

ORDINANCE NO. 805

AN ORDINANCE OF THE CITY OF COMMERCE, CALIFORNIA, ADDING CHAPTER 9.82 (“UNLAWFUL POSSESSION OF CATALYTIC CONVERTER”) OF TITLE 9 (“PEACE, SAFETY AND MORALS”) OF THE COMMERCE MUNICIPAL CODE TO PROHIBIT THE UNLAWFUL POSSESSION OF CATALYTIC CONVERTERS IN THE CITY

WHEREAS, Section VII of Article XI of the California Constitution provides that a City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, catalytic converters are part of an automobile’s exhaust system and are designed to reduce vehicle emissions; and

WHEREAS, catalytic converters contain several precious metals – including platinum, palladium, and rhodium, which can be extracted from the catalytic converter for sale; and

WHEREAS, catalytic converters can be easily removed by thieves (by use of inexpensive hand-held tools) in thirty (30) seconds to one (1) minute; and

WHEREAS, catalytic converters can be recycled for high dollar returns ranging from \$200 to in excess of \$1000 per catalytic converter; and

WHEREAS, the Bureau of Automotive Repair reported approximately 1,600 catalytic converter thefts per month in the State – and data from the Personal Insurance Federation of California demonstrates that insurance claims resulting from catalytic converter thefts rose by 308% from 2019 to 2020, and by another 100% from 2020 to 2021 (with California claims constituting 28% of all claims in the United States), and the insurance industry has paid over \$23 million in repair costs for catalytic converters in 2021 – an increase of 11.5% from 2020; and

WHEREAS, the City of Commerce and County of Los Angeles have also experienced similar substantial increases in the theft of catalytic converters from motor vehicles over the past several years; and

WHEREAS, victims of catalytic converter thefts suffer tremendous consequences as a result of the theft by paying, often, thousands of dollars in repairs, the inconvenience of repairing their vehicle, and feeling unsafe in the community; and

WHEREAS, the prosecution and punishment of an individual for the theft of a catalytic converter under currently existing law is practically impossible without an identified victim; and

WHEREAS, under currently existing law, catalytic converters are not required to have any identifying markers to facilitate the determination of ownership of a catalytic converter nor whether a person is in lawful possession of a catalytic converter; and

WHEREAS, on September 25, 2022, the California Governor approved AB 1740 and SB 1087, which amend California Business & Professions Code (“B&P”) Section 21610, in part, to require “core recyclers” of catalytic converters to keep written records for a period of two (2) years relating to the vehicle from which the catalytic converter was removed (including the year, make, and model – and a copy of the title), and makes any violation a misdemeanor offense; and

WHEREAS, AB 1087, as adopted by the California Governor on September 25, 2022, further adds Section 10852.5 to the California Vehicle Code in order to prohibit persons from purchasing catalytic converters from persons other than a “commercial enterprise” (as defined in B&P § 21610(a)(2)) or an individual possessing satisfactory proof of the lawful ownership of the catalytic converter, and makes any violation an infraction; and

WHEREAS, the amendments to the California Business & Professions Code and California Vehicle Code approved in AB 1740 and SB 1087 become effective January 1, 2023 – however, B&P § 21610 (as amended by AB 1740 or SB 1087) applies to “core recyclers” and not to subsequent purchasers of a catalytic converter that is not a core recycler; and

WHEREAS, notwithstanding existing State law (including the amendments adopted in AB 1740 and SB 1087), preventing the theft of catalytic converters is nearly impossible due, in part, to the difficulty of tracing a particular catalytic converter back to its prior owner (the victim of the theft) because catalytic converters typically do not have any identifying markers; and

WHEREAS, this Ordinance is designed to (i) deter catalytic converter thefts by establishing a zero-tolerance policy in the City of Commerce; (ii) impose sanctions for the possession of stolen catalytic converters; (iii) prevent criminals from profiting from the sale and recycling of stolen catalytic converters; (iv) provide indirect justice to the victims of catalytic converter thefts, whose cases will otherwise go unresolved; (v) minimize the fiscal and personnel impact of the City of Commerce and the Los Angeles County Sheriff’s Department (who service the City of Commerce) resulting from the investigation of catalytic converter theft; and

WHEREAS, existing State law (including the amendments approved through AB 1740 and SB 1087) fails to address the specific concerns and issues addressed by this Ordinance; and

WHEREAS, this Ordinance is necessary to provide the City of Commerce and the Los Angeles County Sheriff's Department with clear legal authority to protect the public and deter criminal activity.

THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 9.82 ("Unlawful Possession of Catalytic Converter") of Title 9 ("Peace, Safety and Morals") of the Commerce Municipal Code is hereby added to read as shown and attached hereto and incorporated herein by this reference.

9.82.010 Definitions.

As used in this Chapter, the following words and phrases shall have the meanings defined in this section unless the context clearly requires otherwise:

- A. "City" shall mean the City of Commerce.
- B. "Core Recycler" shall have the same meaning as set forth in California Business & Professions Code Section 21610.
- C. "Enforcement Officer" shall mean any person authorized to enforce the provisions of this Chapter.
- D. "Lawful possession" shall include:
 - 1. Being the lawful owner of the catalytic converter; or,
 - 2. Being in possession of the catalytic converter with the written consent of the lawful owner of the catalytic converter.
- E. "Verifiable proof of ownership" shall mean, at a minimum, all of the following:
 - 1. The license plate number and Vehicle Identification Number ("VIN") of the motor vehicle from which the catalytic converter was removed;
 - 2. The name, address, and telephone number of the owner of the motor vehicle from which the catalytic converter was removed;
 - 3. Either the signature of the vehicle owner authorizing the removal of the catalytic converter or a bill of sale or other documentation from the Core Recycler that relinquished the catalytic converter; and,
 - 4. The name, address, and telephone number of the current owner of the catalytic converter.

9.82.020 Unlawful Possession of a Catalytic Converter

It shall be unlawful and a misdemeanor for any person, other than a Core Recycler who

is in strict compliance with California Business & Professions Code Section 21610, to possess any catalytic converter that is not attached to a vehicle, unless the person has verifiable proof of ownership of the catalytic converter.

A. An Enforcement Officer shall not stop any person for a violation of this Section based solely on the possession of a catalytic converter without additional indicia that the catalytic converter is unlawfully possessed, including, but not limited to, any of the following:

1. The catalytic converter has been cut or otherwise shows marks or damage consistent with illicit removal;

2. The person in possession of the catalytic converter concurrently possesses tools commonly used in the illicit removal of catalytic converters;

3. The catalytic converter has markings that associate it with a particular vehicle or with a particular make or model of vehicle not associated with the person in possession of the catalytic converter;

4. The person in possession of the catalytic converter matches the description of suspect of a theft of a catalytic converter as provided by a witness or as otherwise identified through a law enforcement investigation; or,

5. The person in in possession of, or has sold or attempted to sell, multiple catalytic converters outside the scope of the legitimate activities of a Core Recycler that acquired the catalytic converter(s) in compliance with the provisions of California Business & Professions Code Section 21610.

B. In any prosecution for a violation of this Section, the prosecutorial agency does not need to present a victim nor to demonstrate that the catalytic converter has been stolen in order to establish that the defendant is not in lawful possession of the catalytic converter.

9.82.030 Falsification of Proof of Ownership

It shall be unlawful and a misdemeanor for any person to knowingly:

A. Falsify or cause to be falsified any information in a record intended to demonstrate verifiable proof of ownership; or

B. Provide, submit, or report any false information or documentation to any person authorized to an Enforcement Officer that is intended to demonstrate valid proof of ownership.

9.82.40 Violations and Penalties

A. Each and every violation of this Chapter shall constitute a separate violation, and each and every catalytic converter unlawfully possessed shall constitute a separate violation of this Chapter – and shall be punished as such.

B. In accordance with Section of 1.12.010 (Penalty for Violations) of Chapter 1.12 (Penalty and Arrest Provisions) of the City of Commerce Municipal Code (Code), each and every violation of this Chapter may be referred by the City to the District Attorney and in the discretion of the District Attorney may be prosecuted as a misdemeanor. Any person convicted of a misdemeanor under the provisions of this code shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the city or county jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued, or permitted by such person, and shall be punished accordingly.

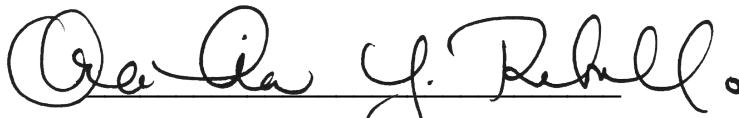
C. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the Code is committed, continued, or permitted by such person, and shall be punished accordingly.

D. The City reserves its rights to any and all remedies authorized by the City of Commerce Municipal Code.

Section 2. If any section, subsection, paragraph, sentence, clause, or phrase of this Chapter is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council declares that it would have adopted this Chapter, and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

Section 3. This Ordinance shall take affect thirty (30) days after its adoption. The City Clerk is directed to certify to the enactment of this Ordinance and to cause this Ordinance to be published and/or posted as required by law.

PASSED, APPROVED, AND ADOPTED this 28th day of February.



Oralia Y. Rebollo, Mayor

ATTEST:



Lena Shumway, City Clerk