

HOUSE BILL REPORT

HB 1815

As Reported by House Committee On:

Public Safety
Transportation

Title: An act relating to deterring catalytic converter theft.

Brief Description: Deterring catalytic converter theft.

Sponsors: Representatives Ryu, Boehnke, Johnson, J., Berry, Fitzgibbon, Orwall, Shewmake, Leavitt, Chase, Sells, Gregerson, Bateman, Fey, Goodman, Robertson, Macri, Ramos, Santos, Wylie, Simmons, Slatter, Bergquist, Tharinger, Valdez, Thai, Wicks, Pollet, Graham, Young and Frame.

Brief History:

Committee Activity:

Public Safety: 1/18/22, 1/27/22 [DPS];
Transportation: 2/3/22, 2/7/22 [DP2S(w/o sub PS)].

Brief Summary of Second Substitute Bill

- Requires the Joint Transportation Committee to convene a catalytic converter theft work group to study and provide options and recommendations related to reducing catalytic converter theft in Washington.
- Requires the Washington Association of Sheriffs and Police Chiefs to establish, when funded, a grant and training program to assist local law enforcement agencies in the support of special enforcement targeting metal theft.
- Requires a scrap metal business engaging in a transaction specifically involving a catalytic converter removed from a vehicle to record documentation indicating that the seller's private metal property was the result of the seller replacing private metal property from a vehicle registered in the seller's name.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Davis, Graham, Griffey, Hackney, Orwall, Ramos, Simmons, Thai and Young.

Staff: Corey Patton (786-7388).

Background:

Scrap Metal Transactions Involving Private Metal Property.

Scrap metal businesses engaged in purchasing or receiving private, nonferrous, or commercial metal property are subject to certain statutory requirements. These requirements include specific recordkeeping duties, restrictions on transactions, and obligations to cooperate with law enforcement to assist in preserving evidence of stolen property. Certain violations of these requirements carry criminal penalties. For example, it is a gross misdemeanor to deliberately remove, alter, or obliterate any identifying marks on an item of private, nonferrous, or commercial metal property to deceive a scrap metal business; or to purchase or receive any private, nonferrous, or commercial metal property where identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated.

"Private metal property" means catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

Criminal Penalties Related to Theft of Private Metal Property.

Theft in the First Degree. A person is guilty of Theft in the first degree if he or she commits theft of:

- property or services which exceed \$5,000 in value, other than a firearm;
- property of any value, other than a firearm or a motor vehicle, taken from the person of another;
- a search and rescue dog, while the search and rescue dog is on duty; or
- commercial metal property, nonferrous metal property, or private metal property when the costs of the damage to the owner's property exceed \$5,000 in value.

Theft in the first degree is a class B felony.

Theft in the Second Degree. A person is guilty of Theft in the second degree if he or she commits theft of:

- property or services which exceed \$750 in value but do not exceed \$5,000 in value, other than a firearm or a motor vehicle;
- a public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant;

- commercial metal property, nonferrous metal property, or private metal property when the costs of the damage to the owner's property exceed \$750 but do not exceed \$5,000 in value; or
- an access device.

Theft in the second degree is a class C felony.

Theft in the Third Degree. A person is guilty of Theft in the third degree if he or she commits theft of property or services which does not exceed \$750 in value, or includes 10 or more merchandise pallets, or 10 or more beverage crates, or a combination of 10 or more merchandise pallets and beverage crates. Theft in the third degree is a gross misdemeanor.

Summary of Substitute Bill:

Scrap Metal Transactions Involving Private Metal Property.

A scrap metal business engaging in a transaction specifically involving a catalytic converter that has been removed from a vehicle must record documentation indicating that the private metal property in the seller's possession was the result of the seller replacing private metal property from a vehicle registered in the seller's name.

Catalytic Converter Tracking Pilot Project.

Subject to the availability of funding, the Washington State Patrol (WSP) must establish the catalytic converter tracking pilot project with the purpose of deterring the theft of catalytic converters by marking them with vehicle identification numbers or other unique identifiers.

Under the pilot project, the WSP must:

- collaborate with law enforcement agencies, insurance companies, and scrap metal dealers to identify vehicles that are most frequently targeted for catalytic converter theft and establish the most effective methods for marking catalytic converters;
- establish a procedure to mark the catalytic converters of vehicles most likely to be targeted for theft with unique identification numbers using labels, engraving, theft deterrence paint, or other methods that permanently mark the catalytic converter without damaging its function; and
- make any educational information resulting from the pilot project available to law enforcement agencies and scrap metal dealers.

Materials purchased under the pilot project may be distributed to dealers, automobile repair shops and service centers, law enforcement agencies, and community organizations to arrange for the marking of the catalytic converters of vehicles most likely to be targeted for theft at no cost to the vehicle owners. The WSP may prioritize distribution of materials to areas of Washington state experiencing the highest rates of catalytic converter theft.

The WSP must provide a report on the pilot project to the Governor and the Legislature by

October 1, 2023. The report must describe the progress, results, and any findings of the pilot project, including the total number of catalytic converters marked under the pilot project, and, to the extent known, whether any catalytic converters marked under the pilot project were stolen and the outcome of any criminal investigation into the thefts. The pilot project expires November 1, 2023.

Washington State Catalytic Converter Theft Task Force.

The Washington state catalytic converter theft task force is established. The task force is comprised of the following membership:

- two House members (one from each caucus);
- two Senators (one from each caucus);
- one member representing the WSP;
- one member representing the Washington Association of Sheriffs and Police Chiefs;
- one member representing the Washington Association of Prosecuting Attorneys;
- one member representing the Office of Public Defense;
- one member representing the Superior Court Judges' Association;
- one member representing the District and Municipal Court Judges' Association;
- one member representing the Association of Washington Cities;
- one member representing the Office of the Attorney General;
- one member representing the property and casualty insurance industry;
- one member representing the scrap metal recycling industry;
- one member representing the auto dealer industry;
- one member representing the Independent Business Association;
- one member representing the Towing and Recovery Association of Washington;
- one member representing the Washington State Independent Auto Dealers Association;
- one member representing the Washington Organized Retail Crime Association; and
- two members representing individuals with lived experience being charged with, or convicted of, organized theft.

The legislative membership must convene the initial meeting of the task force by September 1, 2022. The membership of the task force shall choose the task force's co-chairs, which must include one legislative member and one nonlegislative member. The WSP must administer and provide staff support and facilitation services to the task force. The WSP may, when deemed necessary by the task force, contract with consultants to provide data analysis, research, and other services.

The task force must review state laws related to theft of catalytic converters and develop recommendations for the following subjects:

- deterring the occurrence of catalytic converter theft;
- developing tools to identify and recover stolen catalytic converters; and
- lowering costs to victims of catalytic converter theft.

The task force may develop recommendations for the following subjects:

- maintenance and accessibility of law enforcement records related to transactions involving catalytic converters; and
- traceability of payments related to transactions involving catalytic converters.

The task force must report its findings and recommendations to the Governor and the Legislature by November 1, 2022. The task force expires February 1, 2023.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) adds four new members to the Washington state catalytic converter theft task force (representing the auto dealer industry, the Independent Business Association, the Towing and Recovery Association of Washington, and the Washington State Independent Auto Dealers Association); (2) requires the task force to report its findings and recommendations to the Governor and the Legislature by November 1, 2022, rather than October 1, 2023; (3) provides that the task force expires on February 1, 2023, rather than November 1, 2023; and (4) requires a scrap metal business engaging in a transaction specifically involving a catalytic converter that has been removed from a vehicle to record documentation indicating that the private metal property in the seller's possession was the result of the seller replacing private metal property from a vehicle registered in the seller's name.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 29, 2022.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The National Insurance Crime Bureau reports a tenfold increase in catalytic converter thefts. Cities in Washington are receiving numerous complaints about the huge increase in thefts and the devastating consequences for victims. Stolen catalytic converters contain precious metals which can be sold for quick cash. Additionally, the market for catalytic converters extends interstate and internationally because they can be easily mailed. However, the amount that thieves receive for a stolen catalytic converters is typically around 10 percent of the total costs suffered by the owners of the vehicles they are stolen from. Even when insurance companies cover part of customers' expenses, those customers' insurance premiums rise as a result. In addition to the financial consequences, people who depend on their vehicles for work and other life activities lose their time. Older cars and vans are effectively totaled by having their catalytic converters stolen. The trucking industry and supply chains are likewise impacted by the rise of thefts.

This bill was the result of listening to and working with scrap metal recyclers, automobile manufacturers, and law enforcement. The pilot project created by this bill would permanently mark catalytic converters with unique identifiers, such as vehicle identification numbers (VINs), which will allow local jurisdictions to better identify the owners of catalytic converters and make it difficult for thieves to sell them illegally. This bill also establishes a task force to develop creative solutions to these difficult, cross-jurisdictional problems.

Under current law, there is little a peace officer can do to stop a catalytic converter theft unless the officer catches the thief in the act. There is some concern that marking catalytic converters would do little to deter theft, and therefore the Legislature should consider making it illegal to buy, possess, or sell a used converter without proper documentation from the vehicle's registered owner. There is also concern that the pilot project should not mark converters with VINs. There is no reason a catalytic converter should be presented for sale separate from the car it came from. When a thief presenting a catalytic converter for sale is unable to identify the VIN associated with the catalytic converter, it is easier to tell it has been stolen. Most licensed entities in this state only purchase catalytic converters from commercial sellers, so there is a significant flow of stolen catalytic converters going to buyers that have not been identified, possibly through online markets. Auto wreckers should be included on the task force to provide their expertise in interstate and international markets.

Washington previously enacted legislation to require significant record keeping when purchasing materials that may be stolen, but some components of that legislation did not receive funding. The Legislature should follow through with funding on those efforts.

(Opposed) None.

(Other) Although this bill is well-intended, manufacturers of automobiles and catalytic converters should also be considered for membership on the task force.

Persons Testifying: (In support) Representative Cindy Ryu, prime sponsor; Jim King, Independent Business Association; James McMahan, Washington Association of Sheriffs and Police Chiefs; Laurie Layne; Jeff DeVere, Washington Trucking Associations; Matt Mahoney, City of Des Moines; Holly Chisa, Institute of Scrap Recycling Industries Pacific Northwest Chapter; Brad Tower, Schnitzer; and Lisa Herbold, City of Seattle.

(Other) Ryan Spiller, Alliance for Automotive Innovation.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The second substitute bill be substituted therefor and the second

substitute bill do pass and do not pass the substitute bill by Committee on Public Safety. Signed by 23 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry, Chapman, Donaghy, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Paul, Ramel, Riccelli, Slatter, Taylor, Valdez and Wicks.

Minority Report: Do not pass. Signed by 2 members: Representatives Eslick, Assistant Ranking Minority Member; Walsh.

Minority Report: Without recommendation. Signed by 3 members: Representatives Dent, Orcutt and Sutherland.

Staff: Beth Redfield (786-7140).

Summary of Recommendation of Committee On Transportation Compared to Recommendation of Committee On Public Safety:

The second substitute bill: (1) eliminates all provisions related to establishing the catalytic converter tracking pilot project; (2) eliminates all provisions related to establishing the Washington catalytic converter theft task force; (3) requires the Joint Transportation Committee to convene a catalytic converter theft work group containing the same participants as the Washington catalytic converter theft task force; (4) adds one member representing auto manufacturers and one member representing catalytic converter manufacturers to the list of participants for the catalytic converter theft work group; (5) provides that, when funded, the Washington Association of Sheriffs and Police Chiefs (WASPC) must establish a grant and training program to assist local law enforcement agencies in the support of special enforcement targeting metal theft; (6) provides that applicants for the WASPC metal theft grant and training program shall be reviewed after coordination with county and city elected officials in areas with a demonstrated increase in metal theft over the previous 24 months; and (7) provides that applicants are encouraged to focus solely on metal theft and unlawful purchasing and selling of unlawfully obtained metal in their jurisdiction but may coordinate with other jurisdictions, rather than providing that applicants are encouraged to utilize multijurisdictional efforts.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 8, 2022.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The National Insurance Crime Bureau reports a 10-fold increase in catalytic

converter thefts. There are devastating consequences for victims. Even when insurance covers the expenses, customers' premiums rise, and everyone pays for it. In addition to financial consequences, people who depend on their cars for their livelihood lose precious time. Older cars and vans may be effectively totaled by having their catalytic converters stolen. Even the trucking industry, the supply chain, and new dealerships have been hit by the rise of these thefts. Previous laws in Washington required significant record keeping when purchasing materials that may be stolen. This time there is a need to work on getting funding for the program. For 50 years the auto wreckers have been fighting against stolen auto parts. Most components are already marked and those records are kept. Auto recyclers are not the problem; the scrap dealers are not the problem. These things are stolen and go into the black market, where they often go overseas. Finding the tools to track that down is difficult. In the City of Des Moines in 2020, there were 12 thefts and in 2021, there were 82 thefts through October. This is a huge destruction of societal wealth when a repair can cost \$2,000 and yet the stolen part may only sell for one-tenth of that. Licensed scrap yards are committed to requiring proof of ownership before a catalytic converter is purchased by a yard. One of the tools is to have some kind of marking on the catalytic converter. Currently if someone brings a catalytic converter to a yard, it is usually attached to a car, but if cut off the bottom, they are often sold in illicit markets and other places not regulated by this legislation. It is important to resolve the differences between the proposals to address this.

(Opposed) None.

(Other) The Washington State Patrol (WSP) understands that catalytic converter theft has been growing in the state. The WSP does not have the resources to complete the pilot project or to facilitate a task force without the appropriate fiscal support. Secondly, the WSP does not want to be held liable for the marking of catalytic converters. If an individual volunteers to have their catalytic converter marked and it is different from what the manufacturer intended, the WSP would not want to carry the liability risk. Adding a clause that would hold the state harmless would satisfy that concern. In addition, it is not clear who is responsible for marking the catalytic converters. The WSP doesn't have the resources to assume this responsibility. Clarification is needed as to whether it would be auto dealers, repair shops, local law enforcement agencies, or community groups. Also clarify what happens if the marked catalytic converter is stolen. Would this be reported to local law enforcement agency and the WSP? Will local law enforcement be required to report to the WSP regarding any recovered catalytic converters and the outcome of their investigations? The final concern is that the WSP is getting involved when local law enforcement is the primary investigator. These thefts are reported to local jurisdictions and the WSP does not have authority over local law enforcement and wants to be sensitive regarding the state's role regarding these thefts.

Persons Testifying: (In support) Representative Cindy Ryu, prime sponsor; Jim King, Independent Business Association; Matt Mahoney, City of Des Moines; Laurie Layne; and Holly Chisa, Institute of Scrap Recycling Industries.

(Other) Neil Weaver, Washington State Patrol.

Persons Signed In To Testify But Not Testifying: None.