
**Consumer Protection & Business
Committee**

HB 2153

Brief Description: Deterring the theft of catalytic converters.

Sponsors: Representatives Ryu, Ormsby, Cheney, Reeves, Pollet and Davis.

Brief Summary of Bill

- Removes the regulation of catalytic converter transactions from the Metal Property statute and establishes regulations in both the Vehicle Wreckers statute and the Hulk Haulers and Scrap Processors statute.
- Establishes new felony and gross misdemeanor crimes for Trafficking in, Possessing, Selling, or Offering to Sell Catalytic Converters.

Hearing Date: 1/16/24

Staff: Michelle Rusk (786-7153).

Background:

Scrap Metal Transactions Involving Private Metal Property.

Scrap metal businesses engaged in purchasing or receiving commercial, nonferrous, or private metal property are subject to certain statutory requirements. "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. These requirements include licensing, 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

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misdeemeanor to: (1) deliberately remove, alter, or obliterate any identifying marks on an item of commercial, nonferrous, or private metal property to deceive a scrap metal business; or (2) purchase or receive any commercial, nonferrous, or private metal property where identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated.

A person also commits Theft in the second degree if they commit theft of private metal property and the damages to the property's owner exceeds \$750, up to a maximum of \$5,000; and a person commits Theft in the first degree if they commit theft of private metal property and the damages exceed \$5,000.

Hulk Haulers and Scrap Processors.

Hulk haulers and scrap processors are regulated by the Department of Licensing (DOL) and must obtain a license. Hulk haulers deal in transporting and/or selling vehicles to a licensed vehicle wrecker or scrap processor in substantially the same form in which they are obtained. Scrap processors are licensed establishments that maintain a hydraulic baler and shears, or a shredder for recycling salvage. Any licensed hulk hauler or scrap processor may:

- Transport flattened or junk vehicles in or out of state to a scrap processor after obtaining the title from the owner.
- Prepare vehicles and vehicle salvage for transportation and delivery to a scrap processor or vehicle wrecker, only by removing specified parts including gas tanks, tires, scrap batteries, and wheels.

The DOL director may deny or suspend a license, or assess civil monetary penalties, if a hulk hauler or scrap processor, among other things:

- Removes a vehicle or vehicle major component part from property without obtaining the property owner's permission.
- Acquire, dispose of, or possess a vehicle or major component part when they know that the vehicle or major component part has been stolen.
- Sell, buy, receive, conceal, possess, or dispose of a vehicle or vehicle major component part with a missing, defaced, altered, or covered manufacturer's identification number, unless approved by law enforcement.

"Major component parts" include engines and short blocks, frames, transmissions or transfer cases, cabs, doors, front or rear differentials, front or rear clips, quarter panels or fenders, bumpers, truck beds or boxes, seats, and hoods.

Vehicle Wreckers.

Vehicle wreckers are engaged in the business of buying, selling, or dealing in certain vehicles for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of a vehicle, or buying, selling, or dealing in secondhand parts or component materials thereof, and are subject to certain statutory requirements. These requirements include specific recordkeeping duties, such as maintaining a record and description of particular "major component parts" acquired by the vehicle wrecker along with a bill of sale signed by the seller. Failure to comply

with these duties constitutes a gross misdemeanor.

"Major component parts" includes at least each of the following vehicle parts: (1) engine and short block; (2) frame; (3) transmission and/or transfer case; (4) cab; (5) door; (6) front or rear differential; (7) front or rear clip; (8) quarter panel; (9) truck bed or box; (10) seat; (11) hood; (12) bumper; (13) fender; and (14) airbag. The director may supplement this list by rule.

Classification of Crimes and Fines.

Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of confinement within the statutory maximum. Ranges are determined by a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity or "seriousness level" of the offense and the convicted person's "offender score," which is based on the offender's criminal history. Seriousness levels range from I to XVI and offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

Criminal Profiteering Act.

The state Criminal Profiteering Act (Act) provides civil penalties and remedies for a variety of criminal activities. "Criminal Profiteering" is defined to include the commission, or attempted commission, for financial gain, of any one of a number of crimes, including child selling or buying, sexual exploitation of children, and promoting prostitution. The Act provides that a pattern of Criminal Profiteering activity means engaging in at least three acts of Criminal Profiteering within a five-year period. An injured person, the Attorney General, or the county prosecuting attorney may file an action to prevent or restrain a pattern of Criminal Profiteering and recover up to three times the actual damages, as well as the costs of suit. A civil penalty of up to \$250,000 may also be awarded.

Summary of Bill:

Metal Property and Scrap Metal Businesses.

All references to "private metal property" are removed from the Metal Property statute and nothing in the Metal Property statute authorizes scrap metal businesses to purchase or sell junk vehicles or major component parts, including catalytic converters.

VIN Etching Required.

Prior to the sale and transfer of a vehicle, vehicle dealers are required to clearly and permanently mark the last eight digits of the originating vehicle's vehicle identification number (VIN) on the vehicle's catalytic converter, unless a specified exception applies. Unmarked catalytic converters are subject to immediate seizure and forfeiture by law enforcement.

Beginning November 1, 2024, the Washington State Patrol (WSP) is allowed to grant an exception to the VIN marking requirements if meeting the requirements would impose an unreasonable financial hardship on the vehicle dealer, in accordance with policies established by WSP.

Hulk Haulers and Scrap Processors.

Regulation of catalytic converter transactions is added to the Hulk Haulers and Scrap Processors statute. A person is prohibited from engaging in the business of disassembling or de-canning a catalytic converter for removal or processing of the internal core to extract specified metals, unless the person is a licensed scrap processor. Scrap processor licensing fees must include a new \$500 catalytic converter inspection fee to support specified Washington State Patrol inspections of all licensed purchasers of catalytic converters.

All licensed scrap processors engaging in disassembling or de-canning of catalytic converters must maintain records of every catalytic converter they disassemble or de-can, and implement a 30-day waiting period between the purchase of a catalytic converter and its disassembly or de-canning, unless the scrap processor is also the registered owner of the originating vehicle. Scrap processors are prohibited from making payment to individual sellers of catalytic converters that have been removed from a vehicle until three business days after the transaction, and cash payments for such transactions and transacting with anyone who does not provide a street address and photographic identification are also prohibited.

Scrap processors are required to keep a record of each purchase of catalytic converters that have been removed from a vehicle for three years. Such records must be open to inspection by law enforcement during ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, and the records must include several elements including, but not limited to:

1. the time, date, location, and value of the transaction;
2. the name, street address and telephone number of the seller;
3. the VIN of the vehicle from which the catalytic converter was removed; and
4. a photo of the catalytic converter that includes the VIN permanent marking.

The purchase of material from a licensed business that manufactures catalytic converters in the ordinary course of its legal business is excluded from the above requirements.

The DOL director's authority to deny or suspend a license, or assess civil penalties, is expanded to include "catalytic converter" in the definition of "major component parts."

Licensed Vehicle Wreckers.

Regulation of catalytic converter transactions is also added to the Vehicle Wreckers statute. A vehicle wrecker is required to include several pieces of information in their records of each transaction involving the purchase of catalytic converters that have been removed from a vehicle including, but not limited to:

1. the time, date, location, and value of the transaction;
2. the name, street address, and telephone number of the seller;
3. the VIN of the vehicle from which the catalytic converter was removed; and
4. a photo of the catalytic converter that includes the VIN permanent marking.

A vehicle wrecker is prohibited from making payment to individual sellers of catalytic converters that have been removed from a vehicle until three business days after the transaction. It is prohibited to accept cash payments for catalytic converter transactions or to transact with anyone who does not provide a street address and photographic identification. The purchase of material from a licensed business that manufactures catalytic converters in the ordinary course of its legal business is excluded from the above requirements.

Vehicle wrecker licensing fees are required to include a \$500 catalytic converter inspection fee to support WSP inspection of all licensed purchases of catalytic converters.

Specified existing recordkeeping requirements are expanded to include catalytic converters by modifying the definition of "major component parts" to include catalytic converters, making violations of these requirements with respect to catalytic converters a gross misdemeanor.

Washington State Patrol.

Effective January 1, 2025, the Washington State Patrol is required to:

- At least once per year, conduct periodic inspections of all licensed purchases of catalytic converters that have been removed from vehicles.
- Develop a standardized inspection form and train local law enforcement agencies, civilian employees, and limited authority law enforcement personnel on inspection procedures.
- Specify which specific law enforcement agencies have a duty to inspect.
- Authorize inspections to be conducted by civilian employees or limited authority law enforcement agencies, if necessary, to increase the availability of potential inspectors, provided that the WSP must retain oversight of such inspections.

By November 1, 2024, the Washington State Patrol is required to establish a process for evaluating and granting exemptions to vehicle dealers from the catalytic converter permanent marking requirements, including developing and publishing a list of factors and circumstances that must be considered when determining whether meeting such permanent marking requirements would impose an unreasonable financial hardship on a vehicle dealer.

Criminal Offenses Established.

The Criminal Profiteering Act is modified to include the requirement that a person who removes a catalytic converter from a vehicle for a purpose other than maintenance, repair, or demolition, or who knowingly possesses an unmarked detached catalytic converter, must permanently mark the detached catalytic converter with the last eight digits of the originating vehicle's VIN.

Unmarked catalytic converters are subject to immediate seizure and forfeiture by law enforcement. It is a gross misdemeanor for any person to intentionally alter, obliterate, or remove from a detached catalytic converter the last eight digits of the originating vehicle's VIN.

The following new felony and gross misdemeanor offenses are established in the Criminal Profiteering Act:

- A new crime of Possessing, Selling, or Offering to Sell, four or fewer detached and unmarked catalytic converters without a scrap processor license or vehicle wrecker license is established as a gross misdemeanor.
- A new crime of Possessing, Selling, or Offering to Sell, five or more detached and unmarked catalytic converters without a scrap processor or vehicle wrecker license is established as a class C felony ranked at a seriousness level II.
- A new crime of Trafficking in Catalytic Converters in the second degree is established as a class C felony at a seriousness level III. A person commits the crime when knowingly trafficking in four or fewer detached and unmarked catalytic converters that were removed from a motor vehicle without fulfilling the requirements for lawful transfer.
- A new crime of Trafficking in Catalytic Converters in the first degree is established as a class B felony at a seriousness level IV. A person commits the crime when knowingly: (1) trafficking five or more catalytic converters that have been removed from a motor vehicle without fulfilling the requirements for lawful transfer; or (2) purchases a catalytic converter that has been removed from a vehicle without a valid scrap processor or vehicle wrecker license.

The definition of "Criminal Profiteering" is expanded to include any conduct that would be chargeable as first or second degree trafficking in catalytic converters.

Appropriation: None.

Fiscal Note: Requested on January 11, 2024.

Effective Date: The bill contains multiple effective dates.