

SENATE BILL REPORT

SB 5740

As Reported by Senate Committee On:
Law & Justice, March 28, 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, 3/28/23 [DPS-TRAN, DNP].

Brief Summary of First Substitute Bill

- Prohibits scrap metal businesses who do not also maintain a valid scrap processor or vehicle wrecker license from engaging in transaction involving catalytic converters that have been removed from vehicles.
- Provides criteria for the Department of Licensing to deny, suspend or revoke the license of a hulk hauler or scrap processor and to impose a fine for each violation.
- Creates the felony crimes of trafficking in catalytic converters in the first and second degree.
- Creates a gross misdemeanor crime for selling or offering for sale catalytic converters that have been removed from vehicles without proper identifying markings.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5740 be substituted therefor, and the substitute bill do pass and be referred to Committee on Transportation.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member;

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.

McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Minority Report: Do not pass.

Signed by Senator Kuderer.

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, 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 within 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 (First Substitute): Scrap Metal Businesses. Reference to private metal property, meaning catalytic converters, is removed from the chapter of the state laws relating to the regulation of scrap metal businesses. Scrap metal businesses licensed solely under Title 19 RCW may not buy or manage catalytic converters.

Washington State Patrol. Subject to funding, the Washington State Patrol (WSP) must conduct periodic inspections, at least once per year, of all licensed purchasers of catalytic converters that have been removed from vehicles. WSP must develop a standardized inspection form and must train local law enforcement agencies, civilian employees, and limited authority law enforcement personnel on inspection procedures.

Hulk Haulers, Scrap Metal Processors, and Vehicle Wreckers. Catalytic converters are

added to the definition of "major component parts." The Department of Licensing (DOL) may deny, suspend or revoke the license of a hulk hauler or scrap processor, or assess a fine of up to \$500 for each violation, if DOL finds that the applicant or licensee has:

- wrongfully acquired a vehicle or major component part;
- willfully misrepresented the physical condition of any motor or integral part of a vehicle;
- sold, had in its possession, or disposed of a vehicle or any part when the licensee knows that the vehicle or part was stolen or appropriated without the consent of the owner;
- sold, bought, received, concealed, had in its possession, or disposed of a vehicle or part with a missing, defaced, altered, or covered manufacturer's identification number, unless approved by law enforcement;
- committed forgery or misstated a material fact on any title, registration, or other document covering a vehicle that has been reassembled from parts obtained from the disassembling of other vehicles;
- committed any dishonest act or omission that DOL has reason to believe has caused loss or serious inconvenience as a result of a sale of a vehicle or part;
- failed to comply with any provision of the regulatory statutes;
- procured a license fraudulently or dishonestly; or
- been convicted of a crime related to the business of hulk hauling or scrap processing within the previous ten years or suffered any judgment involving fraud misrepresentation, or conversion within the preceding five years.

Procuring a license by fraud or dishonesty, wrongfully acquiring a vehicle or major component part, and willfully misrepresenting the physical condition of any motor or integral part of a vehicle also constitutes a gross misdemeanor.

Payment to individual sellers of catalytic converters by a vehicle wrecker may not be made at the time of the transaction and may not be made earlier than three business days after the transaction was made.

A \$500 catalytic converter inspection fee is added to the license fee for vehicle wreckers in order to support the activities of WSP in inspecting buyers of catalytic converters that have been removed from vehicles.

Crimes Related to Catalytic Converters. The crimes of trafficking in catalytic converters in the first and second degree are created.

A person commits trafficking in catalytic converters in the first degree, a class B felony, if the person knowingly traffics catalytic converters that have been removed from vehicles and the person either (1) purchases five or more catalytic converters without fulfilling the regulatory requirements, or (2) the person acts as a purchaser and is not a licensed scrap processor, or vehicle wrecker.

A person commits trafficking in catalytic converters in the second degree, a class c felony, if the person knowingly traffics catalytic converters that have been removed from vehicles and the person purchase four or fewer catalytic converters without fulfilling the regulatory requirements for purchasing such catalytic converters.

It is a gross misdemeanor for any person who is not a licensed scrap processor or vehicle wrecker to knowingly sell or offer for sale one or more catalytic converters that have been removed from vehicles without first permanently marking each catalytic converter involved in the transaction with the last 8 digits of the vehicle identification number of the motor vehicle from which the catalytic converter was removed.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Limits purchasing of catalytic converters to entities who are obliged to have records and facilities inspected at least annually by removing reference to private metal property, meaning catalytic converters, from Title 19 RCW and adding catalytic converters to the list of major component parts in Title 46 RCW.
- Removes the authority of scrap metal businesses licensed solely under Title 19 RCW to buy and manage catalytic converters.
- Reinstates current statutory record retention period of five years for scrap metal businesses.
- Removes provision providing for a \$500 catalytic converter inspection fee to be included in the license fee for scrap metal businesses.
- Provides license penalties, civil fines, and criminal penalties for licensed hulk haulers and scrap processors under certain circumstances.
- Restores the current statutory requirement that all scrap metal businesses produce a record of each transaction that includes the current driver's license number or other government-issued picture identification card number of the seller or a copy of the seller's government-issued picture identification card.
- Restores the current statutory language providing that a scrap metal business's usage of video surveillance is sufficient to comply with documentation requirements of the act, so long as the video captures the material subject to the transaction.
- Restores current statutory language related to scrap metal businesses complying with government requests for transcripts of transactions and reporting suspected stolen items.
- Provides that Washington State Patrol must conduct periodic inspections at least once a year of all licensed purchasers of catalytic converters that have been removed from vehicles that are licensed under RCW 46.79 and 46.80.
- Creates a new gross misdemeanor crime for individuals who sell or offer for sale catalytic converters that have been removed from vehicles without first permanently marking each catalytic converter with the last eight digits of the vehicle identification number from the vehicle from which it was removed.
- Makes various technical changes.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* 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.