

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date January 24, 2024
Bill No: SB 141

Sponsor: Muñoz
Short Title: Recycled Metal Reporting

Agency Name and Code Number: NM Sentencing Commission – 354
Person Writing Keri Thiel
Phone: 505-259-8763 **Email** kthiel@unm.edu

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 141 amends Section 57-30-2 NMSA 1978, the definitions section of the Recycled Metals Act, to add palladium, platinum and rhodium to the definition of “regulated material”.

The bill amends Section 57-30-2.4 NMSA 1978, regarding documentation required for catalytic converter transactions, to require that a secondhand metal dealer must include the following in their record of a purchase of a catalytic converter:

- A written statement signed by the seller or offeror certifying that the seller or offeror has the lawful right to sell and dispose of the catalytic converter;
- The place of the transaction;
- The amount paid for the catalytic converter;
- A digital image of the catalytic converter;
- A digital image of the seller or offeror;
- A description of the catalytic converter; and
- A copy of the receipt provided by the seller or offeror, describing the catalytic converter, the name of the person or business that issued the receipt, the date of purchase by the seller or offeror, and the price paid for the catalytic converter; or, if a receipt is not available, a notarized declaration by the seller or offeror attesting to the same information.

The bill further amends Section 57-30-2.4 to require that a secondhand metal dealer who purchases or receives a catalytic converter attach a tag to the catalytic converter identifying the seller or offeror and the vehicle from which the catalytic converter was removed, report the purchase to the applicable law enforcement agency, and maintain possession of the catalytic converter for a period of at least sixty days before selling or disposing of it. The bill also requires that payment for a catalytic converter must be made by check payable to the seller, and that if a seller or offeror does not provide a copy of the receipt or notarized declaration, the secondhand metal dealer must not purchase or receive the catalytic converter, and must report the attempted sale to the applicable law enforcement agency.

The bill lists offices and agencies who may examine a secondhand metal dealer’s record of catalytic converter transactions at any time during normal business hours.

SB 141 also amends Section 57-30-5 NMSA 1978, regarding requirements for records of purchases of regulated materials, to require that records be maintained for at least three years and to require that records be kept for purchases of palladium, platinum, and rhodium. It further amends Section 57-30-5 to require that the record include digital images, and a receipt or notarized declaration as required in Section 57-30-2.4 NMSA 1978 for catalytic converter transactions. SB 141 also amends Section 57-30-5 to add a list of documentation that must be collected and kept by a secondhand metal dealer specifically for the purchase of palladium, platinum, or rhodium, and to require that a secondhand metal dealer report an attempted sale to the applicable law enforcement agency if a seller or offeror of palladium, platinum, or rhodium does not provide the required receipt or notarized declaration.

The bill also amends Section 57-30-6 NMSA 1978, regarding preservation of records, to reflect the requirement that records be kept for at least three years after the relevant transaction.

Section 6 of SB 141 creates a new section of the Sale of Recycled Metals Act to require that the Department of Public Safety (1) establish a database for collecting and maintaining information reported pursuant to the Sale of Recycled Metals Act, and (2) initiate a program to encourage residents to take measures to prevent and deter the theft of catalytic converters.

Section 7 of SB 141 creates a new section of the Sale of Recycled Metals Act to enact penalties for violations of the requirements set out in the Act. Violations of Section 57-30-2.4 NMSA 1978 would be a fourth degree felony if the violation involves a catalytic converter and a misdemeanor if the violation does not involve a catalytic converter. Similarly, violations of Section 57-30-5 NMSA 1978 would be a fourth degree felony if the violation involves the purchase of palladium, platinum, or rhodium and a misdemeanor if the violation does not involve the purchase of palladium, platinum, or rhodium.

SB 141 amends Section 30-15-8 NMSA 1978, regarding criminal damage to property by theft or attempted theft of regulated material, to make criminal damage to property by theft or attempted theft of a catalytic converter a fourth degree felony.

Finally, SB 141 sets an effective date of January 1, 2025, and makes the provisions of Sections 2 through 4 of the act applicable to transactions after that date.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

SB 141 requires that secondhand metal dealers report to the “applicable law enforcement agency” (p. 8 lines 23-24, p. 9 lines 8-9, pp. 12-13 lines 25 and 1), however “applicable law enforcement agency” is not defined in SB 141 nor elsewhere in the existing Sale of Recycled Metals Act.

It is difficult to determine what the effect of passing SB 141 would be on the state’s prison population, but SB 141’s creation of two new fourth degree felony offenses would likely lead to

more people being incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state's prison system is \$156.45/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS