

SENATE BILL REPORT

SB 5740

As of March 14, 2023

Title: An act relating to deterring catalytic converter theft.

Brief Description: Deterring catalytic converter theft.

Sponsors: Senators Wilson, J., MacEwen, Dozier and Padden.

Brief History:

Committee Activity: Law & Justice: 3/14/23.

Brief Summary of Bill

- Requires every person involved in the purchase or solicitation of the purchase of a catalytic converter that has been removed from a vehicle to possess a valid scrap metal or vehicle wreckers' license.
- Requires certain record keeping related to all transactions involving a catalytic converter that has been removed from a vehicle.
- Requires the Washington State Patrol to conduct periodic inspections of all licensed purchasers of catalytic converters that have been removed from vehicles.
- Creates the crimes of trafficking in catalytic converters in the first and second degree.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

Background: Scrap Metal Businesses. A scrap metal business means any business acting as a scrap metal supplier, scrap metal recycling center, or scrap metal processor. At the time of a transaction, every scrap metal business operating in Washington must produce,

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wherever the business is conducted, an accurate and legible record of each transaction involving private metal property or nonferrous metal property. The record must include specified identification information of the seller and an affirmation that the private metal or nonferrous metal property is not stolen property.

Private metal property includes catalytic converters that have been removed from vehicles. Nonferrous metal property is metal property for which the value of the metal property is derived from the metal property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and any of their alloys. Nonferrous metal property does not include precious metals such as gold, silver, and platinum.

Transaction Requirements. Scrap metal businesses may not enter into any transaction to purchase or receive private metal property or nonferrous metal property from any person who cannot produce at least one piece of current government-issued picture identification. No scrap metal business may purchase or receive private metal property unless the seller:

- has a commercial account with the scrap metal business;
- can prove ownership of the property by producing written documentation that the seller is the owner of the property; or
- can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

No transaction involving private metal property or nonferrous metal property may be made in cash with any person who does not provide their street address unless the scrap metal business digitally captures a copy of one piece of current government-issued picture identification and either a picture or video of either the material subject to the transaction in the form received or the material subject to the transaction within the vehicle which the material was transported to the scrap metal business. Such digital images or pictures must be available for two years from the date of the transaction, and any video recordings must be available for 30 days.

Payment for such a transaction must be made through a nontransferable check, made by the scrap metal business to the provided street address no earlier than three days after the transaction was made. It is a gross misdemeanor, punishable by up to 365 days in jail, a \$5,000 fine, or both, to:

- deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of private metal property, nonferrous metal property, or commercial metal property in order to deceive a scrap metal business;
- enter into a transaction to purchase or receive any private metal property, nonferrous metal property, or commercial metal property where the manufacturer's make, model, or serial number, personal identification, number, or identifying marks engraved or etched upon the property have been deliberately or conspicuously removed, altered, or obliterated;
- knowingly make, cause, or allow to be made any false entry or misstatement of any

- material matter in any book, record, or writing required to be kept;
- enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property with anyone whom the scrap metal business has been informed by a law enforcement agency to have been convicted of specified crimes;
- sign a declaration knowing that the private metal property or nonferrous metal property subject to the transaction is stolen;
- possess private metal property or commercial metal property that was not lawfully purchased or received;
- engage in a series of transactions valued at less than \$30 with the same seller to avoid the recording requirements; or
- knowingly make a false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, with the intent to deceive a scrap metal business as to the actual seller of scrap metal.

Individuals who violate scrap metal laws who are not subject to criminal penalties may be punished by a fine of not more than \$1,000. If the individual violates the scrap metal regulatory statutes again with two years, each noncriminal violation is punishable by a fine of no more than \$2,000.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Catalytic Converter Transactions. Every person involved in the purchase or solicitation of the purchase of a catalytic converter that has been removed from a vehicle must possess a valid scrap metal or vehicle wreckers license, and must complete an accurate and legible record of the transaction containing:

- the time, date, location, and value of the transaction;
- the name of the employee representing the scrap metal business;
- the name, street address, and telephone number of the person with whom the transaction is made;
- the vehicle identification number, the license plate number, and the state of issuances on the vehicle used to deliver the metal property;
- a description of the vehicle used to deliver the metal property;
- a copy of the seller's current driver's license or other government-issued picture identification card;
- a description of the metal property; and
- a copy of the title or registration of the originating vehicle, or a declaration stating that the catalytic converter in the seller's possession was removed from a vehicle registered in the seller's name.

For every transaction involving the sale of a catalytic converter that has been removed from a vehicle, the purchaser must require the seller to sign a declaration that the property subject to the transaction is not stolen.

Cash payments for catalytic converters that have been removed from vehicles are limited to transactions with commercial enterprises and may not exceed a maximum of \$30. Any payment to individual sellers of catalytic converters may not be made sooner than three business days after the transaction was made, and records of the transaction must be retained and made available for review for three years from the date of the transaction.

Each violation of the scrap metal laws, that is not subject to criminal penalties, may be punishable by a fine of not more than \$1,000 per catalytic converter possessed or trafficked. Each subsequent violation within two years may be punishable by a fine up to \$2,000.

No person may engage in the business of disassembling or de-canning of catalytic converters to extract platinum, palladium, rhodium, or other metals unless the person is a licensed scrap metal processor or scrap metal recycler. Each scrap metal processor or recycler must wait 30 days from the time of purchase to the time of disassembling a catalytic convert and must maintain the records of every catalytic converter it processes.

Inspection of Licensed Purchasers of Catalytic Converters. The Washington State Patrol (WSP), subject to appropriations, must conduct periodic inspections, at least once per year, of all licensed purchasers of catalytic converters that have been removed from vehicles. WSP must also develop a standardized inspection form and must train local law enforcement and civilian employees on inspection procedures.

At the request of any commissioned law enforcement officer, any person, scrap metal business, scrap metal recycler, or other purchaser must provide the officer with a full, true, and correct transcript of the records for the purchase or receipt of any specified catalytic converter, or transaction involving a specified person or vehicle. If the person or business has good cause to believe that any catalytic converter in their possession has been previously lost or stolen, the purchaser must report that fact to law enforcement and provide law enforcement with documentation of the transaction.

Fees set for scrap metal licenses and vehicle wrecker licenses must include a \$500 catalytic converter inspection fee in order to support the activities of the Washington State Patrol in inspecting licensed purchasers of catalytic converters.

Criminal Liability Related to Catalytic Converters. The crimes of trafficking in catalytic converters in the first and second degree are created. A person is guilty of trafficking in the second degree, a class C felony, if:

- the person knowingly traffics four or more catalytic converters that have been removed from a motor vehicle; and
- the person does not fulfill the reporting requirements of this bill.

A person is guilty of trafficking in the first degree, a class B felony, if:

- the person knowingly traffics five or more catalytic converters that have been removed from vehicles;

- the person does not fulfill the reporting requirements of this bill; or
- the person acts as a purchaser and is not licensed as required by this bill.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect on May 1, 2023.

Staff Summary of Public Testimony On Proposed Substitute: PRO: Catalytic converter theft is one of the fastest growing crimes in the state. The actions the Legislature took last year did not go far enough. Catalytic converter theft attacks organized crime and this bill aims to address that issue. This bill provides a licensing requirement that will help stem the use of online marketplaces to traffic in stolen catalytic converters. This bill reflects much of the hard work completed by the catalytic converter theft work group. This crime has a significant financial impact on citizens of Washington, and if we can dry up the marketplace for stolen catalytic converters, we can help combat the problem. This bill will help make sure the regulations for those who purchase catalytic converters are enforced. Catalytic converter theft impacts the ability of school districts to provide transportation to students with special needs. Thieves target school buses, and the cost to repair a special needs bus is over \$3,000 per bus. Beyond the cost, losing the use of these buses means school districts will not be able to serve the students most in need.

CON: This bill will exacerbate the problem, not solve it. Under current law, you need a vehicle wreckers' license to traffic in any major vehicle parts, such as catalytic converters. Adding references to catalytic converters to the statutes governing the scrap metal industry obfuscates the issue. This is not the appropriate approach to address the issue of catalytic converter thefts. This bill is a terrible misfire and does not reflect the recommendations of the catalytic converter theft work group. The appropriate section of the law to address this issue is the statutes that pertain to vehicle wreckers.

OTHER: This bill lacks restitution for individuals and small businesses who are victims of catalytic converter thefts. The bill should also increase the penalty for those who steal catalytic converters. This bill does not do enough to address the theft of catalytic converters. Law enforcement has been clear that there is a lack of tools for officers to confront individuals who have multiple catalytic converters. Under current theft laws, officers cannot assume something is stolen. This bill should address the unlawful possession of catalytic converters.

Persons Testifying: PRO: Senator Jeff Wilson, Prime Sponsor; Gary Ernsdorf, King County Prosecutor's Office; Shannon Barnett, KWRL Transportation (Kalama, Woodland, Ridgefield and La Center Schools).

CON: James King, Independent Business Association; Brad Tower, Schnitzer Steel.

OTHER: Mark Johnson, Washington Retail Association; Holly Chisa, Institute of Scrap Recycling Industries; Taylor Gardner, WA Assn of Sheriffs and Police Chiefs.

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