S-3422.3

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5495**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2022 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators J. Wilson, Dozier, Fortunato, Gildon, Honeyford, Keiser, McCune, Mullet, Randall, Rolfes, Schoesler, Sheldon, Van De Wege, Wagoner, Warnick, and L. Wilson)

AN ACT Relating to catalytic converters; amending RCW 19.290.030, 19.290.070, 36.28A.240, and 43.43.885; adding new sections to chapter 9A.56 RCW; recodifying RCW 19.290.070; prescribing penalties; and making an appropriation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 19.290.030 and 2013 c 322 s 6 are each amended to read as follows:

(1) No scrap metal business may enter into a 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, including a valid driver's license or identification card issued by any state.

(2) No scrap metal business may purchase or receive private metal property or commercial metal property unless the seller: (a) Has a commercial account with the scrap metal business; (b) can prove ownership of the property by producing written documentation that the seller is the owner of the property; or (c) can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

(3) No scrap metal business may enter into a transaction to purchase or receive metallic wire that was burned in whole or in part to remove insulation unless the seller can produce written proof to the scrap metal business that the wire was lawfully burned.

(4)(a) No transaction involving private metal property or nonferrous metal property may be made in cash or with any person who does not provide a street address under the requirements of RCW 19.290.020 except as described in (b) of this subsection. The person with whom the transaction is being made may only be paid by a nontransferable check, mailed by the scrap metal business to a street address provided under RCW 19.290.020, no earlier than ((~~three~~)) five days after the transaction was made. A transaction occurs on the date provided in the record required under RCW 19.290.020.

(b) A scrap metal business that is in compliance with this chapter that digitally captures: (i) A copy of one piece of current government-issued picture identification, including a current driver's license or identification card issued by any state and (ii) 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, may pay up to a maximum of ((~~thirty dollars~~)) $30 in ((~~cash,~~)) stored value device((~~,~~)) or electronic funds transfer. The balance of the value of the transaction may be made by nontransferable check, stored value device, or electronic funds transfer at the time the transaction is made. Payment by cash for catalytic converters must be no earlier than five days after the transaction was made. Records of cash payment for catalytic converters must be kept in the same file or record as all records collected under this subsection and retained and be available for review for three years from the date of the transaction. A scrap metal business's usage of video surveillance shall be sufficient to comply with this subsection (4)(b)(ii) as long as the video captures the material subject to the transaction. A digital image or picture taken under this subsection must be available for ((~~two~~)) three years from the date of transaction, while a video recording must be available for thirty days.

(5) No scrap metal business may purchase or receive beer kegs from anyone except a manufacturer of beer kegs or licensed brewery.

**Sec.**  RCW 19.290.070 and 2013 c 322 s 10 are each amended to read as follows:

(1) It is a gross misdemeanor under chapter 9A.20 RCW for:

((~~(1)~~)) (a) Any person 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;

((~~(2)~~)) (b) Any scrap metal business to 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 and conspicuously removed, altered, or obliterated;

((~~(3)~~)) (c) Any person to 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 under this chapter;

((~~(4)~~)) (d) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property from any person under the age of ((~~eighteen~~)) 18 years or any person who is discernibly under the influence of intoxicating liquor or drugs;

((~~(5)~~)) (e) Any scrap metal business to 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 a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past four years whether the person is acting in his or her own behalf or as the agent of another;

((~~(6)~~)) (f) Any person to sign the declaration required under RCW 19.290.020 knowing that the private metal property or nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under RCW 19.290.020 constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the private metal property or nonferrous metal property subject to the transaction was stolen;

((~~(7)~~)) (g) Any scrap metal business to possess private metal property or commercial metal property that was not lawfully purchased or received under the requirements of this chapter;

((~~(8)~~)) (h) Any scrap metal business to engage in a series of transactions valued at less than ((~~thirty dollars~~)) $30 with the same seller for the purposes of avoiding the requirements of RCW 19.290.030(4); or

((~~(9)~~)) (i) Any person to 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 the scrap metal.

(2) Notwithstanding any fine imposed as part of the sentence under this section, each offense is punishable by a $1,000 fine per catalytic converter, 10 percent of which shall be directed to the no-buy list database in RCW 43.43.885; and the remainder shall be directed to the Washington state patrol solely for grants issued under RCW 36.28A.240.

NEW SECTION. **Sec.**  A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of unlawful possession of a catalytic converter, if upon contact by law enforcement, the person is unable to produce proof of ownership of the catalytic converter. Unlawful possession of a catalytic converter is a gross misdemeanor.

(2) Proof of ownership may be demonstrated by presenting documentation that the private metal property in the seller's possession is the result of the seller replacing private metal property from a vehicle registered in the seller's name. Proof of ownership may also be provided through production of a unique catalytic converter serial number, or successor catalytic converter identification number program created under chapter 19.290 RCW, that corresponds to a vehicle for which the person can provide documentation of proof of ownership.

(3) Each catalytic converter is subject to an additional criminal penalty of $2,000 per catalytic converter. Half of the additional criminal penalty is to be retained by the local jurisdiction; 10 percent shall be directed to the no-buy list database in RCW 43.43.885; and the remainder shall be directed to the Washington state patrol solely for grants issued under RCW 36.28A.240.

NEW SECTION. **Sec.**  A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of attempting the unlawful sale or purchase of a catalytic converter, if upon contact by law enforcement, the person is unable to produce documentation of proof of ownership of the catalytic converter for which the person is offering to sell, purchase, or advertise the sale or purchase, without maintaining a scrap metal recycler license or hulk hauler license under chapter 19.290 or 46.79 RCW.

(2) Attempted unlawful sale or purchase of metal property is a class C felony.

(3) If the attempted purchase or sale is for more than five catalytic converters, the attempted purchase or sale of metal property is a class B felony.

(4) Each catalytic converter is subject to an additional criminal penalty of $5,000 per catalytic converter. Half of the additional criminal penalty is to be retained by the local jurisdiction; 10 percent shall be directed to the no-buy list database in RCW 43.43.885; and the remainder shall be directed to the Washington state patrol solely for grants issued under RCW 36.28A.240.

**Sec.**  RCW 36.28A.240 and 2013 c 322 s 24 are each amended to read as follows:

(1) ((~~When funded, the Washington association of sheriffs and police chiefs~~)) The Washington state patrol shall ((~~establish~~)) develop a comprehensive state law enforcement strategy targeting metal theft, including:

(a) Development of best practices for targeting illegal purchasers and sellers involved in metal theft, with specific enforcement focus on catalytic converter theft;

(b) Strategies for developing and maintenance of relationships between local law enforcement agencies and licensed scrap metal recyclers, including recommendations for scheduled or regular interactions, with a focus on deterring unlawful purchases and identifying individuals suspected of involvement in unlawful metal theft and individuals who attempt to conduct a transaction while under the influence of controlled substances; and

(c) Establishment of a grant and training program to assist local law enforcement agencies in the support of special enforcement ((~~emphasis~~)) targeting metal theft. Grant applications shall be reviewed ((~~and awarded through peer review panels~~)) by the chief of the Washington state patrol after coordination with county and city elected officials in areas with a demonstrated increase in metal theft over the previous 24 months. Grant applicants are encouraged to ((~~utilize multijurisdictional efforts~~)) focus solely on metal thefts and unlawful purchasing and selling of unlawfully obtained metal in their jurisdiction, but are encouraged to coordinate with other jurisdictions.

(2) Each grant applicant shall:

(a) Show a significant metal theft problem in the jurisdiction or jurisdictions receiving the grant;

(b) ((~~Verify that grant awards are sufficient to cover increased investigation, prosecution, and jail costs;~~

~~(c) Design~~)) Propose an enforcement program that best suits the specific metal theft problem in the jurisdiction ((~~or jurisdictions receiving the grant~~)), including the number of enforcement stings to be conducted under the program;

((~~(d)~~)) (c) Demonstrate community coordination focusing on prevention, intervention, and suppression; and

((~~(e)~~)) (d) Collect data on performance, including the number of enforcement stings to be conducted.

(3) ((~~The cost of administering the grants shall not exceed sixty thousand dollars, or three percent of appropriated funding, whichever is greater.~~

~~(4)~~)) Grant awards may not be used to supplant preexisting funding sources for special enforcement targeting metal theft.

**Sec.**  RCW 43.43.885 and 2013 c 322 s 31 are each amended to read as follows:

(1) Beginning on July 1, 2014, ((~~when funded, the Washington association of sheriffs and police chiefs~~)) the Washington state patrol shall implement and operate an ongoing electronic statewide no-buy list database program.

(2) The database must be made available on a secured network or website.

(3) The no-buy list database program shall allow for any scrap metal business to enter a customer's name and date of birth into the database. The database must determine if the customer pursuing the transaction with the scrap metal business has been convicted in Washington of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years.

(4) If the customer has been convicted of any crime involving burglary, robbery, theft, or possession of or receiving stolen property within the past four years despite whether the person was acting in his or her own behalf or as the agent of another then, at a minimum, the no-buy list database program must immediately send an alert to the scrap metal business stating: (a) That the customer is listed on a current no-buy list, (b) the four-year expiration period for the customer's most recent crime listed, and (c) a notification that entering into a transaction with the customer is prohibited under RCW 19.290.070 (as recodified by this act).

(5) The database shall also 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.

(6) Local jurisdictions applying for grants under RCW 36.28A.240 must provide updates to the no-buy list database annually and 120 days after a grant is distributed.

NEW SECTION. **Sec.**  The sum of $4,000,000 shall be appropriated from the general fund to fund the efforts in RCW 36.28A.240 and 43.43.885 to be distributed as follows:

(1) $500,000 for the purpose of establishing the no-buy list database in RCW 43.43.885;

(2) $500,000 for the purpose of establishing necessary administrative systems at the Washington state patrol; and

(3) $3,000,000 for the purpose of funding the requirements of RCW 36.28A.240(1).

NEW SECTION. **Sec.**  RCW 19.290.070 is recodified as a section in chapter 9A.56 RCW.

**--- END ---**