

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: Date 1/24/2024
Original **Amendment** **Bill No:** SB 141
Correction **Substitute**

Sponsor: Sen. George K. Muñoz **Agency Name and Code Number:** Regulation and Licensing Department – 420
Person Writing: Leigh Anne Chavez
Short Title: Recycled Metals Reporting **Phone:** 505-629-6226 **Email:** leighanne.chavez@rld.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
N/A	N/A		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI		

(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	NFI	NFI	NFI	NFI	NFI	NFI

(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:

SB141 significantly expands the record collection and retention requirements for the purchaser, or receipt by secondhand metal dealers, of catalytic converters, and related duties. The bill criminalizes certain conduct and authorizes inspection of records by certain individuals or their designees.

First, the bill adds platinum, palladium, and rhodium to the definition of “regulated material”. These are the valuable precious metals contained in catalytic converters, and the key reason for the theft of catalytic converters. SB141 also imposes parallel requirements on buyers and sellers of platinum, palladium, and rhodium when those metals are offered for sale on their own and not connected to a catalytic converter.

In addition to specific existing requirements for the purchase of a catalytic converter, the bill would add to those substantial new requirements for information and documentation that a secondhand metal dealer must collect, including a copy of a receipt and the amount paid for the catalytic converter, images of the serial number or description as practical, information on the occupation of the seller, and images of the catalytic converter and its seller. SB141 also requires a seller to receive payment in the form of a check from the buyer.

SB141 provides a substitute procedure in the event there is no receipt for the sale/purchase of a catalytic converter, imposing the requirement for a statement of ownership out of the seller’s duties section and into the records requirements for secondhand metal dealers. The current statutory records retention requirements for the secondhand metal dealer’s records would be extended to three years for all regulated material.

A key existing requirement for the purchase of catalytic converters is that the buyer must collect and retain an image of the personal identification document that the seller is required to present. This requirement is extended in S141 to the purchase by a secondhand metal dealer of all regulated material.

Additionally, significant additional duties would be required of a secondhand metal dealer following a purchase or receipt of a catalytic converter, or following an attempted transaction that was unsuccessful based on failure to obtain the required receipt or receipt substitute from the seller. After purchase, the dealer would be required to tag the catalytic converter with particular identifying information and report the transaction to law enforcement. SB141 specifies that law

enforcement records of such transactions would be housed with the Department of Public Safety (DPS). The recycled metals dealer also must maintain possession of the catalytic converter for sixty (60) days before selling or disposing of it. In the event of a failure or refusal by the seller to produce their purchase receipt (or provide the substitute declaration), the secondhand metal dealer would be required to refuse the transaction altogether and to report the attempted sale to law enforcement.

SB141 criminalizes certain conduct and also provides that DPS would maintain a database concerning sales of catalytic converters similar to the database currently maintained by the Regulation and Licensing Department (RLD). The bill would make falsification of required sellers' statements related to the purchase of a catalytic converter or any platinum, palladium, or rhodium a fourth degree felony and would make falsification of any other statements a misdemeanor. Damage to property in the theft of a catalytic converter would also become a fourth degree felony under the criminal code.

Finally, SB141 would authorize certain authorities, including the Superintendent of the RLD, or their designees, to inspect for records required under the section that includes catalytic converters or the general records requirement section for all regulated material, which would include the purchase of platinum, palladium, and rhodium if passed.

FISCAL IMPLICATIONS

No fiscal impact is anticipated for the RLD.

SIGNIFICANT ISSUES

It should be noted that SB141 does not contain language exempting jewelers and similar occupations from the provisions regarding any platinum, palladium, or rhodium. This appears to be an oversight that could expose those individuals to legal jeopardy should this bill pass in its current form. It amends the Sale of Recycled Metals Act (Act) to strengthen existing requirements and to impose certain additional requirements related to secondhand metal dealers. As defined in the Act, a secondhand metal dealer is a businessperson who deals in "scrap metal" as identified as "regulated material" in the Act. The bill would include platinum, palladium, and rhodium as "regulated material." Staff members from the RLD's Recycled Metals program are aware of at least one jeweler in Albuquerque who advertises buying "scrap palladium." Thus, the bill could unintentionally impact jewelers or others who meet the legal definition of a secondhand metal dealer but may not be the businesspeople intended for regulation or prosecution under the proposed bill.

While SB141 would provide important new tools in the fight against catalytic converter theft, there is also potential for creating confusion regarding the duties of law enforcement (particularly the DPS) and the duties of the RLD under the Recycled Metals Act. The Recycled Metals Act, in its current form, provides that law enforcement is authorized to inspect records and place holds on covered metal items in a yard, but the Act does not provide for a law enforcement database. Under the current Act, the RLD does maintain just such a database of recycled metals dealers and their transactions. Under SB141, there would be two databases being run apparently simultaneously. Avoiding duplication of efforts of government agencies is often cited as a goal for good governance. The RLD maintains a recycled metals database that is currently offered to be shared with all law enforcement agencies in New Mexico, but that database currently utilized by only a limited number of law enforcement agencies, including the Albuquerque Police Department. Law enforcement may be well-served by having its own database housed with the

DPS, but it would appear to be a duplication of efforts to create a new, second database as opposed to directing law enforcement to utilize the existing system.

A third significant issue is the requirement for payment to the seller of a catalytic converter to be made via a check that is to be mailed or “picked up personally by the seller.” SB141 does not provide a time period for the buyer to pick up the check. While mailing would provide the buffer sought between the sale and receipt of the funds, a strict interpretation of the bill for the timing of a personal pickup of the check does not. A stated, mandatory waiting period between the time of the delivery of the catalytic converter and the date for the seller to pick up the check should be added.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

In Section 6(B) of SB141, the bill provides that DPS shall initiate a program to encourage anti-theft measures for residents in regard to catalytic converters by engraving the vehicle identification number (VIN) of a vehicle on the catalytic converter (or painting it orange). HB43, also introduced in the current legislative session, would provide for an engraving program administered by DPS. While HB43 is more detailed regarding such an engraving program, SB141 Section 6(B) duplicates this requirement as to establishing an engraving program.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

New Mexico would continue to lack needed tools for law enforcement and regulators in the fight against catalytic converter theft. The Superintendent of RLD needs the statutory authority to inspect secondhand metal dealers for collection and retention of records for civil compliance with the Recycled Metals Act that would be made clear under this bill.

Not enacting this bill would continue to keep New Mexico behind other states which have adopted requirements proposed in SB141 such as mandating buyers collect images of the seller and their identification document(s), proof of the seller’s ownership of the catalytic converter, mandatory payment in check form and strengthening of the criminal penalties.

AMENDMENTS

See “Significant Issues” section, above.