

BILL ANALYSIS

Senate Research Center
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S.B. 224
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

What does this bill do?

- S.B. 224 creates a presumption of illegal possession for those who possess two or more catalytic converters ("CCs"), adds a specific theft offense in the Penal Code for catalytic converter theft, and creates a penalty enhancement for those who possess a firearm while committing the theft.

How does the bill do it?

- It amends the Penal Code to create a presumption that someone in possession of two or more CCs, which have been removed from vehicles, obtained the CCs unlawfully unless it can be proven that they are the owners of the CCs.
- It lists CCs specifically in the theft statute when the value of the stolen property is less than \$30,000 – at this value the penalty is a state jail felony. Creating the theft offense in the Penal Code allows it to fit into the Penal Code's value ladder. This gives prosecutors the flexibility to aggregate the value of stolen converters to combat crime rings. Once the value of multiple stolen CCs exceeds \$30,000, the offense becomes a third-degree felony. Once the value exceeds \$150,000 the offense becomes a second-degree felony. Once the value exceeds \$300,000, the offense becomes a first-degree felony.
- If the person who commits the theft is in possession of a firearm, the prosecution can increase the base offense to the next highest offense, according to the above value ladder.

Background and Purpose:

- Catalytic converter thefts have dramatically increased in Houston from 375 in 2019 to 7,822 in 2021. At current trends, Houston is poised to end 2022 with 2,000 more thefts than in 2021. While recent changes in the law have helped reduce some catalytic converter thefts, criminals have found ways to exploit loopholes. Importantly, catalytic converter theft is no longer just a property crime. It is increasingly becoming a more violent crime with gangs and robbery crews creating dangerous crime rings.

As proposed, S.B. 224 amends current law relating to the prosecution of and punishment for theft of a catalytic converter and increases a criminal penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Requires this Act to be known as the Deputy Darren Almendarez Act.

SECTION 2. Amends Section 31.03, Penal Code, by amending Subsections (c) and (e) and adding Subsection (f-1), as follows:

(c) Provides that for the purposes of Subsection (b) (relating to the unlawful appropriation of property):

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, the transaction for which, rather than similar to that which, the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2)-(6) makes no changes to these subdivisions;

(7) an actor who purchases or receives a used or secondhand motor vehicle is presumed to know on receipt by the actor of the motor vehicle that the motor vehicle has been previously stolen from another if the actor knowingly or recklessly:

(A) makes no changes to this paragraph; or

(B) fails to file with the appropriate county tax assessor-collector the documents required under Section 501.145 (Filing by Purchaser; Application for Transfer of Title), Transportation Code, in the period provided by that section, rather than fails to file with the county tax assessor-collector of the county in which the actor received the motor vehicle, not later than the 20th day after the date the actor received the motor vehicle, the registration license receipt and certificate of title or evidence of title delivered to the actor in accordance with Subchapter D (Transfer of Title and Registration of Used Vehicle), Chapter 520 (Miscellaneous Provisions), Transportation Code, at the time the motor vehicle was delivered;

(8)-(9) makes nonsubstantive changes to these subdivisions; and

(10) an actor in possession of property consisting of two or more catalytic converters that have been removed from two or more motor vehicles is presumed to have unlawfully appropriated the property unless the actor:

(A) is the owner of each vehicle from which the catalytic converters were removed;

(B) possessed the catalytic converters in the ordinary course of engaging in a business that is required to be licensed or registered, or is otherwise regulated, by this state or a political subdivision of this state, including:

(i) an automotive wrecking and salvage yard, as defined by Section 234.001 (Definitions), Local Government Code;

(ii) a metal recycling entity registered under Chapter 1956 (Metal Recycling Entities), Occupations Code;

(iii) a dealer licensed under Chapter 2301 (Sale or Lease of Motor Vehicles), Occupations Code; or

(iv) a garage or shop that is engaged in the business of repairing motor vehicles and subject to Chapter 2305 (Records of Certain Vehicle Repairs, Sales, and Purchases), Occupations Code; or

(C) is an employee or agent of a person described by Paragraph (B) and the actor possessed the catalytic converters while performing a duty within the scope of that employment or agency.

(e) Provides that an offense under Section 31.03 (Theft), except as provided by Subsections (f) (relating to increasing an offense described for purposes of punishment to

the next higher category of offense for certain circumstances) and (f-1), rather than Subsection (f), is:

(1)-(3) makes no changes to these subdivisions;

(4) a state jail felony if:

(A)-(B) makes no changes to these paragraphs;

(C) the property stolen is a firearm, rather than the property stolen is a firearm as defined by Section 46.01 (Definitions);

(D) makes no changes to this paragraph;

(E)-(F) makes nonsubstantive changes to these paragraphs; or

(G) the value of the property stolen is less than \$30,000 and the property stolen is a catalytic converter; or

(5)-(7) makes no changes to these subdivisions.

(f-1) Provides that an offense described for purposes of punishment by Subsections (e)(4)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the property stolen is a catalytic converter; and

(2) the actor possessed a firearm during the commission of the offense.

SECTION 3. Amends Section 31.03(h), Penal Code, by adding Subdivisions (7) and (8), to define "catalytic converter" and "firearm."

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2023.