

# FINAL BILL REPORT

## E2SHB 1815

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Synopsis as Enacted

**Brief Description:** Deterring catalytic converter theft.

**Sponsors:** House Committee on Transportation (originally sponsored by 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).

**House Committee on Public Safety**  
**House Committee on Transportation**  
**Senate Committee on Law & Justice**  
**Senate Committee on Transportation**

### **Background:**

#### Transactions Involving Metal Property.

Scrap metal businesses engaged in purchasing or receiving private, nonferrous, or commercial metal property are subject to certain 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.

Vehicle wreckers 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 material thereof, are subject to certain statutory requirements. These requirements include specific recordkeeping duties, such as maintaining a record and description of particular component

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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.

"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. "Nonferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys, not including precious metals.

#### 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.

#### Metal Theft Grant Program and No-Buy List Database.

*Metal Theft Grant Program.* The Washington Association of Sheriffs and Police Chiefs (WASPC) is required, when funded, to establish a grant program to assist local law enforcement agencies in support of special enforcement emphasis targeting metal theft. As of January 2022, funding has not been provided to the WASPC to establish the grant

program.

Grant applicants are required to:

- show a significant metal theft problem in the jurisdiction or jurisdictions receiving the grant;
- verify that grant awards are sufficient to cover increased investigation, prosecution, and jail costs;
- design an enforcement program that best suits the specific metal theft problem in the jurisdiction or jurisdictions receiving the grant;
- demonstrate community coordination focusing on prevention, intervention, and suppression; and
- collect data on performance.

Grant applications must be reviewed and awarded through peer review panels. Grant applicants are encouraged to utilize multijurisdictional efforts. The cost of administering grants may not exceed \$60,000, or 3 percent of appropriated funding, whichever is greater. Grant awards may not be used to supplant preexisting funding sources for special enforcement targeting metal theft.

*No-Buy List Database.* The WASPC is required, when funded, to implement and operate an ongoing electronic statewide no-buy list database program. As of January 2022, funding has not been provided to the WASPC to establish the database.

The database must be made available on a website and allow for any scrap metal business to enter a customer's name and date of birth into the database and determine if the customer has been convicted in Washington of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years. If the customer has been convicted of such a crime, the database must immediately send an alert to the scrap metal business, including a notification that entering into a transaction with the customer is prohibited.

### **Summary:**

#### Transactions Involving 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. A scrap metal business is prohibited from engaging in certain cash transactions involving private metal property or nonferrous metal property with a person who does not provide a street address and photographic identification. A scrap metal business may pay up to a maximum of \$30 in cash, stored value device, or electronic funds transfer for nonferrous metal property, and pay the balance by nontransferable check, stored value device, or electronic funds transfer at the time the transaction is made if the scrap metal business digitally captures a copy of a current

government-issued picture identification and either a picture or video of the material subject to the transaction. A scrap metal business's video surveillance is sufficient to comply with the digital recording requirement if the video captures the material subject to the transaction. A scrap metal business is prohibited from making payment to individual sellers of private metal property until three business days after the transaction is made. Records of payment for private metal property must be retained and be available for review for two years from the date of the transaction.

Violations of specific regulations related to scrap metal businesses are punishable by a \$1,000 fine per catalytic converter. Ten percent of such fines must be directed to the Washington Association of Sheriffs and Police Chiefs (WASPC) no-buy list database program, and the remainder must be directed to the WASPC solely for grants issued under the WASPC metal theft grant and training program. Facilitating the offer of used catalytic converters for sale without first verifying proof of ownership, or failing to retain certain verified records of ownership for at least two years, is an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce for purposes of a Consumer Protection Act claim. Ten percent of all damages awarded to Washington pursuant to such claims must be distributed to the WASPC no-buy list database program, and the remainder must be distributed to the WASPC metal theft grant and training program.

A vehicle wrecker's statutory recordkeeping duties are expanded to apply to catalytic converters acquired by the wrecker. A vehicle wrecker is prohibited from engaging in a transaction involving catalytic converters with any person who does not provide a street address and photographic identification. A vehicle wrecker may only engage in a transaction involving catalytic converters if payment is made by nontransferable check at least three business days after the transaction.

#### Catalytic Converter Theft Work Group.

The Washington State University is required to convene a catalytic converter theft work group to study and provide options and recommendations related to reducing catalytic converter theft. The work group must consist of, but is not limited to, the following membership:

- one member representing the Washington State Patrol;
- one member representing the WASPC;
- 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 auto manufacturer industry;
- one member representing the catalytic converter manufacturer 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 work group's study must include, but is not limited to, the following:

- a review of state laws related to catalytic converter theft;
- a review of national efforts to address catalytic converter theft;
- data collection and analysis of catalytic converter theft incidents;
- options to deter and end catalytic converter theft, including marking catalytic converters;
- options and opportunities to reduce costs to victims of catalytic converter theft; and
- a review of the effectiveness of the WASPC metal theft grant and training program.

The work group's recommendations must include, but are not limited to, the following:

- changes to state law to reduce catalytic converter theft;
- a potential pilot program to decrease catalytic converter theft, including prioritizing specific communities impacted by catalytic converter theft; and
- cost estimates for the pilot program and recommendations on evaluation criteria and metrics to determine the efficacy and benefits of the program.

The work group must submit a preliminary report and recommendations to the Transportation Committee and Public Safety Committee of the Legislature by November 1, 2022. The work group must submit a final report and recommendations by January 1, 2023.

State Law Enforcement Strategy and No-Buy List Database.

*State Law Enforcement Strategy.* To the extent funds are appropriated, the WASPC is required to develop a comprehensive state law enforcement strategy targeting metal theft in consultation with the Criminal Justice Training Commission, including the following:

- development of the best practices for targeting illegal purchasers and sellers involved in metal theft, with specific enforcement focus on catalytic converter theft;
- strategies for development and maintenance of relationships between law enforcement and scrap metal recyclers; and
- establishment of a metal theft grant and training program.

The operation of the WASPC metal theft grant and training program is modified in the following ways:

- Grant applications must be reviewed by the WASPC in consultation with other appropriate entities, such as those involved with enforcement against metal theft.

- Grant applicants with a demonstrated increase in metal theft over the previous 24 months 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.
- The restrictions on the cost of administering grants are eliminated.

Grant applicants are required to:

- show a significant metal theft problem in the jurisdiction or jurisdictions receiving the grant;
- propose an enforcement program that best suits the specific metal theft problem in the jurisdiction, including the number of enforcement stings to be conducted;
- demonstrate community coordination focusing on prevention, intervention, and suppression; and
- collect data on performance, including the number of enforcement stings to be conducted.

*No-Buy List Database.* The operation of the WASPC no-buy list database program is modified in the following ways:

- The database must be made available on a secured network or website.
- The database must include individuals who have attempted to purchase or sell unlawfully obtained metals at licensed scrap metal recyclers and individuals who attempt to conduct a transaction while under the influence of controlled substances.
- Local jurisdictions applying for a grant through the WASPC metal theft grant and training program must provide updates to the database annually and 120 days after a grant is distributed.

**Votes on Final Passage:**

House	68	30	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

**Effective:** March 30, 2022  
 May 1, 2022 (Section 4)  
 July 1, 2022 (Sections 5– 7)