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M E M O R A N D U M

To: Interested Parties
From: Senior Deputy District Attorney Kevin Demer
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Subject: MCDA Interpretation of Catalytic Converter Laws After SB803

This document does not, and is not intended to, constitute legal advice. Instead, it is for general informational purposes only. A reader of this memorandum should contact their attorney to obtain legal advice regarding its application or appropriateness to the reader's particular situation.

This summary of the law does not cover all situations or rules that other government agencies may have. This summary also does not list in detail all the requirements the law requires. It simply is a summary of MCDA's interpretation of the law. *Both the interpretation and the law are subject to change at any time.*

This summary primarily addresses two frequently-occurring questions regarding catalytic converters that have been removed from vehicles:

1. How do you legally transport on a public highway a catalytic converter that has been removed from a vehicle?
2. How do you legally transfer ownership of a catalytic converter that has been removed from a vehicle (includes sales)?

In the narrative below, please note that the phrases or words *commercial seller* (ORS 165.116(3)), *dismantler* (ORS 801.236), and *scrap metal business* (165.116(12)(a)) all have specific definitions under the law. Similarly, *fixed place of business* is defined by the law and applies to commercial seller, dismantler, and scrap metal business. See ORS 165.116(6). Additionally, *metal property* (ORS 165.116(8)) includes *private metal property* (ORS 165.116(11)) which includes any component of a catalytic converter that has been removed from a vehicle.

Transporting Catalytic Converter on a Public Highway

A person cannot transport a catalytic converter that has been removed from a vehicle on a public highway with intent to deliver to a scrap metal business *unless* they have in their possession a metal transportation certificate. Violation is a Class C misdemeanor. ORS 164.857(6). Exceptions and defenses under ORS 164.857(5)(b) include:

1. The person was a commercial seller with a fixed place of business and they possessed the information required under 165.117(4)(b)(G). (Make, model, VIN, license plate, and date removed.)
 - a. An employee of a legitimate repair shop with a legitimate repair ticket showing a customer's repair with all of this information could possibly easily meet this requirement.
2. The person was a scrap metal business with a fixed place of business.
3. The person was a dismantler with a fixed place of business.
 - a. The catalytic converter had a VIN or stock number marked. (See dismantler requirements further below.)
4. The person's name is on the title or registration for the vehicle where the catalytic converter was removed, the person has physical possession of the title or registration, and the person also knows the vehicle's location.

Transactions Transferring Possession of a Catalytic Converter

A person can only legally transfer a catalytic converter that has been removed from a vehicle to another entity under certain circumstances. Failure to abide could be a Class A misdemeanor. ORS 165.118(4).

1. Where the person is an individual acting their individual capacity:
 - a. An individual cannot transport a catalytic converter on public highway unless they own the catalytic converter and the vehicle it came from.
 - b. If the individual transferred the catalytic converter to another individual, this second individual receiving the catalytic converter would be considered an illegal scrap metal business and it would be illegal for this second individual to transport catalytic converter on a public highway.
 - c. A scrap metal business can only purchase catalytic converters from individuals at the scrap metal business fixed place of business. (See details below for scrap metal dealer transactions.)
 - d. An individual can only sell a catalytic converter to a scrap metal business that came from the individual's car. See ORS 165.117(2)(g).
 - i. The person must have ownership paperwork in their name showing the VIN from which the catalytic converter was removed. See ORS 165.117(1)(a)(C)(ix).
 - e. Payment for this transaction cannot be in cash. ORS 165.117(2)(c).
2. Where the person is an employee / owner of legally and appropriately licensed business entity that meets the definition of a commercial seller with a fixed place of business. See ORS 165.116(3).

- a. The business regularly or periodically sells or delivers metal property, including catalytic converters, to a scrap metal business.
 - i. An auto repair shop could easily meet this definition.
 - b. The person transfer it to a scrap metal business. (See details below for scrap metal dealer transactions.)
 - c. Payment for this transaction cannot be in cash.
3. Where the person is a dismantler and acting in that capacity.
- a. A dismantler cannot purchase a catalytic converter, separate and distinct from a vehicle acquisition. See ORS 822.137.
 - b. A dismantler must keep specific catalytic converter transaction documents for 3 years for the sale of catalytic converters. See ORS 822.137 (h)(D)
4. Where the person is an employee / owner of a legal and appropriately licensed scrap metal business. See ORS 165.116(12)(a) and ORS 165.118(3).
- a. The business has a fixed place of business.
 - b. The catalytic converter transaction occurs at either the fixed place of business for the scrap metal dealer or the commercial seller.
 - c. The scrap metal dealer creates the purchase record under ORS 165.117(b).
 - d. If the seller to the scrap metal dealer is an individual, the scrap metal dealer creates a metal property record. See 165.117(1)(a).
 - i. The individual must be the owner of the vehicle from which the catalytic converter was removed. See 165.117(2)(g).
 - ii. This transaction cannot be in cash. ORS 165.117(2)(c).
 - e. If the seller to the scrap metal dealer is a commercial seller (which includes dismantlers), the scrap metal dealer creates a metal property record. See 165.117(4)(b).
 - i. If the commercial seller is not a licensed dismantler, the scrap metal dealer also collects information about the vehicle from which the catalytic converter was removed. See 165.117(4)(b)(G).
 - ii. If the commercial seller is a license dismantler, the scrap metal dealer also collects information from the dismantler. See 165.117(4)(b)(H).
 - iii. This transaction cannot be in cash. ORS 165.117(2)(e).
5. Where the person is an employee / owner of a legal and appropriately licensed seller of vehicle repair parts. See ORS 165.124(3).
- a. The business has a fixed place of business.
 - b. The business complies with EPA regulations regarding catalytic converters.
 - c. The catalytic converter is being sold as a repair part.
 - d. The catalytic converter has been appropriately marked.
 - i. The VIN (from the source vehicle) marked on it, or an alternative stock number. If alternative stock number used, the business has matching paperwork showing the associated VIN.
 - ii. The catalytic converter has the date removed from vehicle marked on it.
 - iii. The marking is in permanent ink or engraved.