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134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 408's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Rep. B. Young

Local Impact Statement Procedure Required: No

Maggie West, Senior Budget Analyst

Highlights

- The Department of Public Safety (DPS) will incur additional costs to develop, administer, and enforce the bill's Bulk Catalytic Converter Sales License provisions, which may include the hiring of additional staff.
- DPS will incur costs related to the bill's recordkeeping requirements, including modifying the existing Scrap Metal and Bulk Merchandise Container Dealers website and the Communication and Information Management System. The necessary modifications are likely to be done in house and may require significant resources and staff time.
- The manner in which the bill's \$100 annual Bulk Catalytic Converter Sales License and civil penalty to be imposed by the DPS Director will be distributed and credited is unclear.
- By requiring a person who purchases a catalytic converter to comply with the same reporting requirements as scrap metal dealers and specifying that the same penalties apply for failing to comply with those requirements, the bill could create additional catalytic converter-related cases for local criminal justice systems to adjudicate than would have otherwise been the case under existing law.
- The bill may shift adjudication costs for certain misdemeanor cases from a county or municipal court to a court of common pleas. In the event of a conviction, the bill would also shift sanctioning costs from a local authority to the Department of Rehabilitation and Correction, thus impacting fines, fees, and court costs retained by counties and municipalities, as well as the amount of court costs forwarded to the state.
- There may be some increase in fine revenue generated and credited to the county treasury when an offender is a business entity. The magnitude of any increase depends on how many business entities are convicted of specified offenses.

Detailed Analysis

The bill: (1) increases oversight over the sale of catalytic converters to scrap metal dealers, (2) licenses persons engaged in bulk catalytic converter sales, and (3) increases penalties for offenses related to stolen catalytic converters.

Bulk Catalytic Converter Sales License

The Department of Public Safety (DPS), which administers Ohio's scrap metal laws, will incur additional costs to develop, administer, and enforce the Bulk Catalytic Converter Sales Law that would be enacted by the bill. The bill prohibits a person from selling more than one catalytic converter per day unless the person obtains a Bulk Catalytic Converter Sales License to be issued by DPS. According to DPS, additional staff may be needed to process applications, issue licenses, investigate complaints, and conduct violation hearings. While the number of potential applicants for such a license is unknown, the bill does exempt certain individuals¹ from having to obtain a separate Bulk Catalytic Converter Sales License, including the state's nearly 350 scrap metal dealers.

The initial application and annual renewal fee is \$100. The bill permits the DPS Director to adjust both fees as necessary in order to cover the costs of administering the Secondhand Dealer, Scrap Metal Dealer, Bulk Merchandise Container Dealer, and Junk Yard Law. The distribution and crediting of the fee is unclear.

Under the bill, the DPS Director is required to impose upon a person who sells more than one catalytic converter per day without obtaining a Bulk Catalytic Converter Sales License a civil penalty of not more than \$1,000 for a first offense and between \$1,000 and \$5,000 on each subsequent offense. The distribution and crediting of the civil penalty is unclear.

Recordkeeping requirements

The bill places additional recordkeeping and transaction data submission requirements on scrap metal dealers and any person who is not a scrap metal dealer who purchases a catalytic converter, and specifies that the same penalties apply to a person as they do to a scrap metal dealer for violating the bill's requirements. Under current law, a scrap metal dealer who fails to comply with reporting requirements is generally guilty of a first degree misdemeanor, but the penalty may increase to a felony of the fifth or fourth degree depending on the number of specified prior convictions. A court may also suspend the scrap metal dealer's license for a period of 90 days.

By specifying that a person who purchases a catalytic converter and fails to comply with the bill's reporting requirements is subject to the same penalties as a scrap metal dealer (except for the dealer's license suspension since they are not a licensed dealer), it is possible that the bill could result in the creation of additional misdemeanor or felony catalytic converter-related cases for local criminal justice systems to adjudicate than would have been the case under existing law. In the event that any of the cases result in a conviction and the sentence includes a term of

¹ Those licensed or registered in Ohio as a scrap metal dealer, bulk merchandise container dealer, junk yard, motor vehicle salvage dealer, salvage motor vehicle auction, salvage motor vehicle pool, or motor vehicle collision repair operator are exempt from the bill's licensing requirement.

incarceration at a local jail or state prison, the local authority which operates the jail or the state prison system would incur additional costs to house each offender. The magnitude of any costs incurred would depend on the number of individuals who are charged, convicted, and subsequently sentenced to a period of incarceration under the bill. (See Table 1 under **“Penalties for offenses involving catalytic converters”** for the sentences and fines generally for felony and misdemeanor offenses.)

The bill also requires that a business entity that violates any of the recordkeeping provisions be fined at least \$10,000 but not more than \$50,000 per violation. Under existing law, the organizational penalty that the court is authorized to impose ranges from up to \$5,000 for a first degree misdemeanor to up to \$10,000 for a fourth degree felony.² Thus, under the bill, more organizational fine revenue may be collected than otherwise may have been the case under current law. The magnitude of any increase will depend upon the number of business entities found to be in violation of the bill’s recordkeeping requirements. Under current law’s general distribution rules, organizational fines would be paid to the treasury of the county within which the court is located.

Department of Public Safety

The bill’s recordkeeping requirements will likely result in one-time costs for DPS to modify its existing Scrap Metal and Bulk Merchandise Container Dealers website and Communication and Information Management System (CIMS) to accommodate transaction data related to the purchase and sale of catalytic converters.³ Ongoing costs related to CIMS may also occur due to the bill’s requirement that DPS create and maintain a do-not-buy-from list of unlicensed bulk catalytic converter sellers that is searchable by law enforcement and other businesses, and update that list within six hours of receiving data. DPS is also required to remove a person from that list after a period of 60 days has elapsed during which they did not make another unlicensed bulk sale. According to DPS, the modifications necessary to comply with the bill’s provisions are likely to be done in house and may require significant IT resources and staff time.

Penalties for specified offenses involving catalytic converters

Under existing law, the offenses of theft and receiving stolen property are generally first degree misdemeanors but may elevate up to a first degree felony (theft) or a third degree felony (receiving stolen property) depending on the value of the property involved, and for theft, whether the victim is a member of a protected class. The bill increases the minimum offense level for theft and receiving stolen property from a first degree misdemeanor to a fifth degree felony generally if the property involved is a catalytic converter. Both offenses may elevate to a fourth degree felony if the offender has specified prior convictions. The bill also specifies that a person can be charged with complicity under certain circumstances if they sell a catalytic converter to another person who violates any of the bill’s provisions.

² R.C. 2929.31.

³ Registered scrap metal dealers currently use the Scrap Metal and Bulk Merchandise Container Dealers website to register their business and upload transactions to DPS, which uses CIMS to access that information.

As a result of elevating the base charge, there may be some increase in the number of felony charges and subsequent convictions than may have been the case under existing law. If any of these additional convictions result in a term of incarceration there would be a shift in incarceration costs from a locally operated jail to a state prison operated by the Ohio Department of Rehabilitation and Correction (DRC). Any potential savings for local authorities if an offender is not sentenced to a locally operated jail is likely to be minimal at most. Similarly, any additional costs incurred by DRC to house any potential additional offenders is likely to be marginal.⁴ Table 1 below lists the sentences and fines for catalytic converter-related offenses generally.

Table 1. Sentences and Fines for Catalytic Converter-Related Offenses Generally		
Offense Level	Fine	Term of Incarceration
Felony 4 th Degree	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison term
Felony 5 th degree	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term
Misdemeanor 1 st degree	Up to \$1,000	Jail, not more than 180 days

To the extent that an alleged offense of theft or receiving stolen property when the property involved is a catalytic converter occurs, there may be some shifting of cases and workload from the jurisdiction of a county or municipal court to a court of common pleas, if the charges under existing law would have otherwise been pursued as a misdemeanor instead of a felony. This also means possible changes in the amount of fines, fees, and court costs retained by counties and municipalities, and the amount of court costs forwarded to the state. Table 2 below shows fines, court costs, and fees generally, as well as the recipient of the amount.

Table 2. Fines, Court Costs, and Fees Generally		
Financial Penalty Component	Amount Paid by Violator	Recipient of Amount
Fine	Varies by offense	<ul style="list-style-type: none"> ▪ Retained by county if violation of state law ▪ Retained by municipality if violation of local ordinance ▪ Forwarded for deposit into the state Security, Investigations, and Policing Fund (Fund 8400) if violator is cited by the Ohio State Highway Patrol
Local court costs and fees	Varies by local jurisdiction	Generally retained by the county or municipality

⁴ Marginal costs are those that increase or decrease directly on a per-person basis with changes in prison population (i.e., clothing, food, medical services, etc.). For FY 2021, DRC's reported marginal daily cost per offender was \$11.04.

Table 2. Fines, Court Costs, and Fees Generally		
Financial Penalty Component	Amount Paid by Violator	Recipient of Amount
State court costs	\$29	<p>Misdemeanor</p> <p>Deposited in the state treasury as follows:</p> <ul style="list-style-type: none"> ▪ \$20 to the Indigent Defense Support Fund (Fund 5DY0) ▪ \$9 to the Victims of Crime/Reparations Fund (Fund 4020)
	\$60	<p>Felony</p> <p>Deposited in the state treasury as follows:</p> <ul style="list-style-type: none"> ▪ \$30 to the Indigent Defense Support Fund (Fund 5DY0) ▪ \$30 to the Victims of Crime/Reparations Fund (Fund 4020)

Enterprise theft of a catalytic converter and enterprise receipt of a stolen catalytic converter

Under the bill, enterprise theft of a catalytic converter and enterprise receipt of a stolen catalytic converter are offenses in which the offender is a business entity. In cases where a conviction occurs, the business entity is required to pay a fine of not less than \$10,000 and not more than \$50,000 per violation. Under existing law, the organizational penalty that the court is authorized to impose ranges from up to \$7,500 for a fifth degree felony to up to \$10,000 for a fourth degree felony.⁵ Thus, under the bill, more organizational fine revenue may be collected than otherwise may have been the case under current law. The magnitude of any increase will depend upon the number of business entities convicted of enterprise theft. Under current law's general distribution rules, organizational fines would be paid to the treasury of the county within which the court is located.

The default organizational penalty for a fifth degree felony is a fine of \$7,500 for a fifth degree felony and \$10,000 for a fourth degree felony, meaning that the amount of the fine imposed under the bill would be \$2,500 to \$40,000 more than the amount of the fine imposed under current law.⁶ The magnitude of any increase in fine revenue that may be generated annually is uncertain and would depend upon the number of business entities who are found to have committed enterprise theft of a catalytic converter or enterprise receipt of a stolen catalytic converter.

⁵ R.C. 2929.31.

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Junk yards, motor vehicle salvage, and motor vehicle repair

The bill modifies the licensing requirements for junk yards, which are regulated by either the chief executive officer of a municipality or the county auditor, depending on where the junk yard is located. Specifically, the bill prohibits the licensing authority from issuing or renewing a license if the owner of the junk yard was convicted of, or pleaded guilty to, certain violations involving catalytic converters and requires that a license be revoked if a licensed owner is convicted of, or pleads guilty to, certain violations involving catalytic converters. This effectively means that counties and municipalities that license junk yards may need to modify their licensing processes to ensure that applicants for a junk yard license meet the bill's criteria. Any resulting costs and revenue losses are likely to be minimal annually.

The bill also prohibits DPS and the Board of Motor Vehicle Repair from issuing or renewing a license or registration to anyone who violates any of the bill's provisions. The bill also requires both state agencies to revoke any existing license or registration. Any resulting costs and revenue losses for DPS or the Board are likely to be minimal annually. DPS licenses and registers motor vehicle salvage dealers, salvage motor vehicle auctions, and salvage motor vehicle pools, and the Board licenses and registers motor vehicle repair operators.