

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 185 Catalytic Converters
SPONSOR(S): Criminal Justice Subcommittee, Hawkins and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 306

FINAL HOUSE FLOOR ACTION: 105 Y's 2 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 185 passed the House on April 19, 2023, as CS/CS/SB 306.

A catalytic converter is a component of a vehicle's emissions control system that, through a chemical reaction, turns harmful pollutants contained in engine exhaust into compounds that are less toxic to the environment. To achieve this chemical reaction, a catalytic converter passes a vehicle's exhaust through a structure coated with various precious metals, such as palladium and platinum. The scrap value of the precious metals in a catalytic converter, coupled with the catalytic converter being mounted on the exterior of a vehicle and thus easily accessible, have made catalytic converters an attractive target for thieves, who receive approximately \$50 to \$250 for each catalytic converter that is sold to a scrap metal recycling facility. The National Insurance Crime Bureau reports that catalytic converter theft has increased 1,215 percent over the past three years.

The bill creates s. 860.142, F.S., the Catalytic Converter Antitheft Act, which:

- Prohibits a person from knowingly purchasing a detached catalytic converter unless he or she is a registered secondary metals recycler; and
- Requires a registered secondary metals recycler that purchases a detached catalytic converter to keep specified records and provides penalties for noncompliance.

The bill creates a third degree felony if a person knowingly possesses, purchases, sells, or installs a:

- Stolen catalytic converter;
- Catalytic converter that has been removed from a stolen motor vehicle;
- Catalytic converter with a removed, altered, or defaced identification number; or
- Detached catalytic converter without proof of ownership, unless the person meets an exemption.

The bill provides an inference that a person who is in possession of two or more detached catalytic converters, unless satisfactorily explained, knows or should have known that the catalytic converters may have been stolen or fraudulently obtained.

The bill creates s. 860.147, F.S., which prohibits a person from knowingly importing, manufacturing, purchasing for the purpose of reselling or installing, selling, offering for sale, or installing or reinstalling in a motor vehicle a counterfeit, fake, or nonfunctional catalytic converter, a violation of which is punishable as a second degree felony.

The bill amends s. 538.26, F.S., to prohibit a secondary metals recycler from processing or removing from its place of business a detached catalytic converter purchased by the secondary metals recycler within 10 business days after the date of purchase, unless the person selling the catalytic converter meets an exemption.

The bill may have a positive indeterminate impact on prison beds by creating additional criminal penalties for possessing a stolen catalytic converter; possessing a catalytic converter with an altered identification number; purchasing a detached catalytic converter; or selling or installing a counterfeit, fake, or nonfunctional catalytic converter.

The bill was approved by the Governor on May 24, 2023, ch. 2023-114, L.O.F., and will become effective on July 1, 2023.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Catalytic Converter Theft

A catalytic converter is a component of a vehicle's emissions control system that, through a chemical reaction, turns harmful pollutants contained in engine exhaust into compounds that are less toxic to the environment.¹ To achieve this chemical reaction, a catalytic converter passes a vehicle's exhaust through a structure coated with various precious metals, such as palladium and platinum.² The scrap value of the precious metals in a catalytic converter, coupled with the catalytic converter being mounted on the exterior of a vehicle and thus easily accessible, have made catalytic converters an attractive target for thieves, who receive approximately \$50 to \$250 for each catalytic converter that is sold to a scrap metal recycling facility.³ The National Insurance Crime Bureau reports that catalytic converter theft has increased 1,215 percent over the past three years.⁴

Under current law, theft of a catalytic converter could be prosecuted as a burglary of a conveyance under s. 810.02(4), F.S., a third degree felony,⁵ or under the general theft statute, s. 812.014, F.S., which may be a misdemeanor or felony depending upon the value of the catalytic converter. If a person sells a catalytic converter that he or she knows or should know was stolen, the person commits the crime of dealing in stolen property, punishable as a second degree felony.⁶

Secondary Metals Recyclers

A secondary metals recycler is any person who:

- Is engaged, from a fixed location, in the business of purchase transactions or gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or
- Has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, other than by the exclusive use of hand tools, by methods including, without limitation, processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof.⁷

A secondary metals recycler is required to maintain a record of all purchase transactions on a form approved by the Florida Department of Law Enforcement (FDLE) that includes the following information:

- The name and address of the secondary metals recycler.
- The name, initials, or other identification of the individual entering the information on the form.
- The date and time of the transaction.

¹ J.D. Power, *What's a Catalytic Converter and Why Do People Steal Them?*, <https://www.jdpower.com/cars/shopping-guides/whats-a-catalytic-converter-and-why-do-people-steal-them> (last visited Mar. 23, 2023).

² NPR, *How to protect your car from catalytic converter theft, and what to do if it happens*, <https://www.npr.org/2022/11/04/1134102575/protect-car-catalytic-converter-theft> (last visited Mar. 23, 2023).

³ *Id.*

⁴ National Insurance Crime Bureau, *As Catalytic Converter Thefts Continue To Increase Nationwide, NICB Partners With Local Businesses To Help Protect Consumers*, <https://www.nicb.org/news/news-releases/catalytic-converter-thefts-continue-increase-nationwide-nicb-partners-local-0> (last visited Mar. 23, 2023).

⁵ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Ss. 775.082 and 775.083, F.S.

⁶ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Ss. 775.082 and 775.083, F.S.

⁷ S. 538.18(11), F.S.

- The weight, quantity, or volume, and a description of the type of regulated metals property⁸ purchased in a purchase transaction.
- The amount of consideration given in a purchase transaction for the regulated metals property.
- A signed statement from the person delivering the regulated metals property stating that he or she is the rightful owner of, or is entitled to sell, the regulated metals property being sold.
- The distinctive number from the personal identification card of the person delivering the regulated metals property to the secondary metals recycler.
- A description of the person from whom the regulated metals property was acquired, including:
 - Full name, current residential address, workplace, and home and work phone numbers.
 - Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.
 - The right thumbprint, free of smudges and smears.
 - Vehicle description to include the make, model, and tag number of the vehicle and trailer of the person selling the regulated metals property.
 - Any other information required by the form approved by the FDLE.
- A photograph, videotape, or digital image of the regulated metals being sold.
- A photograph, videotape, or similar likeness of the person receiving consideration in which such person's facial features are clearly visible.⁹

Because of a catalytic converter's significant scrap value and frequency of theft, a catalytic converter is included in the list of restricted regulated metals property in s. 538.26(5)(b), F.S. A secondary metals recycler may not purchase any such restricted regulated metals property unless the secondary metals recycler obtains reasonable proof that the seller:

- Owns such property; or
- Is an employee, agent, or contractor of the property's owner who is authorized to sell the property on behalf of the owner.¹⁰

A secondary metals recycler must maintain purchase transaction records for at least three years from the date of the purchase transaction.¹¹ A secondary metals recycler who knowingly and intentionally fails to keep and maintain such required information commits a third degree felony for a first or second violation, and a second degree felony for a third or subsequent violation.¹²

A person who knowingly provides false verification of ownership or who provides a false or altered identification in a transaction with a secondary metals recycler commits a third degree felony if the person receives consideration less than \$300, and a second degree felony if the person receives consideration of \$300 or more.¹³

Effect of the Bill

The bill creates s. 860.142, F.S., the Catalytic Converter Antitheft Act. The bill defines a "catalytic converter" as an emission control device that is designed to be installed and operate in a motor vehicle to convert toxic gases and pollutants in the motor vehicle's exhaust system into less toxic substances via chemical reaction.

Secondary Metals Recyclers

The bill prohibits a person from knowingly purchasing a detached catalytic converter unless he or she is

⁸ "Regulated metals property" means any item composed primarily of any nonferrous metals. The term does not include aluminum beverage containers, used beverage containers, or similar beverage containers; however, the term includes stainless steel beer kegs and items made of ferrous metal obtained from any restricted regulated metals property. S. 538.18(9), F.S.

⁹ S. 538.19(1), F.S.

¹⁰ S. 538.26(5), F.S.

¹¹ S. 538.19(4), F.S.

¹² S. 538.23(1)(b), F.S.

¹³ S. 538.23(3), F.S.

a registered secondary metals recycler and requires a registered secondary metals recycler to comply with the existing recordkeeping and purchase requirements in ss. 538.19 and 538.26(5), F.S., when purchasing a detached catalytic converter. A registered secondary metals recycler who knowingly and intentionally fails to keep and maintain such required information commits a third degree felony for a first or second violation, and a second degree felony for a third or subsequent violation, which is consistent with current law.

The bill amends s. 538.26, F.S., to prohibit a secondary metals recycler from processing or removing from its place of business a detached catalytic converter purchased by the secondary metals recycler within 10 business days after the date of purchase. This restriction does not apply to a detached catalytic converter that was purchased from another secondary metals recycler, a salvage motor vehicle dealer as defined in s. 320.27(1)(c)5., F.S., or a person or entity who meets the criteria for an exemption from the regulation related to the sale of metals to a secondary metals recycler as provided in s. 538.22, F.S.¹⁴

The bill defines a “detached catalytic converter” as a catalytic converter that has been removed from a motor vehicle.

Catalytic Converter Theft

The bill prohibits a person from knowingly possessing, purchasing, selling, or installing a:

- Stolen catalytic converter;
- Catalytic converter that has been removed from a stolen motor vehicle;
- New or detached catalytic converter from which the manufacturer’s part identification number, aftermarket identification number, or owner-applied number has been removed, altered, or defaced; or
- Detached catalytic converter without proof of ownership, unless the person is a registered secondary metals recycler, a salvage motor vehicle dealer as defined in s. 320.27(1)(c)5., F.S., or a person who meets the criteria for an exemption from the regulations related to the sale of metals to a secondary metals recycler as provided in s. 538.22, F.S.

A person who violates any of these provisions commits a third degree felony.

Under the bill, proof that a person was in possession of two or more detached catalytic converters, unless satisfactorily explained, gives rise to an inference that the person in possession of the catalytic converters knew or should have known that the catalytic converters may have been stolen or fraudulently obtained.

Counterfeit, Fake, or Nonfunctional Catalytic Converters

The bill creates s. 860.147, F.S., to prohibit a person from knowingly importing, manufacturing, purchasing for the purpose of reselling or installing, selling, offering for sale, or installing or reinstalling

¹⁴ The regulations applicable to a secondary metals recycler in ch. 538, F.S., do not apply to purchases made from:

- Organizations, corporations, or associations registered with the state as charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organizations or associations, or from any nonprofit corporation or association;
- A law enforcement officer acting in an official capacity;
- A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondary metals recycler;
- Any public official acting under judicial process or authority who has presented proof of such status to the secondary metals recycler;
- A sale on the execution, or by virtue of any process issued by a court, if proof thereof has been presented to the secondary metals recycler; or
- A manufacturing, industrial, or other commercial vendor that generates regulated materials in the ordinary course of business. S. 538.22, F.S.

in a motor vehicle a counterfeit, fake, or nonfunctional catalytic converter, a violation of which is punishable as a second degree felony.

The bill defines a "counterfeit catalytic converter" as a catalytic converter displaying a mark identical or similar to the genuine mark of a catalytic converter manufacturer or motor vehicle manufacturer without authorization from such manufacturer.

The bill defines a "fake catalytic converter" as an item, other than a catalytic converter designed in accordance with United States Environmental Protection Agency regulations for a given make, model, and year of motor vehicle as part of a motor vehicle emission control system, including a counterfeit or nonfunctional catalytic converter, which is used to replace a legitimate catalytic converter.

The bill defines a "nonfunctional catalytic converter" as a replacement catalytic converter that:

- Was previously recalled or damaged; or
- Includes a part or object, including, but not limited to, a counterfeit or repaired catalytic converter, installed in a motor vehicle to mislead the owner or operator of such motor vehicle to believe that a functional catalytic converter has been installed.

The effective date of this bill is July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive indeterminate impact on prison beds by creating additional criminal penalties for possessing a stolen catalytic converter; a catalytic converter with an altered identification number; a detached catalytic converter; or selling or installing a counterfeit, fake, or nonfunctional catalytic converter.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires a registered secondary metals recycler to keep specified records relating to the purchase of a detached catalytic converter. These requirements are consistent with recordkeeping requirements that already exist under current law. The bill does not appear to have a fiscal impact on registered secondary metals recyclers.

D. FISCAL COMMENTS:

None.

