ~~converter~~ converters from one vehicle owned by the person or any
6 nonferrous part of a catalytic converter without providing all of the following
7 documentation to law enforcement upon request:

8 * * *

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

11 * * *

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

20 * * *

21 §1896. Failure to comply; criminal penalty

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

28 * * *

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

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

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 547 Reengrossed

2023 Regular Session

Riser

Abstract: Provides procedures for the La. Used Motor Vehicle Commission to regulate catalytic converter dealer licenses and catalytic converter purchases and sales.

Proposed law changes the following:

- (1) "Catalytic Converter Purchasers" to "Catalytic Converter Transfers"
- (2) "Louisiana Catalytic Converter Sales Law" to "Louisiana Catalytic Converter Transfer Law"
- (3) "Catalytic converter purchaser" to "catalytic converter dealer"
- (4) "Catalytic converter business license" to "catalytic converter dealer license"

Present law provides that a licensed person may buy detached catalytic converters.

Proposed law provides that a licensed person may purchase or sell used or detached catalytic converters.

Present law defines "person".

Proposed law expands the definition of "person" to include a natural person, juridical person, firm, association, trust, and transient merchant.

Present law requires a person to be licensed in order to sale or purchase catalytic converters.

Proposed law retains present law and requires that a person also have either an occupational license if it is required in the jurisdiction where the business is located or a transient merchant license.

Proposed law provides that the La. Used Motor Vehicle Commission (commission) may deny an application for licensure for certain reasons.

Proposed law provides that the commission may revoke or suspend a license, issue a fine or penalty, or enjoin a catalytic converter dealer under certain circumstances.

Proposed law provides that the commission is required to notify each license applicant of the action or application decision taken by the commission.

Proposed law provides that the commission shall hold review of an application denial if an applicant properly requests a hearing in writing and in a reasonable time. Proposed law further provides procedures for notices issued by the commission and hearings held by the commission.

Proposed law provides for appeal procedures for applicants or licensees upon denial, revocation, or suspension of a license.

Proposed law authorizes the commission to institute injunctive actions or impose civil penalties for certain violations.

Proposed law provides that a business location of a catalytic converter dealer is considered abandoned under certain circumstances. Proposed law further provides that the license of the dealer may be revoked without a hearing if a request for a hearing is not made in a timely manner as provided in proposed law.

Present law provides for an exemption from present law for a person who is in possession of one used catalytic converter if the person has documentation that the catalytic converter was acquired.

Proposed law provides that a person is exempt if the person owns the vehicle from which the used catalytic converter was detached.

Present law requires an unlicensed person to provide certain documentation if the person is in possession of a catalytic converter.

Proposed law adds that the person must also provide the year, make, model, and VIN of the vehicle from which the catalytic converter was detached.

Present law provides certain criminal penalties for an unlicensed catalytic converter purchaser. Present law further provides that the amount of the fee and duration of the imprisonment increases with each subsequent violation, and each catalytic converter purchased in violation of proposed law constitutes a separate violation.

Proposed law retains present law and adds that a catalytic converter seller or anyone who provides false information or documentation in violation of present law will be subject to criminal penalty.

(Amends 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)(intro. para.) and (C), and 1896(A) and (D); Adds R.S. 37:1893.1-1893.6) and 1895(A)(7)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.