

E2SHB 1815 - S COMM AMD

By Committee on Law & Justice

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that rates of
4 catalytic converter theft have rapidly increased statewide and
5 nationwide, due in part to existing challenges with accurately
6 identifying stolen catalytic converters. The legislature further
7 finds that victims of catalytic converter theft often incur costs
8 that far exceed the monetary value of the catalytic converters
9 themselves. The legislature further finds that catalytic converter
10 theft is a multifaceted issue that requires collaborative effort
11 between law enforcement agencies, insurance companies, scrap metal
12 dealers, and other involved parties to identify comprehensive
13 solutions.

14 Therefore, the legislature intends to carefully examine the
15 catalytic converter theft issues in Washington state and conduct a
16 study to make a variety of recommendations to the legislature,
17 including recommendations for a potential pilot program, to reduce
18 the occurrence of catalytic converter theft. The legislature further
19 intends to provide funding for a grant program focused on metal theft
20 and unlawfully obtained metal.

21 NEW SECTION. **Sec. 2.** (1) The joint transportation committee
22 shall convene a catalytic converter theft work group to study and
23 provide options and recommendations related to reducing catalytic
24 converter theft in Washington state.

25 (2) The work group shall consist of, but is not limited to,
26 members representing the following:

27 (a) One member representing the Washington state patrol;

28 (b) One member representing the Washington association of
29 sheriffs and police chiefs;

- 1 (c) One member representing the Washington association of
2 prosecuting attorneys;
- 3 (d) One member representing the office of public defense;
- 4 (e) One member representing the superior court judges'
5 association;
- 6 (f) One member representing the district and municipal court
7 judges' association;
- 8 (g) One member representing the association of Washington cities;
- 9 (h) One member representing the office of the attorney general;
- 10 (i) One member representing the property and casualty insurance
11 industry;
- 12 (j) One member representing the scrap metal recycling industry;
- 13 (k) One member representing the auto dealer industry;
- 14 (l) One member representing the auto manufacturer industry;
- 15 (m) One member representing the catalytic converter manufacturer
16 industry;
- 17 (n) One member representing the towing and recovery association
18 of Washington;
- 19 (o) One member representing the Washington state independent auto
20 dealers association;
- 21 (p) One member representing the Washington independent business
22 association;
- 23 (q) One member representing the Washington organized retail crime
24 association; and
- 25 (r) Two members representing individuals with lived experience
26 being charged with, or convicted of, organized theft.
- 27 (3) The work group's study shall include, but is not limited to,
28 the following:
- 29 (a) A review of state laws related to catalytic converter theft;
- 30 (b) A review of national efforts to address catalytic converter
31 theft to determine whether there are best practices from other
32 jurisdictions on how to effectively deter and end catalytic converter
33 theft;
- 34 (c) Data collection and analysis of catalytic converter theft
35 incidents across the state;
- 36 (d) Options to deter and end catalytic converter theft, including
37 marking of catalytic converters;
- 38 (e) Options and opportunities to reduce costs to victims of
39 catalytic converter theft; and

1 (f) A review of the effectiveness of the grant and training
2 program created under RCW 36.28A.240.

3 (4) The work group's recommendations shall include, but are not
4 limited to, the following:

5 (a) Changes to state law to reduce catalytic converter theft;

6 (b) A potential pilot program that could be implemented to
7 decrease catalytic converter theft, including by prioritizing
8 communities with the highest incidence of catalytic converter theft
9 or communities experiencing the most financial impact due to
10 catalytic converter theft; and

11 (c) Cost estimates for the pilot program and recommendations on
12 evaluation criteria and metrics to determine the efficacy and
13 benefits of the pilot program.

14 (5) The work group shall provide a preliminary report and
15 recommendations to the transportation and public safety committees of
16 the legislature by November 1, 2022. The work group shall provide a
17 final report and recommendations, including recommendations on a
18 potential pilot program, to the transportation and public safety
19 committees of the legislature by January 1, 2023.

20 **Sec. 3.** RCW 19.290.020 and 2013 c 322 s 5 are each amended to
21 read as follows:

22 (1) At the time of a transaction, every scrap metal business
23 doing business in this state shall produce wherever that business is
24 conducted an accurate and legible record of each transaction
25 involving private metal property or nonferrous metal property. This
26 record must be written in the English language, documented on a
27 standardized form or in electronic form, and contain the following
28 information:

29 (a) The signature of the person with whom the transaction is
30 made;

31 (b) The time, date, location, and value of the transaction;

32 (c) The name of the employee representing the scrap metal
33 business in the transaction;

34 (d) The name, street address, and telephone number of the person
35 with whom the transaction is made;

36 (e) The license plate number and state of issuance of the license
37 plate on the motor vehicle used to deliver the private metal property
38 or nonferrous metal property subject to the transaction;

1 (f) A description of the motor vehicle used to deliver the
2 private metal property or nonferrous metal property subject to the
3 transaction;

4 (g) The current driver's license number or other government-
5 issued picture identification card number of the seller or a copy of
6 the seller's government-issued picture identification card; (~~and~~)

7 (h) A description of the predominant types of private metal
8 property or nonferrous metal property subject to the transaction,
9 utilizing the institute of scrap recycling industries' generally
10 accepted terminology, and including weight, quantity, or volume; and

11 (i) For every transaction specifically involving a catalytic
12 converter that has been removed from a vehicle, documentation
13 indicating that the private metal property in the seller's possession
14 is the result of the seller replacing private metal property from a
15 vehicle registered in the seller's name.

16 (2) For every transaction that involves private metal property or
17 nonferrous metal property, every scrap metal business doing business
18 in the state shall require the person with whom a transaction is
19 being made to sign a declaration. The declaration may be included as
20 part of the transactional record required under subsection (1) of
21 this section, or on a receipt for the transaction. The declaration
22 must state substantially the following:

23 "I, the undersigned, affirm under penalty of law that the
24 property that is subject to this transaction is not to the best of my
25 knowledge stolen property."

26 The declaration must be signed and dated by the person with whom
27 the transaction is being made. An employee of the scrap metal
28 business must witness the signing and dating of the declaration and
29 sign the declaration accordingly before any transaction may be
30 consummated.

31 (3) The record and declaration required under this section must
32 be open to the inspection of any commissioned law enforcement officer
33 of the state or any of its political subdivisions at all times during
34 the ordinary hours of business, or at reasonable times if ordinary
35 hours of business are not kept, and must be maintained wherever that
36 business is conducted for five years following the date of the
37 transaction.

38 **Sec. 4.** RCW 19.290.030 and 2013 c 322 s 6 are each amended to
39 read as follows:

1 (1) No scrap metal business may enter into a transaction to
2 purchase or receive private metal property or nonferrous metal
3 property from any person who cannot produce at least one piece of
4 current government-issued picture identification, including a valid
5 driver's license or identification card issued by any state.

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

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

17 (4) (a) No transaction involving private metal property or
18 nonferrous metal property may be made in cash or with any person who
19 does not provide a street address and photographic identification
20 under the requirements of RCW 19.290.020(1) (d) and (g) except as
21 described in (b) and (c) of this subsection. The person with whom the
22 transaction is being made may only be paid by a nontransferable
23 check, mailed by the scrap metal business to a street address
24 provided under RCW 19.290.020, no earlier than three days after the
25 transaction was made. A transaction occurs on the date provided in
26 the record required under RCW 19.290.020.

27 (b) A scrap metal business that is in compliance with this
28 chapter (~~that~~) may pay up to a maximum of \$30 in cash, stored value
29 device, or electronic funds transfer for nonferrous metal property.
30 The balance of the value of the transaction may be made by
31 nontransferable check, stored value device, or electronic funds
32 transfer at the time the transaction is made if the scrap metal
33 business digitally captures:

34 (i) A copy of one piece of current government-issued picture
35 identification, including a current driver's license or
36 identification card issued by any state; and

37 (ii) (~~either~~) Either a picture or video of either the material
38 subject to the transaction in the form received or the material
39 subject to the transaction within the vehicle which the material was
40 transported to the scrap metal business (~~(, may pay up to a maximum of~~

1 ~~thirty dollars in cash, stored value device, or electronic funds~~
2 ~~transfer. The balance of the value of the transaction may be made by~~
3 ~~nontransferable check, stored value device, or electronic funds~~
4 ~~transfer at the time the transaction is made. A scrap metal~~
5 ~~business's usage of video surveillance shall be sufficient to comply~~
6 ~~with this subsection (4)(b)(ii) as long as the video captures the~~
7 ~~material subject to the transaction. A digital image or picture taken~~
8 ~~under this subsection must be available for two years from the date~~
9 ~~of transaction, while a video recording must be available for thirty~~
10 ~~days).~~

11 (c) Payment to individual sellers of private metal property as
12 defined in this chapter may not be made at the time of the
13 transaction and shall not be paid earlier than three business days
14 after the transaction was made. Records of payment for private metal
15 property as defined in this chapter must be kept in the same file or
16 record as all records collected under this subsection and retained
17 and be available for review for two years from the date of the
18 transaction.

19 (5)(a) A scrap metal business's usage of video surveillance shall
20 be sufficient to comply with subsection (4)(b) of this section so
21 long as the video captures the material subject to the transaction.

22 (b) A digital image or picture taken under this section must be
23 available for two years from the date of transaction, while a video
24 recording must be available for 30 days.

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

27 **Sec. 5.** RCW 19.290.070 and 2013 c 322 s 10 are each amended to
28 read as follows:

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

30 ~~((1))~~ (a) Any person to deliberately remove, alter, or
31 obliterate any manufacturer's make, model, or serial number, personal
32 identification number, or identifying marks engraved or etched upon
33 an item of private metal property, nonferrous metal property, or
34 commercial metal property in order to deceive a scrap metal business;

35 ~~((2))~~ (b) Any scrap metal business to enter into a transaction
36 to purchase or receive any private metal property, nonferrous metal
37 property, or commercial metal property where the manufacturer's make,
38 model, or serial number, personal identification number, or

1 identifying marks engraved or etched upon the property have been
2 deliberately and conspicuously removed, altered, or obliterated;

3 ~~((+3))~~ (c) Any person to knowingly make, cause, or allow to be
4 made any false entry or misstatement of any material matter in any
5 book, record, or writing required to be kept under this chapter;

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

11 ~~((+5))~~ (e) Any scrap metal business to enter into a transaction
12 to purchase or receive private metal property, nonferrous metal
13 property, or commercial metal property with anyone whom the scrap
14 metal business has been informed by a law enforcement agency to have
15 been convicted of a crime involving drugs, burglary, robbery, theft,
16 or possession of or receiving stolen property, manufacturing,
17 delivering, or possessing with intent to deliver methamphetamine, or
18 possession of ephedrine or any of its salts or isomers or salts of
19 isomers, pseudoephedrine or any of its salts or isomers or salts of
20 isomers, or anhydrous ammonia with intent to manufacture
21 methamphetamine within the past four years whether the person is
22 acting in his or her own behalf or as the agent of another;

23 ~~((+6))~~ (f) Any person to sign the declaration required under RCW
24 19.290.020 knowing that the private metal property or nonferrous
25 metal property subject to the transaction is stolen. The signature of
26 a person on the declaration required under RCW 19.290.020 constitutes
27 evidence of intent to defraud a scrap metal business if that person
28 is found to have known that the private metal property or nonferrous
29 metal property subject to the transaction was stolen;

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

33 ~~((+8))~~ (h) Any scrap metal business to engage in a series of
34 transactions valued at less than ~~((thirty dollars))~~ \$30 with the same
35 seller for the purposes of avoiding the requirements of RCW
36 19.290.030(4); or

37 ~~((+9))~~ (i) Any person to knowingly make a false or fictitious
38 oral or written statement or to furnish or exhibit any false,
39 fictitious, or misrepresented identification, with the intent to

1 deceive a scrap metal business as to the actual seller of the scrap
2 metal.

3 (2) Notwithstanding any fines imposed as part of the sentence
4 under this section, each offense is punishable by a \$1,000 fine per
5 catalytic converter, 10 percent of which shall be directed to the no-
6 buy list database program in RCW 43.43.885, and the remainder shall
7 be directed to the Washington association of sheriffs and police
8 chiefs solely for grants issued under RCW 36.28A.240.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 9A.56
10 RCW to read as follows:

11 (1) A person is guilty of unlawful possession of a catalytic
12 converter that has been removed from a vehicle if, upon contact by
13 law enforcement, the person is unable to produce proof of ownership
14 of the catalytic converter. Unlawful possession of a catalytic
15 converter is a gross misdemeanor.

16 (2) Proof of ownership may be demonstrated by:

17 (a) Presenting documentation that the catalytic converter in the
18 seller's possession is the result of the seller replacing a catalytic
19 converter from a vehicle registered in the seller's name;

20 (b) Production of a unique catalytic converter serial number, or
21 successor catalytic converter identification number program created
22 under chapter 19.290 RCW, that corresponds to a vehicle for which the
23 person can provide documentation of proof of ownership; or

24 (c) Proof that the person is an agent of a corporation,
25 partnership, limited liability company, association, state agency,
26 political subdivision of the state, public corporation, or any other
27 legal or commercial entity engaged in the scrap metal business
28 including, but not limited to, licensed hulk hauling and processing,
29 scrap metal dismantlers, scrap metal repair shops, and other licensed
30 scrap metal businesses.

31 (3) Each catalytic converter is subject to an additional criminal
32 penalty of \$2,000 per catalytic converter. Half of the additional
33 criminal penalty shall be retained by the local jurisdiction; 10
34 percent shall be directed to the no-buy list database program in RCW
35 43.43.885; and the remainder shall be directed to the Washington
36 association of sheriffs and police chiefs solely for grants issued
37 under RCW 36.28A.240.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 9A.56

2 RCW to read as follows:

3 (1) A person is guilty of attempting the unlawful sale of a
4 catalytic converter that has been removed from a vehicle if, upon
5 contact by law enforcement, the person is unable to produce
6 documentation of proof of ownership of the catalytic converter for
7 which the person is offering to sell or advertise the sale, without
8 being an agent of a corporation, partnership, limited liability
9 company, association, state agency, political subdivision of the
10 state, public corporation, or any other legal or commercial entity
11 engaged in the scrap metal business including, but not limited to,
12 licensed vehicle wreckers, licensed hulk hauling and processing,
13 scrap metal dismantlers, scrap metal repair shops, and other licensed
14 scrap metal businesses.

15 (2) A person is guilty of attempting the unlawful purchase of a
16 catalytic converter that has been removed from a vehicle if the
17 person is offering to purchase or advertising for the purchase,
18 without maintaining a scrap metal business license under chapter
19 19.290 RCW or a vehicle wrecker's license under chapter 46.80 RCW.

20 (3) Attempted unlawful sale or purchase of a catalytic converter
21 is a class C felony.

22 (4) Each catalytic converter is subject to an additional criminal
23 penalty of \$5,000 per catalytic converter. Half of the additional
24 criminal penalty shall be retained by the local jurisdiction; 10
25 percent shall be directed to the no-buy list database program in RCW
26 43.43.885; and the remainder shall be directed to the Washington
27 association of sheriffs and police chiefs solely for grants issued
28 under RCW 36.28A.240.

29 (5)(a) Facilitating the offer of used catalytic converters for
30 sale without first verifying proof of ownership of the catalytic
31 converter, or failing to retain verified records of ownership of used
32 catalytic converters offered for sale for at least two years, is an
33 unfair or deceptive act or practice or unfair method of competition
34 in the conduct of trade or commerce for purposes of the consumer
35 protection act, chapter 19.86 RCW.

36 (b) All damages awarded to the state of Washington under chapter
37 19.86 RCW shall be distributed as follows:

38 (i) Ninety percent to the grant and training program in RCW
39 36.28A.240; and

1 (ii) Ten percent to the no-buy list database program in RCW
2 43.43.885.

3 **Sec. 8.** RCW 36.28A.240 and 2013 c 322 s 24 are each amended to
4 read as follows:

5 (1) (~~When funded, the~~) The Washington association of sheriffs
6 and police chiefs shall (~~establish~~) develop a comprehensive state
7 law enforcement strategy targeting metal theft in consultation with
8 the criminal justice training commission, including:

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

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

19 (c) Establishment of a grant and training program to assist local
20 law enforcement agencies in the support of special enforcement
21 (~~emphasis~~) targeting metal theft. Grant applications shall be
22 reviewed (~~and awarded through peer review panels~~) by the Washington
23 association of sheriffs and police chiefs in consultation with the
24 criminal justice training commission after coordination with county
25 and city elected officials in areas with a demonstrated increase in
26 metal theft over the previous 24 months. Grant applicants are
27 encouraged to (~~utilize multijurisdictional efforts~~) focus solely on
28 metal theft and unlawful purchasing and selling of unlawfully
29 obtained metal in their jurisdiction, but may coordinate with other
30 jurisdictions.

31 (2) Each grant applicant shall:

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

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

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

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

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

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

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

10 **Sec. 9.** RCW 43.43.885 and 2013 c 322 s 31 are each amended to
11 read as follows:

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

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

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

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

34 (5) The database shall also include individuals who have
35 attempted to purchase or sell unlawfully obtained metals at licensed
36 scrap metal recyclers and individuals who attempt to conduct a
37 transaction while under the influence of controlled substances.

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

4 NEW SECTION. Sec. 10. RCW 19.290.070 is recodified as a section
5 in chapter 9A.56 RCW.

6 NEW SECTION. Sec. 11. Section 4 of this act is necessary for
7 the immediate preservation of the public peace, health, or safety, or
8 support of the state government and its existing public institutions,
9 and takes effect May 1, 2022.

10 NEW SECTION. Sec. 12. Except for section 4 of this act, is
11 necessary for the immediate preservation of the public peace, health,
12 or safety, or support of the state government and its existing public
13 institutions, and takes effect immediately."

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14 On page 1, line 1 of the title, after "theft;" strike the
15 remainder of the title and insert "amending RCW 19.290.020,
16 19.290.030, 19.290.070, 36.28A.240, and 43.43.885; adding new
17 sections to chapter 9A.56 RCW; creating new sections; recodifying RCW
18 19.290.070; prescribing penalties; providing an effective date; and
19 declaring an emergency."

EFFECT: (1) 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.

(2) 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.

(3) Requires a 3-day waiting period for individual sellers of
catalytic converters and requires proper recordkeeping.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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 chapter 46.80 RCW.

(12) Requires the work group to review the effectiveness of the grant and training program created under RCW 36.28A.240.

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