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Bill Analysis

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SUMMARY

- Makes a catalytic converter a special purchase article, requiring scrap metal dealers who purchase them to comply with additional requirements.
- Requires purchasers of catalytic converters who are not scrap metal dealers to comply with the same recordkeeping and transaction data submission requirements applicable to scrap metal dealers, subject to the same penalties when the purchaser is an individual.
- Imposes a \$10,000 to \$50,000 penalty on a business entity that violates the above requirements.
- Prohibits a motor vehicle salvage dealer from purchasing or accepting individual motor vehicle parts, such as a catalytic converter.
- Requires the Registrar of Motor Vehicles or the Motor Vehicle Repair Board to refuse to revoke, refuse to renew, or refuse to issue a license to a motor vehicle salvage dealer or motor vehicle repair and window tint operator that fails to comply with the bill's requirements related to catalytic converters.
- Requires the Director of Public Safety to use catalytic converter transaction data to make a mandatory do-not-buy-from list of persons who attempt to sell more than one used catalytic converter in a day.
- Prohibits a person from selling more than one used catalytic converter per day unless the person obtains a bulk used catalytic converter sales license.
- Prescribes requirements for a bulk used catalytic converter sales license.
- Requires the holder of a bulk used catalytic converter sales license to submit transaction data of all used catalytic converters the licensee purchases and sells for inclusion in the same system as scrap metal dealer transaction data.

- Enhances the penalties for theft when the item stolen is a catalytic converter.
- Enhances the penalties for receiving stolen property when the item stolen is a catalytic converter.
- Provides that a person is guilty of complicity if the person sells a catalytic converter to another person who violates the bill’s provisions.
- Makes an appropriation to support catalytic converter theft task forces.

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DETAILED ANALYSIS

Overview

A catalytic converter is part of an automobile’s exhaust system that reduces the toxicity of the pollutants the car emits. Catalytic converters often contain precious metals such as

rhodium, platinum, and palladium.¹ The bill increases oversight of the sale of catalytic converters to scrap metal dealers and other persons, licenses people engaged in bulk used catalytic converter sales, and increases penalties relating to stolen catalytic converters.

Secondhand dealer law

The bill makes catalytic converters, including catalytic converter cores, special purchase articles, thereby requiring scrap metal dealers who purchase them to comply with additional requirements. It also requires purchasers who are not scrap metal dealers to comply with similar requirements.

Recordkeeping

Current law requires a scrap metal dealer (the owner or operator of a business that purchases or receives scrap metal for the purpose of sorting, grading, and shipping metals to third parties for direct or indirect melting into new products) to maintain a daily record of all articles (not just special purchase articles) purchased by the dealer and submit this record by noon the following day to the Director of Public Safety for inclusion in the Communication and Information Management System (CIMS).² The CIMS is a system that allows the receipt and transmission of scrap theft alerts to dealers and law enforcement.³ The record must include several pieces of information, including a description of the article purchased, the identity of the seller, and the license plate number of the vehicle in which the seller arrived at the dealer.⁴ Continuing law also requires a dealer to take a photograph of each person who sells the dealer an article for which the dealer is required to make a record, including a catalytic converter.⁵

Special purpose articles

In submitting its daily record, a dealer must do the following with respect to recyclable materials that the dealer purchases:

- For recyclable materials that *are not* special purchase articles, identify the relevant recyclable materials category code. One such code under current law is “catalytic converters,” which the bill removes.⁶
- For recyclable materials that *are* special purchase articles, identify the relevant special purchase article category. The bill adds “catalytic converter” as a special purchase article

¹ See Carfax, “[What is a Catalytic Converter](http://carfax.com/blog),” which is available on Carfax’s website: carfax.com/blog.

² R.C. 4737.04(A), (C), and (E)(1)(b).

³ R.C. 4737.045(E)(1).

⁴ R.C. 4737.04(C).

⁵ R.C. 4737.04(I).

⁶ R.C. 4737.04(C)(5).

category and further requires that the record include a copy of the check issued as payment for any special purpose article.⁷

The bill makes several changes relating to the sale of catalytic converters. The bill includes catalytic converters as special purchase articles, requiring the scrap metal dealer to comply with additional requirements described below. It also requires *any person* purchasing a catalytic converter to follow the same requirements that scrap metal dealers must follow when they purchase catalytic converters.

Additional requirements

Specifically, the bill requires a scrap metal dealer or other purchaser of a catalytic converter, including a junk yard, motor vehicle salvage yard, or motor vehicle repair and window tint operator, to do all of the following (except as noted below, such requirements already apply to scrap metal dealers purchasing special purpose articles under current law):

- Prepare and submit the record described above;
- Refrain from purchasing a catalytic converter from a person identified by law enforcement or the Director of Public Safety as a known thief or receiver of stolen property;
- Refrain from purchasing more than one catalytic converter per day from the same person except from a motor vehicle dealer;
- Take a photograph of each person who sells the purchaser a catalytic converter;
- Take a photograph of each catalytic converter (new requirement for both scrap metal dealers and other purchasers);
- Obtain from the seller proof that the seller owns the catalytic converter. Proof may only be provided in the following ways:
 - If the seller owns the car, the car's title or registration or a repair receipt indicating replacement of the catalytic converter and the car's make, model, year, and vehicle identification number;
 - If the seller is a motor vehicle collision repair operator, the operator's registration certificate along with a receipt indicating replacement of the catalytic converter and the make, model, year, and vehicle identification number. (The standards for proving ownership of a catalytic converter are new for both scrap metal dealers and other purchasers.)
- If payment is rendered, issue a check for the purchase (new requirement for both scrap metal dealers and other purchasers);

⁷ R.C. 4737.04(C)(6) and (A)(2).

- Withhold payment for two days (new requirement for both scrap metal dealers and other purchasers);
- If an asserted owner of a stolen catalytic converter provides proof of having filed a stolen property report with law enforcement, make records describing the catalytic converter the person purchased after the alleged date of theft available for inspection to the asserted owner for a period of six months after the alleged date of theft, except that the person must withhold the name of the person from whom the catalytic converter was purchased and the amount paid (new requirement for both scrap metal dealers and other purchasers);
- Refrain from recklessly failing to comply with the above requirements.⁸

Motor vehicle dealers receiving used catalytic converters in the ordinary course of business are exempt from these requirements.⁹

Posting requirements

The bill requires scrap metal dealers to post notice that catalytic converters are special purpose articles. Furthermore, it requires scrap metal dealers and bulk merchandise container dealers to post a copy of the dealer's registration in a conspicuous place.¹⁰

Penalty

Under current law, a scrap metal dealer or bulk merchandise container dealer that violates the secondhand dealer law is guilty of at least a first degree misdemeanor and at most a fourth degree felony, depending on the number of prior convictions. In addition, for any second or subsequent violation, a court may suspend the dealer's registration for a period of 90 days. The bill requires the Director of Public Safety to revoke, or refuse to issue or renew the registration of a scrap metal dealer or bulk merchandise container dealer that fails to comply with recordkeeping and reporting requirements related to special purpose articles or that is convicted of, or pleads guilty to stealing a used catalytic converter or receiving a stolen used catalytic converter.

In addition, the bill requires the Director of Public Safety to impose the following sanctions:

- Respecting a dealer that fails to properly submit a daily record of purchases for inclusion in CIMS (as described above), a \$500 fine for each day the violation occurs, and suspension of the dealer's registration until the Director determines that the dealer has taken "necessary steps" to comply with the reporting requirements. A dealer whose

⁸ R.C. 4737.04(F)(2), (5), and (6), and (I) and 4737.041.

⁹ R.C. 4737.041(B).

¹⁰ R.C. 4717.04(G).

registration is suspended may petition the Director for reinstatement every 90 days. The Director's determination is subject to appeal.

- Respecting a dealer that does not post a copy of the dealer's registration in a conspicuous place, as required by the bill (see above), a \$500 fine;
- Respecting a person that acts as a scrap metal dealer, bulk merchandise container dealer, or bulk seller of used catalytic converters without a license, an injunction, and a \$10,000 fine for the first day in violation, plus a \$1,000 fine for each consecutive day of violation.

These fines must be deposited to the Infrastructure Protection Fund.¹¹

The bill also prescribes penalties for persons other than a scrap metal dealer that do not abide by the bill's requirements when purchasing a used catalytic converter. Any person, other than a business entity, who fails to comply with the above requirements is subject to the same penalties as a scrap metal dealer (except for suspension of a dealer's registration, as they are not registered dealers).¹² Any business entity that fails to comply with such requirements must be fined at least \$10,000, but not more than \$50,000 per violation. This exceeds the default organizational penalty for a first degree misdemeanor, which is a fine of \$5,000, and for a fourth degree felony, which is a fine of \$10,000.¹³ In the case of a business entity that is a motor vehicle salvage dealer or a motor vehicle repair and window tint operator, the bill requires revocation, refusal to renew, or refusal to issue a license to that business.¹⁴

When any fine is imposed for an offense involving the sale or purchase of a used catalytic converter, other than a fine explicitly designated for the Infrastructure Protection Fund, the bill requires the clerk of courts to pay the fine to the county, township, municipal corporation, park district, or state law enforcement agencies that were primarily responsible for, or involved in, arresting and prosecuting the offender.¹⁵

Communication and Information Management System (CIMS)

The bill requires the Director of Public Safety to use the transaction data submitted following the purchase of a used catalytic converter to make a list of all persons who, without a license as described under "**Bulk used catalytic converter sales license law**" below, sold more than one used catalytic converter in a day.¹⁶ The bill prohibits a person from purchasing a catalytic converter from any person on the list.¹⁷ The bill requires a law

¹¹ R.C. 4737.99(C), 4737.045(H), 4737.046(G), and 4737.04(E) and (G)(3).

¹² R.C. 4737.99(C).

¹³ R.C. 4737.99(C)(2).

¹⁴ R.C. 4738.07, 4738.12, and 4775.09.

¹⁵ R.C. 4737.99(H).

¹⁶ R.C. 4737.045(E)(1)(e).

¹⁷ R.C. 4737.04(F)(2) and (5) and 4737.041(B).

enforcement agency to submit all records of any investigation into a scrap metal dealer, bulk merchandise container dealer, or holder of a bulk used catalytic converter sales license to the Director for the purposes of compiling and updating the list.¹⁸

Bulk used catalytic converter sales license law

The bill prohibits a person from selling used catalytic converters in bulk (more than one used catalytic converter per day regardless of the number of purchasers) without a license.¹⁹ A person holding a license or registration under R.C. Chapter 4517 (motor vehicle dealers and motor vehicle auctions) 4737 (scrap metal dealers, bulk merchandise container dealers, and junk yards), 4738 (motor vehicle salvage dealers, salvage motor vehicle auctions, and salvage motor vehicle pools), or 4775 (motor vehicle collision repair operators) may sell used catalytic converters in bulk without obtaining a bulk used catalytic converter sales license, as long as the sales are in the ordinary course of a typical licensee's business.²⁰

Director of Public Safety duties

The Director of Public Safety must do all of the following for the purposes of administering the new license:

- Adopt rules as necessary to carry out the purpose of the license;
- Determine whether to refuse to issue, refuse to renew, suspend, or revoke a license;
- Do all acts and perform all functions as are necessary for the administration and enforcement of the license law.²¹

Application procedures; fee; changes in information

Under the bill, each person applying for a bulk used catalytic converter sales license must submit an application to the Director on a form prescribed by the Director and signed by the applicant. The applicant must include a fee of \$200, which the Director may adjust as necessary in order to cover the expenses of administering the secondhand dealer law. The application must include all of the following:

- The name and state tax identification number of the applicant and, if applicable, the location of the applicant's principal place of business. If the applicant has no principal place of business, then the home address of the applicant;
- The name or style under which the business is to be conducted if any and, if a corporation, the state of incorporation;

¹⁸ R.C. 4717.04(F)(3).

¹⁹ R.C. 4737.20 and 4737.21(A).

²⁰ R.C. 4737.21(B).

²¹ R.C. 4737.22.

- A statement showing whether the applicant has previously been convicted of or pleaded guilty to an offense that has a direct nexus to bulk catalytic converter sales, including an offense under R.C. Chapter 2911 (robbery, burglary, trespass, and safecracking), 2913 (theft and fraud), or 2923 (conspiracy, attempt, and complicity; weapons control; corrupt activity), provided the Director considers factors including the nature and seriousness of the offense, the passage of time since the offense, evidence of mitigating circumstances, and certain other specified factors;
- A statement showing whether the applicant has previously applied for a bulk used catalytic converter sales license and the result of the application, and whether the applicant has ever been the holder of any such license that was revoked or suspended;
- If the applicant is a corporation or partnership, a statement showing whether any of the partners, officers, or directors have been refused a license, or have been the holder of any such license that was revoked or suspended;
- Any additional information required by the Director.²²

Upon receipt of a completed application and the fee, if the Director determines that the applicant meets the requirements for licensure, the Director must issue a license. Each license issued expires annually on the date of its original issuance and may be renewed in accordance with the Standard License Renewal Procedure Law. An application for renewal must be accompanied by the same information and proof as required to accompany an initial application and a renewal fee of \$200, which the Director may adjust as necessary in order to cover the expenses of administering the law.²³

When a licensee experiences a change in any information or data required in an application or by rule of the Director for licensure, the bill requires a licensee to submit written notification of the change to the Director within 60 days after the date that the previously submitted information becomes obsolete. If a licensee fails to do so, the license is automatically suspended, except that the Director may waive the suspension for good cause shown.²⁴

A person who knowingly engages in fraud or fails to provide relevant information when applying for a license is subject to a \$500 fine.²⁵

Documentation

Under the bill, a person required to hold a bulk used catalytic converter sales license must maintain documentation of each used catalytic converter the person sells or purchases. The documentation must include all of the following:

²² R.C. 4737.23(A) and 4737.24 and R.C. 9.79, not in the bill.

²³ R.C. 4737.23(B) and (C), 4737.24, and 4745.01; R.C. 4745.03, not in the bill.

²⁴ R.C. 4737.23(D).

²⁵ R.C. 4737.046(H).

- The name and residence of the purchaser or seller, or the name and business address of such purchaser or seller if a business;
- The date and time of each sale or purchase;
- If the purchaser or seller arrives at the person's residence or place of business in a motor vehicle, the license plate number of that motor vehicle along with the state that issued the license plate;
- A full and accurate description of each used catalytic converter sold or purchased that includes identifying letters or marks written, inscribed, or otherwise included on the article and the name and maker of the catalytic converter if known.²⁶

The bill also requires the person to transmit the above information to the Director of Public Safety for inclusion in the CIMS immediately upon completion of each transaction.²⁷

Investigations

The bill allows the Director of Public Safety, under certain circumstances, to investigate a scrap metal dealer, bulk merchandise container dealer, a person (other than a licensed motor vehicle dealer) who receives a used catalytic converter in the ordinary course of business, a person selling used catalytic converters in bulk, and employees, officers, and agents of the foregoing. The Director's investigative authority also extends to persons acting as a scrap metal dealer, bulk merchandise container dealer, or seller of used catalytic converters in bulk without a registration or license. In either case, an investigation may be initiated only if both of the following apply:

- The Director receives a verified written complaint, supported by evidence, indicating that the person subject to investigation is in violation of the secondhand dealer law or the law requiring licensure of bulk used catalytic converter sellers;
- The Director determines that a prima-facie case (i.e., a case strong enough to establish a fact or raise a presumption unless disproved or rebutted) exists that the person has, is, or will violate the law.

As part of an investigation, the Director is empowered to search the alleged violator's premises during normal business hours, apply for court orders, and issue subpoenas. If the Director finds a violation, the Director must suspend the person's registration or license and reinstate such registration or license only if the person remedies the violation. Following a suspension or revocation, the Director must conduct a follow-up investigation to determine if the person continues to act in violation of the law. If so, the Director must seek an injunction from a court of common pleas and revoke the person's registration or license.

²⁶ R.C. 4737.25(A) and (B).

²⁷ R.C. 4737.25(C).

In the case of a person who violates the law by failing to register or obtain a license, the Director must instead seek an injunction from a court of common pleas and impose a civil penalty of \$1,000 for each day the violation occurred. The Director must certify unpaid fines to the Attorney General for collection.²⁸

In addition, the bill requires the Director of Public Safety to do the following:

- Provide a standardized inspection report or form to local law enforcement;
- Prepare an annual public report summarizing all inspection reports for the previous year;
- Establish streamlined procedures for receiving information regarding noncompliance and forwarding information to proper legal authorities;
- Record information on all noninvestigative visits made by the Director to scrap metal dealers, bulk merchandise container dealers, or holders of a bulk used catalytic converter license and report the information on the Department of Commerce's website on a quarterly basis.²⁹

Federal Preventing Auto Recycling Theft Act

The bill provides that, if H.R. 621, the Preventing Auto Recycling Theft Act, of the 118th Congress becomes law, and the Director determines that a national standard would be in the interest of citizens of Ohio, the Director may adopt a rule prohibiting purchase of a catalytic converter with a stamped vehicle identification number that does not match that of the car's title.³⁰

Motor vehicle salvage dealers

The bill prohibits licensed motor vehicle salvage dealers from purchasing or accepting individual motor vehicle parts, such as a catalytic converter.³¹ Furthermore, it requires the Registrar of Motor Vehicles to revoke, refuse to renew, or refuse to issue a motor vehicle salvage dealer's license with respect to any person that fails to comply with recordkeeping and reporting requirements or that is convicted of, or pleads guilty to stealing a used catalytic converter or receiving a stolen used catalytic converter.³²

Exemption from regulatory restriction requirements

The bill exempts rules adopted by the Director of Public Safety under the secondhand dealer law, from continuing law requirements concerning reductions in regulatory restrictions.

²⁸ R.C. 4347.046.

²⁹ R.C. 4737.22 and 4737.046(J).

³⁰ R.C. 4737.22.

³¹ R.C. 4738.03.

³² R.C. 4738.07 and 4738.12.

Currently, the Department of Public Safety must take actions to reduce regulatory restrictions, including, by June 30, 2025, reducing the amount of regulatory restrictions contained in an inventory created in 2019 in accordance with a statutory schedule. A “regulatory restriction” is any part of an administrative rule that requires or prohibits an action.

Without that exemption, the Department must do all of the following with respect to any regulatory restrictions contained in rules adopted under the bill:

- Until June 30, 2025, and for so long as the Department fails to reach the reductions required under the statutory schedule, remove two or more existing regulatory restrictions for each new restriction adopted (referred to as the “two-for-one rule”);
- Refrain from adopting a regulatory restriction when doing so would negate a previous reduction;
- Beginning July 1, 2025, refrain from adopting a regulatory restriction when doing so would cause the total number of regulatory restrictions in effect to exceed a statewide cap calculated by the Joint Committee on Agency Rule Review.³³

Theft and receiving stolen property

The bill enhances the penalties for the offenses of theft and receiving stolen property when the item stolen is a catalytic converter.

Theft

Under continuing law, a person commits the offense of theft if the person, with purpose to deprive the owner of property, knowingly obtains or exerts control over the property in any of the following ways: (1) without the consent of the owner or person authorized to give consent, (2) beyond the scope of the express or implied consent of the owner or person authorized to give consent, (3) by deception, (4) by threat, or (5) by intimidation. Under current law, the penalties for theft range from a first degree misdemeanor to a first degree felony depending on the value of the item stolen, the type of item, and whether the victim is a member of a protected class.³⁴

The bill provides a specific penalty when the item stolen is a catalytic converter. Specifically, theft of a catalytic converter is generally a fifth degree felony. But, if the offender previously had been convicted of any of the following types of offenses, the violation is a fourth degree felony:³⁵

- R.C. Chapter 2911 – robbery, burglary, trespass, and safecracking offenses;
- R.C. Chapter 2913 – theft and fraud offenses.

³³ R.C. 4737.98; R.C. 121.95 to 121.953, not in the bill.

³⁴ R.C. 2913.02.

³⁵ R.C. 2913.02(B)(10)(a) and (b).

The default penalty for a fifth degree felony is a definite prison term of 6, 7, 8, 9, 10, 11, or 12 months and a fine of not more than \$2,500. The default penalty for a fourth degree felony is a definite prison term of 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months and a fine of not more than \$5,000.³⁶

The bill provides that if the offender is a business entity, a violation is called enterprise theft of a catalytic converter and is punishable by a fine of not less than \$10,000 and not more than \$50,000 per violation. The default organizational penalty for a fifth degree felony is a fine of not more than \$7,500, and for a fourth degree felony is a fine of not more than \$10,000.³⁷

When one of the above fines is imposed, the bill requires the clerk of courts to pay the fine to the county, township, municipal corporation, park district, or state law enforcement agencies that were primarily responsible for, or involved in, arresting and prosecuting the offender.³⁸

Receiving stolen property

Under continuing law, a person commits the offense of receiving stolen property if the person receives, retains, or disposes of property of another knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense. Under current law, the penalties for receiving stolen property range from a first degree misdemeanor to a third degree felony depending on the value of the property.³⁹

The bill provides a specific penalty when the stolen property is a catalytic converter. Specifically, receiving a stolen catalytic converter is generally a fifth degree felony. But, if the offender previously had been convicted of any of the following types of offenses, the violation is a fourth degree felony.⁴⁰

- R.C. Chapter 2911 – robbery, burglary, trespass, and safecracking offenses;
- R.C. Chapter 2913 – theft and fraud offenses.

The default penalty for a fifth degree felony is a definite prison term of 6, 7, 8, 9, 10, 11, or 12 months and a fine of not more than \$2,500. The default penalty for a fourth degree felony is a definite prison term of 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months and a fine of not more than \$5,000.⁴¹

The bill provides that if the offender is a business entity, a violation is enterprise receipt of a stolen catalytic converter and is punishable by a fine of not less than \$10,000 and not more

³⁶ R.C. 2929.14 and 2929.18, not in the bill.

³⁷ R.C. 2913.02(B)(10)(c) and R.C. 2929.31, not in the bill.

³⁸ R.C. 2913.02(B)(10)(d).

³⁹ R.C. 2913.51.

⁴⁰ R.C. 2913.51(F)(1) and (2).

⁴¹ R.C. 2929.14 and 2929.18, not in the bill.

than \$50,000 per violation. The default organizational penalty for a fifth degree felony is a fine of not more than \$7,500, and for a fourth degree felony is a fine of not more than \$10,000.⁴²

When one of the above fines is imposed, the bill requires the clerk of courts to pay the fine to the county, township, municipal corporation, park district, or state law enforcement agencies that were primarily responsible for, or involved in, arresting and prosecuting the offender.⁴³

Complicity

Under current law, a person, acting with the kind of culpability required for the commission of an offense, is prohibited from doing any of the following:⁴⁴

- Soliciting or procuring another to commit the offense;
- Aiding or abetting another in committing the offense;
- Conspiring with another to commit an offense;
- Causing an innocent or irresponsible person to commit the offense.

A person who does any of the above is guilty of complicity in the commission of an offense, and can be prosecuted and punished as if the person were a principal offender.⁴⁵

The bill states that a person is complicit if the person sells a catalytic converter to another person who, in the purchase or receipt of the catalytic converter, violates any of the bill's provisions. As stated above, however, to be found guilty, the seller would need to have acted with the kind of culpability required for the commission of the principal offense.⁴⁶

HISTORY

Action	Date
Introduced	10-03-23

ANSB0165IN-135/ar

⁴² R.C. 2913.51(F)(3); R.C. 2929.31, not in the bill.

⁴³ R.C. 2913.51(F)(4).

⁴⁴ R.C. 2923.03(A), not in the bill.

⁴⁵ R.C. 2923.03(F), not in the bill.

⁴⁶ R.C. 4737.99(G).