

SENATE BILL REPORT

E2SHB 1815

As Reported by Senate Committee On:
Law & Justice, February 24, 2022
Transportation, February 28, 2022

Title: An act relating to deterring catalytic converter theft.

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).

Brief History: Passed House: 2/12/22, 68-30.

Committee Activity: Law & Justice: 2/21/22, 2/24/22 [DPA-TRAN].
Transportation: 2/26/22, 2/28/22 [DPA].

Brief Summary of Amended Bill

- Requires the Washington State University to convene a catalytic converter theft work group.
- Requires the Washington Association of Sheriffs and Police Chiefs, when funded, to establish a grant and training program to assist local law enforcement agencies targeting metal theft.
- Requires scrap metal businesses engaging in a transaction involving a catalytic converter removed from a vehicle to maintain documentation that the seller's private metal property was the result of the seller replacing private metal property from a vehicle registered in the seller's name.
- Creates a number of different crimes relating to unlawful possession or sale of a catalytic converter and imposes additional fines.
- Limits cash payments for nonferrous metal property to not more than

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\$30 while allowing the balance to be paid by check or electronic methods at the time of the transaction.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended and be referred to Committee on Transportation.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Honeyford, Kuderer, Pedersen, Salomon and Wagoner.

Staff: Joe McKittrick (786-7287)

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended.

Signed by Senators Lias, Chair; Saldaña, Vice Chair; King, Ranking Member; Cleveland, Das, Fortunato, Holy, Lovelett, Lovick, Nguyen, Nobles, Padden, Randall, Sheldon, Wilson, C. and Wilson, J.

Staff: Hayley Gamble (786-7452)

Background: Scrap Metal. A scrap metal business is a scrap metal supplier, scrap metal recycling center, or scrap metal processor. Businesses engaged in purchasing or receiving private, nonferrous, or commercial metal property must comply with certain statutory requirements, including specific record keeping, restrictions on transactions, and obligations to cooperate with law enforcement. Certain violations of these requirements carry criminal penalties. For instance, it is a gross misdemeanor, punishable by 365 days in jail, a \$5,000 fine, or both, to knowingly make any false entry or misstatement of any material matter in any record required to be kept.

"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. Crimes involving theft of private metal property are classified by the value of the private metal property stolen. If a person commits theft of private metal property and the costs of the damage to the owner's property exceed \$5,000, the person is guilty of the class B felony of theft in the first degree. If the costs of the damage to the owner's property is over \$750, but do not exceed \$5,000, the person is guilty of the class C felony of theft in the second degree. If the costs of the damage to the owner's property do not exceed \$750, the person is guilty of theft in the third degree.

Metal Theft Grant Program. In 2013, the Legislature enacted a bill requiring the Washington Association of Sheriffs and Police Chiefs, when funded, to establish a grant

program to assist local law enforcement agencies in support of special enforcement emphasis targeting metal theft. Funding has yet to be provided.

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 multi-jurisdictional 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.

Summary of Amended Bill: Work Group. Washington State University must convene a catalytic converter theft work group to examine ways to reduce catalytic converter theft in Washington State. The work group must consist of members of affected stakeholder groups including members of law enforcement, affected businesses, the insurance industry, and the criminal justice system.

At a minimum, the work group must study:

- state laws related to catalytic converter theft;
- national efforts to address catalytic converter theft to determine best practices to deter catalytic converter theft;
- data collection and analysis of catalytic converter theft incidents across the state;
- options to deter and end catalytic converter theft; and
- options and opportunities to reduce costs to victims of catalytic converter theft.

The work group must provide a preliminary report and recommendations to the transportation and public safety committees of the legislature by November 1, 2022, and a final report and recommendations by January 1, 2023. The recommendations must include:

- changes to state law to reduce catalytic converter theft;
- a potential pilot program that could be implemented to decrease 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 pilot program.

Scrap Metal Business Transactions Involving Private Metal Property. A scrap metal

business conducting a transaction specifically involving a catalytic converter that has been removed from a vehicle must maintain documentation indicating 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.

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. 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 if the scrap metal business digitally captures the required proof of identification.

Crimes Involving Catalytic Converters. The gross misdemeanor crime of unlawful possession of a catalytic converter is created. A person commits this crime if the person is unable to produce proof of ownership of the catalytic converter. 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 established through the production of a unique catalytic converter serial number, or successor catalytic converter identification number program that corresponds to a vehicle for which the person can prove documentation of proof of ownership. Proof of ownership may also be demonstrated by providing proof that the seller is an agent of a specified legal or commercial entity. Pursuant to this crime each catalytic converter is subject to an additional penalty of \$2,000 per catalytic converter. Such fines collected must be directed as follows:

- 50 percent must be retained by the local jurisdiction;
- 10 percent must be directed to the no-buy list database; and
- the remainder must be directed to the Washington State Patrol solely for grants issued to assist local law enforcement agencies in the support of special enforcement targeting metal theft.

The class C felony crimes of attempting the unlawful sale or purchase of a catalytic converter that has been removed from a vehicle is created.

A person is guilty of attempting the unlawful sale 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 or advertise the sale, without being an agent of a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity engaged in the scrap metal business.

A person is guilty of attempting the unlawful purchase of a catalytic converter if the person is offering to purchase or advertising for the purchase, without maintaining a scrap metal business license or a vehicle wrecker's license.

As it relates to crimes of attempting the unlawful sale or purchase of a catalytic converter,

each catalytic converter is subject to an additional penalty of \$5,000 per converter. Such fines collected must be directed as follows:

- 50 percent must be retained by the local jurisdiction;
- 10 percent must be directed to the no-buy list database; and
- the remainder must be directed to the Washington State Patrol solely for grants issued to assist local law enforcement agencies in the support of special enforcement targeting metal theft.

Consumer Protection Act. The consumer protection act violation for facilitating the offer of used catalytic converters for sale without first verifying proof of ownership of the catalytic converter or failing to retain verified records of ownership of used catalytic converters offered for sale for at least two years is created.

Statewide No-buy List Database Program. The statewide no-buy list database program is amended to require 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 grants as discussed below must provide updates to the no-buy list database annual and 120 days after a grant is distributed.

Metal Theft Grant and Training Program. The Association of Sheriffs and Police Chiefs must develop a comprehensive state law enforcement strategy targeting metal theft in consultation with the criminal justice training commission. This must include:

- development of 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 local law enforcement agencies and licensed scrap metal recyclers, including recommendation 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 with under the influence of controlled substances; and
- establishment of a grant and training program to assist local law enforcement agencies in the support of special enforcement targeting metal theft.

Grant Applications must be reviewed by the Washington Association of Sheriffs and Police Chiefs in consultation with the criminal justice training commission after coordination with county and city elected officials in areas with a demonstrated increase in metal theft over the previous 24 months. Grant applications 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.

EFFECT OF TRANSPORTATION COMMITTEE AMENDMENT(S):

- Changes the entity that convenes the catalytic converter theft work group from the

Joint Transportation Committee to Washington State University.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Recodifies RCW 19.290.070 as a new section in chapter 9A.56 RCW and imposes an additional fine of \$1,000 per catalytic converter.
- Limits cash payments for nonferrous metal property to not more than \$30 while allowing the balance to be paid by way of nontransferable check, stored value device, or electronic funds transfer at the time of the transaction.
- Requires a three day waiting period for individual sellers of catalytic converters and requires proper record keeping.
- Amends the electronic statewide no-buy list database program, adding that the database must include individuals who attempt to purchase or sell unlawfully obtained metals at licensed scrap metal recyclers and individuals who attempt to conduct a transaction while under the influence.
- Requires the Washington Association of Sheriffs and Police Chiefs to develop a comprehensive state law enforcement strategy targeting metal theft in consultation with the Criminal Justice Training Commission.
- Creates the gross misdemeanor crime of unlawful possession of a catalytic converter where each catalytic converter is subject to an additional criminal penalty of \$2,000 per catalytic converter.
- Creates the class C felony crimes of attempting the unlawful sale of a catalytic converter and attempting the unlawful purchase of a catalytic converter where each catalytic converter is subject to an additional penalty of \$5,000 per catalytic converter.
- Creates a Consumer Protection Act violation for facilitating the offer of used catalytic converters for sale without first verifying proof of ownership of the catalytic converter or failing to retain verified records of ownership of used catalytic converters or failing to retain verified records of ownership of used catalytic converters offered for sale for at least two years.
- Provides, as it relates to the crime of unlawful possession of a catalytic converter without proof of ownership, that proof of ownership may be established by proof the person is an agent of a licensed vehicle wrecker.
- Excludes agents of licensed vehicle wreckers from the crime of attempting the unlawful sale of a catalytic converter that has been removed from a vehicle.
- Provides that the crime of attempting the unlawful purchase of a catalytic converter that has been removed from a vehicle does not apply to persons who maintain a vehicle wrecker's license under current law.
- Requires the work group to review the effectiveness of the grant and training program created current law.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Law & Justice): *The committee recommended a different version of the bill than what was heard.* PRO: Catalytic converter theft is a rising crime in our state, and the Legislature needs to act. While we already have laws targeting catalytic converter theft, this bill represents another tool that will allow law enforcement officers to do their jobs. This bill brings together stakeholders to develop new strategies to drive down the rates of catalytic converter thefts. Washington is the fourth worst state in regard to catalytic converter theft, and this bill will help reverse this trend.

Communities throughout the state have seen a wave of catalytic converter thefts and we need new laws to address this rising issue. This crime can be devastating to its victims and often means that cost of replacing the catalytic converter is more expensive than the value of the car itself. It is a huge destruction to societal wealth when the cost of repairing the damage can cost around \$2,000 while those who steal the catalytic converters are getting about one tenth of that. This bill would help communities address this problem.

This is not the first time the Legislature has dealt with this problem, and the last time the work of the Legislature did not adequately address the issue. In particular, the work group in this bill is of vital importance to get to the facts surrounding what is going on with catalytic converter thefts.

Catalytic converter theft has impacted all aspects of the market. This issue is larger than Washington State, and while we need to do our part, it will take a multi-state effort to address this issue.

It is undeniable that something must be done to address catalytic converter theft. This bill provides steps in the right direction to prevent and deter catalytic converter theft in Washington.

OTHER: Scrap yards are already required to keep documentation of transactions involving catalytic converters and support the provision of this bill.

Persons Testifying (Law & Justice): PRO: Representative Cindy Ryu, Prime Sponsor; Matt Mahoney, Mayor - City of Des Moines; Taylor Gardner, WASPC; Jim King, Independent Business Association; Laurie Layne; Brad Tower, Schnitzer Steel.

OTHER: Holly Chisa, Institute of Scrap Recycling Industries.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.

Staff Summary of Public Testimony on Bill as Amended by Law & Justice (Transportation): PRO: We appreciate the language relating to used catalytic converters, this gives law enforcement something to act on when law enforcement comes across catalytic converters. Other non-regulated folks also purchase catalytic converters. In sections 8 and 9, this proposal strikes the words "when funded" in regard to specific programs. We would like those words restored. Please pass this bill. Stronger state laws are needed. Costs of replacing converters can result in older vehicles being written-off. Catalytic converter theft is a problem, but it is a small proportion of catalytic converter recycling that occurs at auto-wreckers. Auto wreckers mainly receive catalytic converters when they receive whole cars, not as a separate item. We support the funding and the task force, there is more discussion to be done.

Persons Testifying (Transportation): PRO: James McMahan, WA Assoc Sheriffs & Police Chiefs; Matt Mahoney, Mayor - City of Des Moines; Holly Chisa, Schnitzer Steel; Jim King, Independent Business Association.

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