88R4427 JRR-D

By:  Middleton S.B. No. 432

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for theft of a catalytic converter; increasing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Sections 31.03(c) and (e), Penal Code, are amended to read as follows:

(c)  For purposes of Subsection (b):

(1)  evidence that the actor has previously participated in recent transactions other than, but similar to, the transaction for [~~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)  the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3)  an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with the actor, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Chapter 501, Transportation Code) that the property has been previously stolen from another if the actor pays for or loans against the property $25 or more (or consideration of equivalent value) and the actor knowingly or recklessly:

(A)  fails to record the name, address, and physical description or identification number of the seller or pledgor;

(B)  fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C)  fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property.  It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements;

(4)  for the purposes of Subdivision (3)(A), "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

(5)  stolen property does not lose its character as stolen when recovered by any law enforcement agency;

(6)  an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or parts of an abandoned or wrecked motor vehicle for resale, disposal, scrap, repair, rebuilding, demolition, or other form of salvage is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly:

(A)  fails to maintain an accurate and legible inventory of each motor vehicle component part purchased by or delivered to the actor, including the date of purchase or delivery, the name, age, address, sex, and driver's license number of the seller or person making the delivery, the license plate number of the motor vehicle in which the part was delivered, a complete description of the part, and the vehicle identification number of the motor vehicle from which the part was removed, or in lieu of maintaining an inventory, fails to record the name and certificate of inventory number of the person who dismantled the motor vehicle from which the part was obtained;

(B)  fails on receipt of a motor vehicle to obtain a certificate of authority, sales receipt, or transfer document as required by Chapter 683, Transportation Code, or a certificate of title showing that the motor vehicle is not subject to a lien or that all recorded liens on the motor vehicle have been released; or

(C)  fails on receipt of a motor vehicle to immediately remove an unexpired license plate from the motor vehicle, to keep the plate in a secure and locked place, or to maintain an inventory, on forms provided by the Texas Department of Motor Vehicles, of license plates kept under this paragraph, including for each plate or set of plates the license plate number and the make, motor number, and vehicle identification number of the motor vehicle from which the plate was removed;

(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)  fails to report to the Texas Department of Motor Vehicles the failure of the person who sold or delivered the motor vehicle to the actor to deliver to the actor a properly executed certificate of title to the motor vehicle at the time the motor vehicle was delivered; or

(B)  fails to file with the appropriate county tax assessor-collector the documents required under Section 501.145, Transportation Code, in the period provided by that section [~~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, Chapter 520, Transportation Code, at the time the motor vehicle was delivered~~];

(8)  an actor who purchases or receives from any source other than a licensed retailer or distributor of pesticides a restricted-use pesticide or a state-limited-use pesticide or a compound, mixture, or preparation containing a restricted-use or state-limited-use pesticide is presumed to know on receipt by the actor of the pesticide or compound, mixture, or preparation that the pesticide or compound, mixture, or preparation has been previously stolen from another if the actor:

(A)  fails to record the name, address, and physical description of the seller or pledgor;

(B)  fails to record a complete description of the amount and type of pesticide or compound, mixture, or preparation purchased or received; and

(C)  fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property; [~~and~~]

(9)  an actor who is subject to Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from a commission merchant by representing that the actor will make prompt payment is presumed to have induced the commission merchant's consent by deception if the actor fails to make full payment in accordance with Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b); and

(10)  an actor in possession of property consisting of a catalytic converter that has been removed from a motor vehicle is presumed to have unlawfully appropriated the property unless the actor:

(A)  is the owner of the vehicle from which the catalytic converter was removed;

(B)  possessed the catalytic converter 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, Local Government Code;

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

(iii)  a dealer licensed under Chapter 2301, Occupations Code; or

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

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

(e)  Except as provided by Subsection (f), an offense under this section is:

(1)  a Class C misdemeanor if the value of the property stolen is less than $100;

(2)  a Class B misdemeanor if:

(A)  the value of the property stolen is $100 or more but less than $750;

(B)  the value of the property stolen is less than $100 and the defendant has previously been convicted of any grade of theft; or

(C)  the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3)  a Class A misdemeanor if the value of the property stolen is $750 or more but less than $2,500;

(4)  a state jail felony if:

(A)  the value of the property stolen is $2,500 or more but less than $30,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of $30,000;

(B)  regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

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

(D)  the value of the property stolen is less than $2,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E)  the property stolen is an official ballot or official carrier envelope for an election; [~~or~~]

(F)  the value of the property stolen is less than $20,000 and the property stolen is:

(i)  aluminum;

(ii)  bronze;

(iii)  copper; or

(iv)  brass; or

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

(5)  a felony of the third degree if the value of the property stolen is $30,000 or more but less than $150,000, or the property is:

(A)  cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than $150,000;

(B)  10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than $150,000; or

(C)  a controlled substance, having a value of less than $150,000, if stolen from:

(i)  a commercial building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, nursing facility, or warehouse; or

(ii)  a vehicle owned or operated by a wholesale distributor of prescription drugs;

(6)  a felony of the second degree if:

(A)  the value of the property stolen is $150,000 or more but less than $300,000; or

(B)  the value of the property stolen is less than $300,000 and the property stolen is an automated teller machine or the contents or components of an automated teller machine; or

(7)  a felony of the first degree if the value of the property stolen is $300,000 or more.

SECTION 2.  Section 31.03(h), Penal Code, is amended by adding Subdivision (7) to read as follows:

(7)  "Catalytic converter" includes any material removed from a catalytic converter.

SECTION 3.  The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 4.  This Act takes effect September 1, 2023.