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For Immediate Release:

The Executive Board of the International Association of Auto Theft Investigators is pleased to announce the following proposed model legislation related to the possession, purchase and/or sale of Detached Catalytic Converters.

For additional information, please contact:

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Purpose

The intent of this document is to promote legislation for theft prevention that includes five requirements for all persons or entities that deal in the possession, purchase and/or sale of Detached Catalytic Converters.

Definitions

“Detached Catalytic Converter means a catalytic converter that was previously installed on a motor vehicle and subsequently removed unless it is a used original equipment manufacturer catalytic converter being sold as a motor vehicle repair part in compliance with United States Environmental Protection agency policy and meets the requirements of Section 2.

"Proof of Identification" means a driver's license, identification card, or other identification document issued for identification purposes by any state, federal, or foreign government if the document includes the person's photograph, full name, birth date, address, and signature.

Five Essential Components

1. Identify with certainty the person selling the Detached Catalytic Converter;

Upon purchasing a detached catalytic converter, the purchaser shall identify the seller by:

- A. Making a photocopy or electronic scan of the seller’s proof of identification and taking a photograph of the person that clearly shows the person’s face or obtaining a fingerprint and,
- B. Recording the license plate number and description of the vehicle used by the person when delivering the detached catalytic converter, including the vehicle make and model, and any identifying marks on the vehicle, such as a business name, decals, or markings, if applicable;

2. Identify with certainty the vehicle from which the Detached Catalytic Converter was removed;

- A. It is unlawful for any person to possess a Detached Catalytic Converter that is not attached to a motor vehicle except when:
 - (i) the Detached Catalytic Converter has been marked with the date it was removed from the vehicle; and
 - (ii) the Detached Catalytic Converter has been marked with the vehicle identification number of the vehicle from which it was removed; or
 - (iii) the Detached Catalytic Converter has been marked with a unique alternative number that can be readily linked to the vehicle identification number by law enforcement at any time.
 - (iv) The markings required above may be made in any permanent manner, including but not limited to an engraving or use of permanent ink.
- B. It is unlawful to purchase a Detached Catalytic Converter unless it is marked as required under Paragraph A and the seller provides a copy of the donor vehicle's title or registration to demonstrate the seller's ownership interest in said vehicle by comparing the information on the seller’s proof of identification with the proof of ownership. In cases when a Detached Catalytic Converter was removed from a vehicle that no longer has an associated title and is no longer registered in any state, the seller must provide the purchaser with an affidavit from the local law enforcement agency that establishes that the agency has verified the



seller's ownership of the donor vehicle. Such affidavit must include the donor vehicle's identification number. The requirements of this section, paragraph B, apply except when:

- (i) The seller of detached catalytic converters is a licensed business engaged in vehicle dismantling, vehicle demolishing, scrap metal recycling, automotive repair services, new or used motor vehicle dealer, motor vehicle manufacturing, or distributing catalytic converters.
- (ii) A seller that meets the requirements of (B)(i) must provide the purchaser of detached catalytic converters with a transaction record that includes:
 - i. the identity of the seller's business and a written or electronic signature of the seller;
 - ii. the identity of the purchaser and a written or electronic signature of the purchaser;
 - iii. an itemized list of each Detached Catalytic Converter being sold that includes the donor vehicle identification number or a unique alternative number that can be readily linked to the vehicle identification number by law enforcement; and
 - iv. the date of the transaction.

C. It is unlawful to possess, sell, or purchase a detached catalytic converter that is unmarked or has a manufacturer's, aftermarket, or owner applied vehicle or parts identification number that has been removed, obliterated, or altered.

3. Require a traceable payment and prohibit cash transactions;

- A. A purchaser of a Detached Catalytic Converter may not pay a seller until at least five days after the sale.
- B. A purchaser of a Detached Catalytic Converter must pay the seller by check and payment must be sent to the seller's address as listed on the seller's proof of identification or wired to an account in the seller's name or business name.

4. Require records of Detached Catalytic Converter transactions be maintained and made accessible to Law Enforcement upon request;

- A. The purchaser of a Detached Catalytic Converter must create a permanent record written in English using an electronic record program at the time of purchase or acquisition. The purchaser of a Detached Catalytic Converter must include the following information within the permanent electronic record:
 - (1) A complete and accurate account or description of the Detached Catalytic Converter including any markings such as the donor vehicle identification number, serial number, and date of removal;
 - (2) the year, make, model, and vehicle identification number as obtained from the title, registration or law enforcement report provided by the seller;
 - (3) the date, time, and place of the receipt of the Detached Catalytic Converter purchased or acquired and a unique transaction identifier;
 - (4) a complete photocopy or electronic scan of the seller's proof of identification;
 - (5) a copy of the title or registration document provided by the seller;
 - (6) the amount paid and the number of the check or electronic transfer used to purchase the Detached Catalytic Converter;
 - (7) the license plate number and description of the vehicle used by the person when delivering the Detached Catalytic Converter, including the vehicle make and model, and any identifying marks on the vehicle, such as a business name, decals, or markings, if applicable;
 - (8) a copy of the receipt, which must include at least the following information: the name and address of the purchaser and seller, the date and time the Detached Catalytic Converter was received, an accurate
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description of the converter, including any identification numbers, and the amount paid for the Detached Catalytic Converter; and

(9) the identity of the employee or party processing the transaction.

B. The aforementioned records must be entered into an electronic database approved by and available to a law enforcement agency to access remotely. Records shall be entered within 24 hours of a transaction. The data entered into the electronic database shall be confidential for law enforcement use only.

C. A purchaser is prohibited from selling, dismantling, or removing a Detached Catalytic Converter from the dealer's premises for at least seven days after its acquisition.

D. Entities engaged in the purchase of detached catalytic converters shall ensure employees engaged in these transactions are trained and familiar with the requirements of this Act.

5. The penalty for not meeting the above requirements needs to be a sufficient deterrent.

Violations for possessing a Detached Catalytic Converter not marked as required by paragraph 2A, or a Detached Catalytic Converter in violation of paragraph 2C, shall be based on either the number of detached converters in possession or value of the detached converters as follows:

1 in possession is a misdemeanor, 2-3 in possession is a gross misdemeanor, 4-10 in possession is a felony, 10-100 in possession is a higher felony, 100 or more in possession is a major felony.

Any other violations of this Act shall be a misdemeanor for the first offense and a gross misdemeanor for subsequent offenses in a 12-month period.

This Act does not prohibit a person from being charged with, convicted of, or sentenced for any violation of law arising out of the same criminal transaction that violates this Act.

COMMENTS

Identifiers 1 – 5 are taken from the 6 points developed by IAATI.

§ Definitions

“Detached Catalytic Converter” The reference to detached catalytic converters that have been recertified for use by EPA standards only relates to the possession of detached catalytic converters for the purpose of deterring theft, and is not intended to allow for the sale or use of these catalytic converters where existing law provides for stricter emissions requirements.

“Proof of Identification” The identification document should be such that it is government issued, containing at least photograph, full legal name, date of birth, address of issue or residence, and signature.

§2 B(i) Since a licensed business may vary by state to state, the filing of a document with the Secretary of State to form a business in itself is not sufficient, but rather a license that demonstrates bona fide business activity having a fixed location is required.



§2 B(ii)iii “unique alternative number” may include a unique stock number that allows the business to look up the VIN of the donor vehicle, for example a label “ABC Auto Parts #0001”.

§4 B Regardless of the electronic system chosen by law enforcement for entry of records, steps shall be taken so that the data entered into the system cannot be sold or used by a private vendor operating the system, nor should the records be accessible through a freedom of information or data practices request. The records should be accessible to all law enforcement and admissible in a court of law.

§5 Jurisdictions vary considerably regarding sentencing provisions. The above illustrates that a penalty may be easier to enforce based on the number of converters, rather than value and that the penalty should be more severe based upon the number in possession.