

SENATE BILL REPORT

ESHB 2153

As Reported by Senate Committee On:
Law & Justice, February 19, 2024
Transportation, February 26, 2024

Title: An act relating to deterring the theft of catalytic converters.

Brief Description: Deterring the theft of catalytic converters.

Sponsors: House Committee on Consumer Protection & Business (originally sponsored by Representatives Ryu, Ormsby, Cheney, Reeves, Pollet and Davis).

Brief History: Passed House: 2/13/24, 97-0.

Committee Activity: Law & Justice: 2/19/24 [w/oRec-TRAN].

Transportation: 2/22/24, 2/26/24 [DPA, DNP, w/oRec].

Brief Summary of Amended Bill

- Modifies the regulation of catalytic converter transactions to require a scrap processor or vehicle wrecker license instead of a scrap metal license.
- Establishes new felony and gross misdemeanor crimes for trafficking in, possessing, selling, or offering to sell catalytic converters, or intentionally altering or obliterating the vehicle identification number on a detached catalytic converter.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended.

Signed by Senators Lias, Chair; Lovick, Vice Chair; Shewmake, Vice Chair; Cleveland, Hansen, Kauffman, Lovelett, Nobles, Valdez and Wilson, C..

Minority Report: Do not pass.

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.

Signed by Senators Fortunato and Wilson, J..

Minority Report: That it be referred without recommendation.

Signed by Senators King, Ranking Member; Holy, Assistant Ranking Member; Hawkins, MacEwen and Padden.

Staff: Bryon Moore (786-7726)

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 statutory 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 misdemeanor 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.

Scrap Processors. Scrap processors are regulated by the Department of Licensing (DOL) and must obtain a license. Scrap processors are licensed establishments that maintain a hydraulic baler and shears, or a shredder for recycling salvage. Any licensed scrap processor may:

- transport flattened or junk vehicles in or out of state to a scrap processor after obtaining the title from the owner; and
- 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.

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

- removes a vehicle or vehicle major component part from property without obtaining the property owner's permission;
- acquires, disposes of, or possesses a vehicle or major component part when they know that the vehicle or major component part has been stolen; or

- sells, buys, receives, conceals, possesses, or disposes of a vehicle or vehicle major component part with a missing, defaced, altered, or covered manufacturer's identification number, unless approved by law enforcement.

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.

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, or fine, or both, for an offense.

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.

Summary of Amended Bill: Vehicle Dealer Obligation to Offer Vehicle Identification Number Marking. Prior to the sale and transfer of a vehicle, vehicle dealers (dealer) must offer a purchaser the option to have the dealer clearly and permanently mark the last eight digits of the originating vehicle's vehicle identification number (VIN) on the vehicle's catalytic converter, unless specified exceptions apply.

It is sufficient for a dealer to apply a clear and permanent mark by permanent marker. Dealers may add a fee to a vehicle's sales price for marking, if separately delineated.

If a consumer elects not to have a dealer mark a vehicle's catalytic converter, the dealer must provide a consumer a written disclosure acknowledging that the purchaser:

- is knowingly purchasing the vehicle without a clearly and permanently marked catalytic converter; and
- understands that detached catalytic converters have specified permanent marking requirements under state law and unmarked detached catalytic converters are subject to immediate seizure and forfeiture by law enforcement.

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. The violations subject to a civil penalty, if not criminally charged, are expanded to include all violations of the scrap metal statute.

Scrap Processor License Required. 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.

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. There are also limitations on the timing, form of payment, and identification requirements for scrap processors' catalytic converter transactions.

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, and the records must include, but are not limited to:

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

The foregoing requirements do not apply to a scrap processor's purchase of materials from a licensed business that manufactures catalytic converters in the ordinary course of its business.

Scrap processor licensing fees must include a new \$500 catalytic converter inspection fee to support specified WSP inspections of all licensed purchases of catalytic converters.

Licensed Vehicle Wrecker Requirements. Catalytic converters are added to the definition of major component part under the vehicle wrecker statute. In addition to existing recordkeeping requirements, a licensed vehicle wrecker is required to keep other specified records of each purchase of detached catalytic converters including, but not limited to:

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

There are also limitations on the timing, form of payment, and identification requirements for vehicle wreckers' catalytic converter transactions. Violating the catalytic converter recordkeeping requirements is a gross misdemeanor, but the foregoing requirements do not apply to a scrap processor's purchase of materials from a licensed business that manufactures catalytic converters in the ordinary course of its business.

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

Washington State Patrol Responsibilities. Beginning April 1, 2025, the Washington State Patrol (WSP) is required to:

- conduct periodic inspections at least once a year of all licensed purchases of catalytic converters that have been removed from vehicles. WSP is not required to inspect attached catalytic converters when performing specified vehicle inspections;
- 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; and
- 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.

Criminal Offenses. The Criminal Profiteering Act (CPA) 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. Detached and 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. A person is guilty of a class C felony if the person has previously been convicted of this offense.

The following new felony and gross misdemeanor offenses are also established in the CPA:

- a new crime of possessing, selling, or offering to sell, six 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, seven 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 this offense when they knowingly traffic six or fewer detached catalytic converters without fulfilling the requirements for lawful transfer; and
- a new crime of trafficking in catalytic converters in the first degree is established as a class C felony at a seriousness level IV. A person commits this offense when they knowingly: (1) traffic seven or more catalytic converters that have been removed from a motor vehicle without fulfilling the requirements for lawful transfer; or (2) purchase a catalytic converter that has been removed from a vehicle without a

required license.

A court may impose a 12-month sentencing enhancement if a person is convicted of trafficking in catalytic converters in the first degree for purposes of selling, transferring, or exchanging them online.

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

EFFECT OF TRANSPORTATION COMMITTEE AMENDMENT(S):

- Expands the violations subject to a civil penalty, if not criminally charged, to include all violations of the scrap metal statute.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on April 1, 2025.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This legislation addresses the important issue of catalytic converter theft. There has been a rapid proliferation of this crime. Theft of catalytic converters is an unnecessary crime and we can prevent it. A workgroup was set up to look at this problem and came up with a set of recommendations which are incorporated into this bill. Deterring catalytic converter will improve the environment and reduce air pollution. The state has opportunity be even more of a national leader in implementing creative solutions to this problem. The marking and reporting requirements will be a deterrence and help prevent additional people from being victimized. This crime has disproportionate impact on low income individuals and being victim can have major life implications for these victims. This gives law enforcement additional tools and the new penalties will be an effective deterrence. This is a consumer protection bill designed to protect for everyone. These regulations are going to dry up the demand. By decreasing the resale ability of these stolen catalytic converters, this will reduce the crime by changing the risk/reward analysis for the perpetrators. The high cost of catalytic converter replacement is extremely disruptive to the lives of these victims. This is a proactive approach to address this growing problem. Despite the reduction in the crime, further efforts are needed to make sure we reduce the volume of the crime and we don't plateau at these already high levels. If the price of metals and minerals start increasing, there is a real concern that recent downward trends in the crime could reverse.

Persons Testifying: PRO: Representative Cindy Ryu, Prime Sponsor; Mark Johnson,

Washington Retail Association; Noah Moore; Diego Irias; Benjamin Lelivelt; Tyler Robison; Noelle Burianek, Lake Washington High School; Taylor Gardner, WA Assn of Sheriffs and Police Chiefs; Gary Ernsdorff, King County Prosecuting Attorney's Office; Holly Chisa, Institute of Scrap Recycling Industries.

Persons Signed In To Testify But Not Testifying: No one.