



Legislation Text

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Report regarding adoption of an ordinance adding Chapter 10.74 to Title 10 (Public Peace, Morals and Safety) of the South San Francisco Municipal Code to prohibit the unlawful possession of used catalytic converters in the City and adoption of an urgency ordinance to immediately establish a temporary prohibition of the unlawful possession of used catalytic converters and establishing penalties for violation. (*Sky Woodruff, City Attorney*)

RECOMMENDATION

It is recommended that the City Council introduce and waive reading of an ordinance adding Chapter 10.74 to Title 10 (Public Peace, Morals and Safety) of the South San Francisco Municipal Code to prohibit the unlawful possession of used catalytic converters in the City and adopt an urgency ordinance to immediately establish a temporary prohibition of the unlawful possession of used catalytic converters and establishing penalties for violation.

BACKGROUND/DISCUSSION

Catalytic converter thefts have increased in South San Francisco over the past three years, with 75 reported incidents in 2020, 296 reported incidents in 2021, and 137 reported incidents since the beginning of 2022. These thefts continue to rise because individuals are incentivized to commit catalytic converter thefts for multiple reasons including, but not limited to:

- (1) The ease and undetectable nature of committing the thefts in a matter of seconds using common tools such as a reciprocating saw,
- (2) The ability to recycle catalytic converters at scrap metal yards for high dollar returns ranging from \$200 to \$1,200 per catalytic converter, and
- (3) Loopholes in legislation protecting criminals from prosecution unless a victim can be identified.

Lawmakers have recognized that catalytic converter theft is a growing problem that imposes both serious financial harm on, and impacts on the mobility of, California motorists who fall victim to this crime. Individuals who steal catalytic converters recycle them for substantial profit while victims of these thefts suffer economic and other consequences, including missing work or school upon discovering their catalytic converter has been stolen, paying thousands of dollars in repairs for parts and labor costs, the time and inconvenience of repairing their vehicles, and feeling unsafe in the community.

Individuals who steal catalytic converters often do so overnight. When a theft occurs in front of the victim's home, or in their driveway, this can increase the risk of victim intervention and confrontation while the theft is ongoing and could create dangerous circumstances for individuals who try to intervene. There is currently no City, State, or Federal legislation applicable within the City of South San Francisco to define and punish catalytic converter thefts absent an identifiable victim. Finding a victim of catalytic converter thefts is nearly impossible due to the fact that catalytic converters generally have no identifying markers. There is also currently no City, State, or Federal legislation applicable within the City of South San Francisco requiring individuals to provide proof to law enforcement as to how they obtained catalytic converters, thus limiting law

enforcement's ability to protect the public by preventing catalytic converter thefts and preventing law enforcement from seizing suspected stolen catalytic converters when no victim is present.

Staff continue to monitor a number of pending legislative bills aimed towards regulating vehicle dealers and retailers that install or replace catalytic converters, as well as those aimed towards improving effective enforcement and prosecution of catalytic converter theft, including Assembly Bill ("AB") 1984, introduced February 2022. If adopted, AB 1984 would prohibit the purchase, sale, receipt, or possession of a stolen catalytic converter, and a peace officer would not be required to have actual knowledge that the catalytic converter is stolen to establish probable cause for arrest, and circumstantial evidence may be used to prove the stolen nature of the catalytic converter.

Legislation aimed at regulating catalytic converter thefts would assist the South San Francisco community in a number of ways, including:

- (1) Deterring criminals by establishing zero-tolerance for catalytic converter thefts,
- (2) Punishing the possession of stolen catalytic converters,
- (3) Preventing criminals from profiting from the sale and recycling of stolen catalytic converters,
- (4) Providing justice to the victims of catalytic converters whose cases would otherwise go unsolved,
- (5) Reducing crime statistics which have been substantially negatively impacted by catalytic converter thefts, and
- (6) Minimizing the fiscal and personnel impact on the City of South San Francisco invested in deterring and investigating catalytic converter thefts.

Staff propose adoption of an ordinance to add Chapter 10.74 to Title 10 (Public Peace, Morals and Safety) of the South San Francisco Municipal Code to prohibit the unlawful possession of any used catalytic converter that is not attached to a vehicle unless the possessor has valid documentation or other proof to verify they are in lawful possession of the catalytic converter. A regular ordinance must be read and introduced at a first Council meeting, read and adopted at a second Council meeting, and then would not be effective until 30 days after adoption.

Due to the number of catalytic converter thefts in South San Francisco and the urgency of this issue, in addition to recommending adoption of a regular ordinance, staff recommend Council also adopt an urgency ordinance. An urgency ordinance would go into effect immediately, which would provide the South San Francisco Police Department with clearly established legal authority to immediately protect the public and deter this criminal activity by establishing a temporary prohibition on the possession of used catalytic converters. California Government Code Section 36937 authorizes the City Council to introduce and adopt an ordinance it declares to be necessary as an emergency measure to preserve the public peace, health, and safety at one and the same meeting if passed by at least four-fifths affirmative votes. Because there is an urgent need for the City to immediately take action to help deter these crimes in order to preserve public health, safety and welfare given the negative economic impacts and safety risks resulting from the significant number of catalytic converter thefts in the City, staff also recommend the adoption of an urgency ordinance to establish a temporary prohibition on the unlawful possession of used catalytic converters.

Both the regular ordinance and urgency ordinance would establish that it is unlawful to possess any used catalytic converter that is not attached to a vehicle unless the possessor has valid documentation or other proof

to verify they are in lawful possession of the catalytic converter.

“Used catalytic converter” would be defined as any catalytic converter that has at any point been installed in a vehicle. “Lawful possession” would require being the lawful owner of the catalytic converter or be in possession of the catalytic converter with the lawful owner’s written consent, but does not require proof that the catalytic converter was stolen to establish the possession is not a lawful possession. A person would be required to show “documentation or other proof” to verify they are in lawful possession, which includes (i) a certificate of title or certificate of registration showing the possessor’s legal interest in the vehicle from which the catalytic converter was detached that matches the vehicle identification number permanently marked on the catalytic converter; (ii) written authorization, including the vehicle identification number, from the person or entity that holds the certificate of title or certificate of registration of the vehicle from which the catalytic converter was detached; or (iii) evidence the catalytic converter was acquired in a lawful transaction pursuant to the requirements of Section 21610 of the Business and Professions Code.

Any violation of the Chapter would be punishable by a misdemeanor, which may include a fine or imprisonment, or both. A fine may not exceed one-thousand dollars (\$1000), and imprisonment may not exceed six (6) months.

Other cities in California have adopted a similar ordinance, including the cities of Vallejo, Huntington Beach, and Carlsbad.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

FISCAL IMPACT

The adoption of this ordinance will have no impact on the City's budget.

CONCLUSION

It is recommended that the City Council introduce and waive reading of an ordinance adding Chapter 10.74 to Title 10 (Public Peace, Morals and Safety) of the South San Francisco Municipal Code to prohibit the unlawful possession of used catalytic converters in the City and adopt an urgency ordinance to immediately establish a temporary prohibition of the unlawful possession of used catalytic converters and establishing penalties for violation.