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S.B. No. 224

A BILL TO BE ENTITLED

1 AN ACT
2 relating to catalytic converters, including criminal conduct
3 involving catalytic converters; providing an administrative
4 penalty; creating a criminal offense; increasing a criminal
5 penalty; increasing a fee.

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

7 ARTICLE 1. TITLE

8 SECTION 1.01. This Act may be cited as the Deputy Darren
9 Almendarez Act.

10 ARTICLE 2. CRIMINAL OFFENSES

11 SECTION 2.01. Section 28.03(b), Penal Code, is amended to
12 read as follows:

13 (b) Except as provided by Subsections (f) and (h), an
14 offense under this section is:

15 (1) a Class C misdemeanor if:
16 (A) the amount of pecuniary loss is less than
17 \$100; or
18 (B) except as provided in Subdivision (3)(A) or
19 (3)(B), it causes substantial inconvenience to others;

20 (2) a Class B misdemeanor if the amount of pecuniary
21 loss is \$100 or more but less than \$750;

22 (3) a Class A misdemeanor if:
23 (A) the amount of pecuniary loss is \$750 or more
24 but less than \$2,500; or

1 (B) the actor causes in whole or in part
2 impairment or interruption of any public water supply, or causes to
3 be diverted in whole, in part, or in any manner, including
4 installation or removal of any device for any such purpose, any
5 public water supply, regardless of the amount of the pecuniary
6 loss;

7 (4) a state jail felony if the amount of pecuniary loss
8 is:

9 (A) \$2,500 or more but less than \$30,000;

10 (B) less than \$2,500, if the property damaged or
11 destroyed is a habitation and if the damage or destruction is caused
12 by a firearm or explosive weapon;

13 (C) less than \$2,500, if the property was a fence
14 used for the production or containment of:

15 (i) cattle, bison, horses, sheep, swine,
16 goats, exotic livestock, or exotic poultry; or

17 (ii) game animals as that term is defined by
18 Section 63.001, Parks and Wildlife Code; ~~or~~

19 (D) less than \$30,000 and the actor:

20 (i) causes wholly or partly impairment or
21 interruption of property used for flood control purposes or a dam or
22 of public communications, public transportation, public gas or
23 power supply, or other public service; or

24 (ii) causes to be diverted wholly, partly,
25 or in any manner, including installation or removal of any device
26 for any such purpose, any public communications or public gas or
27 power supply; or

1 (E) less than \$30,000, if the property is a motor
2 vehicle that is damaged, destroyed, or tampered with during the
3 removal or attempted removal of a catalytic converter from the
4 motor vehicle;

5 (5) a felony of the third degree if:

6 (A) the amount of the pecuniary loss is \$30,000
7 or more but less than \$150,000;

8 (B) the actor, by discharging a firearm or other
9 weapon or by any other means, causes the death of one or more head of
10 cattle or bison or one or more horses; or

11 (C) the actor causes wholly or partly impairment
12 or interruption of access to an automated teller machine,
13 regardless of the amount of the pecuniary loss;

14 (6) a felony of the second degree if the amount of
15 pecuniary loss is \$150,000 or more but less than \$300,000; or

16 (7) a felony of the first degree if the amount of
17 pecuniary loss is \$300,000 or more.

18 SECTION 2.02. Section 31.03, Penal Code, is amended by
19 amending Subsections (c) and (e) and adding Subsection (f-1) to
20 read as follows:

21 (c) For purposes of Subsection (b):

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

27 (2) the testimony of an accomplice shall be

1 corroborated by proof that tends to connect the actor to the crime,
2 but the actor's knowledge or intent may be established by the
3 uncorroborated testimony of the accomplice;

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

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

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

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

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

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

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

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

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

26 (C) fails on receipt of a motor vehicle to
27 immediately remove an unexpired license plate from the motor

1 vehicle, to keep the plate in a secure and locked place, or to
2 maintain an inventory, on forms provided by the Texas Department of
3 Motor Vehicles, of license plates kept under this paragraph,
4 including for each plate or set of plates the license plate number
5 and the make, motor number, and vehicle identification number of
6 the motor vehicle from which the plate was removed;

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

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

16 (B) fails to file with the county tax
17 assessor-collector of the county in which the actor received the
18 motor vehicle, not later than the 20th day after the date the actor
19 received the motor vehicle, the registration license receipt and
20 certificate of title or evidence of title delivered to the actor in
21 accordance with Subchapter D, Chapter 520, Transportation Code, at
22 the time the motor vehicle was delivered;

23 (8) an actor who purchases or receives from any source
24 other than a licensed retailer or distributor of pesticides a
25 restricted-use pesticide or a state-limited-use pesticide or a
26 compound, mixture, or preparation containing a restricted-use or
27 state-limited-use pesticide is presumed to know on receipt by the

1 actor of the pesticide or compound, mixture, or preparation that
2 the pesticide or compound, mixture, or preparation has been
3 previously stolen from another if the actor:

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

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

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

12 (9) an actor who is subject to Section 409, Packers and
13 Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from
14 a commission merchant by representing that the actor will make
15 prompt payment is presumed to have induced the commission
16 merchant's consent by deception if the actor fails to make full
17 payment in accordance with Section 409, Packers and Stockyards Act
18 (7 U.S.C. Section 228b); and

19 (10) an actor in possession of property consisting of
20 one or more catalytic converters that have been removed from a motor
21 vehicle is presumed to have unlawfully appropriated the property
22 unless the actor:

23 (A) is the owner, as defined by Section 601.002,
24 Transportation Code, of each vehicle from which the catalytic
25 converters were removed; or

26 (B) possesses the catalytic converters in the
27 ordinary course of the actor's business, including in the ordinary

1 course of business of an entity described by Section 1956.123(1),
2 Occupations Code.

3 (e) Except as provided by Subsections [~~Subsection~~] (f) and
4 (f-1), an offense under this section is:

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

7 (2) a Class B misdemeanor if:

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

10 (B) the value of the property stolen is less than
11 \$100 and the defendant has previously been convicted of any grade of
12 theft; or

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

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

18 (4) a state jail felony if:

19 (A) the value of the property stolen is \$2,500 or
20 more but less than \$30,000, or the property is less than 10 head of
21 sheep, swine, or goats or any part thereof under the value of
22 \$30,000;

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

26 (C) the property stolen is a firearm[~~, as defined~~
27 ~~by Section 46.01~~];

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

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

6 (F) the value of the property stolen is less than
7 \$20,000 and the property stolen is:

8 (i) aluminum;

9 (ii) bronze;

10 (iii) copper; or

11 (iv) brass; or

12 (G) the cost of replacing the property stolen is
13 less than \$30,000 and the property stolen is a catalytic converter;

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

17 (A) cattle, horses, or exotic livestock or exotic
18 fowl as defined by Section 142.001, Agriculture Code, stolen during
19 a single transaction and having an aggregate value of less than
20 \$150,000;

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

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

26 (i) a commercial building in which a
27 controlled substance is generally stored, including a pharmacy,

1 clinic, hospital, nursing facility, or warehouse; or

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

4 (6) a felony of the second degree if:

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

7 (B) the value of the property stolen is less than
8 \$300,000 and the property stolen is an automated teller machine or
9 the contents or components of an automated teller machine; or

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

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

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

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

18 SECTION 2.03. Section 31.03(h), Penal Code, is amended by
19 adding Subdivisions (7) and (8) to read as follows:

20 (7) "Catalytic converter" means a catalytic converter
21 and any material removed from the catalytic converter.

22 (8) "Firearm" has the meaning assigned by Section
23 46.01.

24 SECTION 2.04. Chapter 31, Penal Code, is amended by adding
25 Section 31.21 to read as follows:

26 Sec. 31.21. UNAUTHORIZED POSSESSION OF CATALYTIC
27 CONVERTER. (a) A person commits an offense if the person:

1 (1) intentionally or knowingly possesses a catalytic
2 converter that has been removed from a motor vehicle; and

3 (2) is not a person who is authorized under Subsection
4 (b) to possess the catalytic converter.

5 (b) A person is presumed to be authorized to possess a
6 catalytic converter that has been removed from a motor vehicle if
7 the person:

8 (1) is the owner, as defined by Section 601.002,
9 Transportation Code, of the vehicle from which the catalytic
10 converter was removed; or

11 (2) possesses the catalytic converter in the ordinary
12 course of the person's business, including in the ordinary course
13 of business of an entity described by Section 1956.123(1),
14 Occupations Code.

15 (c) The presumption established under Subsection (b) does
16 not apply to a person described by Subsection (b)(2) who knows that
17 the catalytic converter was unlawfully removed from a motor vehicle
18 or otherwise unlawfully obtained.

19 (d) Except as provided by Subsection (e), an offense under
20 this section is a state jail felony.

21 (e) An offense under this section is a felony of the third
22 degree if it is shown on the trial of the offense that the person:

23 (1) has been previously convicted of an offense under
24 this section;

25 (2) in connection with the offense, engaged in conduct
26 constituting conspiracy under Section 15.02 to commit an offense
27 under Section 28.03 or 31.03 with respect to a catalytic converter;

1 or

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

4 (f) If conduct constituting an offense under this section
5 also constitutes an offense under any other law, the actor may be
6 prosecuted under this section, the other law, or both.

7 SECTION 2.05. Section 71.02(a), Penal Code, is amended to
8 read as follows:

9 (a) A person commits an offense if, with the intent to
10 establish, maintain, or participate in a combination or in the
11 profits of a combination or as a member of a criminal street gang,
12 the person commits or conspires to commit one or more of the
13 following:

14 (1) murder, capital murder, arson, aggravated
15 robbery, robbery, burglary, theft, aggravated kidnapping,
16 kidnapping, aggravated assault, aggravated sexual assault, sexual
17 assault, continuous sexual abuse of young child or disabled
18 individual, solicitation of a minor, forgery, deadly conduct,
19 assault punishable as a Class A misdemeanor, burglary of a motor
20 vehicle, or unauthorized use of a motor vehicle;

21 (2) any gambling offense punishable as a Class A
22 misdemeanor;

23 (3) promotion of prostitution, aggravated promotion
24 of prostitution, or compelling prostitution;

25 (4) unlawful manufacture, transportation, repair, or
26 sale of firearms or prohibited weapons;

27 (5) unlawful manufacture, delivery, dispensation, or

1 distribution of a controlled substance or dangerous drug, or
2 unlawful possession of a controlled substance or dangerous drug
3 through forgery, fraud, misrepresentation, or deception;

4 (5-a) causing the unlawful delivery, dispensation, or
5 distribution of a controlled substance or dangerous drug in
6 violation of Subtitle B, Title 3, Occupations Code;

7 (6) any unlawful wholesale promotion or possession of
8 any obscene material or obscene device with the intent to wholesale
9 promote the same;

10 (7) any offense under Subchapter B, Chapter 43,
11 depicting or involving conduct by or directed toward a child
12 younger than 18 years of age;

13 (8) any felony offense under Chapter 32;

14 (9) any offense under Chapter 36;

15 (10) any offense under Chapter 34, 35, or 35A;

16 (11) any offense under Section 37.11(a);

17 (12) any offense under Chapter 20A;

18 (13) any offense under Section 37.10;

19 (14) any offense under Section 38.06, 38.07, 38.09, or
20 38.11;

21 (15) any offense under Section 42.10;

22 (16) any offense under Section 46.06(a)(1) or 46.14;

23 (17) any offense under Section 20.05 or 20.06;

24 (18) any offense under Section 16.02; [~~or~~]

25 (19) an offense under Section 28.03 that is punishable
26 under Subsection (b)(4)(E) of that section;

27 (20) an offense under Section 31.21 that is punishable

1 under Subsection (d) of that section; or

2 (21) any offense classified as a felony under the Tax
3 Code.

4 ARTICLE 3. REGULATORY PROVISIONS

5 SECTION 3.01. Section 1956.001, Occupations Code, is
6 amended by amending Subdivisions (6-b) and (7) and adding
7 Subdivision (6-c) to read as follows:

8 (6-b) "Fixed location" means a structure or facility
9 that:

10 (A) is attached to real property;

11 (B) has a fixed geographic location with a
12 physical address; and

13 (C) is used wholly or partly to conduct an
14 activity described by Subdivision (7).

15 (6-c) "Lead material" means:

16 (A) a commercial grade lead battery, lead-acid
17 battery, or spiral cell battery; or

18 (B) a material or an item readily identifiable as
19 being made of or containing lead.

20 (7) "Metal recycling entity" means a business that ~~is~~
21 ~~operated from a fixed location and~~ is predominantly engaged in:

22 (A) performing the manufacturing process by
23 which scrap, used, or obsolete ferrous or nonferrous metal is
24 converted into raw material products consisting of prepared grades
25 and having an existing or potential economic value, by a method that
26 in part requires the use of powered tools and equipment, including
27 processes that involve processing, sorting, cutting, classifying,

1 cleaning, baling, wrapping, shredding, shearing, or changing the
2 physical form of that metal;

3 (B) the use of raw material products described
4 under Paragraph (A) in the manufacture of producer or consumer
5 goods; or

6 (C) purchasing or otherwise acquiring scrap,
7 used, or obsolete ferrous or nonferrous metals for the eventual use
8 of the metal for the purposes described by Paragraph (A) or (B).

9 SECTION 3.02. Section [1956.016](#), Occupations Code, is
10 amended to read as follows:

11 Sec. 1956.016. REGISTRATION DATABASE. The department shall
12 make available on its Internet website a publicly accessible list
13 of all registered metal recycling entities. The list must contain
14 the following for each registered metal recycling entity:

- 15 (1) the entity's name;
- 16 (2) the entity's physical address; ~~and~~
- 17 (3) the name of and contact information for a
18 representative of the entity; and
- 19 (4) a description of the extent to which the entity
20 engages in transactions involving catalytic converters based on the
21 entity's most recent declaration submitted under Section
22 [1956.022](#)(a) or [1956.127](#), as applicable.

23 SECTION 3.03. Section [1956.017](#)(b), Occupations Code, is
24 amended to read as follows:

25 (b) The advisory committee consists of 15 members appointed
26 by the director as follows:

- 27 (1) one representative of the department;

1 (2) two representatives of local law enforcement
2 agencies located in different municipalities, each with a
3 population of 500,000 or more;

4 (3) two representatives of local law enforcement
5 agencies located in different municipalities, each with a
6 population of 200,000 or more but less than 500,000;

7 (4) one representative of a local law enforcement
8 agency located in a municipality with a population of less than
9 200,000;

10 (5) five representatives of metal recycling entities,
11 at least one of whom must have substantial business experience with
12 transactions involving the purchase or acquisition of catalytic
13 converters;

14 (6) two members who represent industries that are
15 impacted by theft of regulated material;

16 (7) one sheriff of a county with a population of
17 500,000 or more; and

18 (8) one sheriff of a county with a population of less
19 than 500,000.

20 SECTION 3.04. Section [1956.022](#), Occupations Code, is
21 amended to read as follows:

22 Sec. 1956.022. ISSUANCE OF CERTIFICATE; QUALIFICATIONS.

23 (a) The department shall issue a certificate of registration to an
24 applicant who:

25 (1) applies and pays a registration fee; ~~and~~

26 (2) presents any relevant evidence relating to the
27 applicant's qualifications as required by commission rule;

1 (3) submits a declaration describing the extent to
2 which the applicant intends to engage in transactions involving
3 catalytic converters removed from motor vehicles in the course of
4 the applicant's business activity;

5 (4) presents evidence satisfactory to the department
6 that the applicant intends to act as a metal recycling entity and
7 use a fixed location to wholly or partly conduct an activity
8 described by Section 1956.001(7); and

9 (5) provides the physical address of the fixed
10 location described by Subdivision (4).

11 (a-1) If the applicant's business activity involves
12 catalytic converters removed from motor vehicles, the declaration
13 described by Subsection (a)(3) must state:

14 (1) whether the applicant will engage in a business
15 activity described by Section 1956.001(7)(A) or (B) with respect to
16 catalytic converters removed from motor vehicles;

17 (2) whether the applicant will engage in a business
18 activity described by Section 1956.001(7)(C) but not a business
19 activity described by Section 1956.001(7)(A) or (B), with respect
20 to catalytic converters removed from motor vehicles; or

21 (3) that the applicant will deal only incidentally
22 with catalytic converters removed from motor vehicles.

23 (a-2) An applicant who intends to conduct an activity
24 described by Section 1956.001(7) at more than one fixed location
25 must complete an application and obtain a certificate of
26 registration for each fixed location.

27 (b) The commission by rule may establish qualifications for

1 the holder of a certificate of registration under this chapter,
2 which may include accepting copies of a license or permit issued by
3 a county or municipality authorizing a metal recycling entity to
4 conduct business in that county or municipality. The
5 qualifications may differ for a holder of a certificate of
6 registration under this chapter based on the extent to which the
7 person engages in transactions involving catalytic converters
8 removed from motor vehicles as stated on the person's declaration
9 submitted under Subsection (a).

10 SECTION 3.05. Section 1956.024(a), Occupations Code, is
11 amended to read as follows:

12 (a) To renew a certificate of registration, a person must:
13 (1) submit an application for renewal in the manner
14 prescribed by the department; and
15 (2) update the person's declaration submitted under
16 Section 1956.022(a).

17 SECTION 3.06. Subchapter A-3, Chapter 1956, Occupations
18 Code, is amended by adding Section 1956.030 to read as follows:

19 Sec. 1956.030. FIXED LOCATION. (a) A metal recycling
20 entity shall at all times maintain a fixed location and use the
21 fixed location to at least partly conduct an activity described by
22 Section 1956.001(7).

23 (b) A metal recycling entity shall maintain a fixed location
24 as required by Subsection (a) for each certificate of registration
25 held by the metal recycling entity.

26 SECTION 3.07. Chapter 1956, Occupations Code, is amended by
27 adding Subchapter C-1 to read as follows:

1 SUBCHAPTER C-1. CERTAIN TRANSACTIONS INVOLVING CATALYTIC
2 CONVERTERS REMOVED FROM MOTOR VEHICLES

3 Sec. 1956.121. DEFINITION. In this subchapter, "motor
4 vehicle" has the meaning assigned by Section 541.201,
5 Transportation Code.

6 Sec. 1956.122. APPLICABILITY; EFFECT OF LAW. (a)
7 Notwithstanding any other provision of this chapter, this
8 subchapter applies to the purchase or acquisition, from a person
9 described by Section 1956.002(1), of a catalytic converter removed
10 from a motor vehicle.

11 (b) This subchapter does not affect any requirement under
12 Subchapter A-3, including any requirement applicable to the
13 purchase or acquisition of a catalytic converter removed from a
14 motor vehicle from a person not described by Section 1956.002(1).

15 Sec. 1956.123. LIMITATION ON PURCHASING OR OTHERWISE
16 ACQUIRING CATALYTIC CONVERTERS. A metal recycling entity may not
17 purchase or otherwise acquire a catalytic converter that was
18 removed from a motor vehicle from a person described by Section
19 1956.002(1), unless each of the following is satisfied:

20 (1) the person selling the catalytic converter to the
21 metal recycling entity acquired it in the ordinary course of the
22 person's business, including in the ordinary course of business of
23 any of the following entities:

24 (A) an automotive wrecking and salvage yard as
25 defined by Section 234.001, Local Government Code;

26 (B) a metal recycling entity registered under
27 this chapter;

1 (C) a manufacturer, distributor, converter, or
2 dealer licensed under Chapter 2301, including any department of a
3 dealer or converter that repairs or services motor vehicles;

4 (D) a shop or garage that is engaged in the
5 business of repairing motor vehicles;

6 (E) a used automotive parts recycler licensed
7 under Chapter 2309;

8 (F) a motor vehicle demolisher as defined by
9 Section 683.001, Transportation Code;

10 (G) a school or training program in which
11 students are provided instruction on building, repairing, or
12 restoring motor vehicles;

13 (H) a law enforcement agency;

14 (I) the National Insurance Crime Bureau;

15 (J) a business that is:

16 (i) located in and regulated by another
17 state or a political subdivision of another state; and

18 (ii) engaged in an activity for which a
19 business described by Paragraphs (A) through (I) is regulated by
20 this state or a political subdivision of this state; or

21 (K) a business that is located in a jurisdiction
22 outside the United States and operated in a business form
23 recognized by the laws of that jurisdiction and that imports
24 catalytic converters into the United States in accordance with the
25 Harmonized Tariff Schedule of the United States published by the
26 United States International Trade Commission; and

27 (2) any individual acting on behalf of the person

1 described by Subdivision (1) has apparent authority to enter into
2 the transaction and is acting in the scope of that authority.

3 Sec. 1956.124. CERTAIN RECORDS REQUIRED WHEN PURCHASING OR
4 OTHERWISE ACQUIRING CATALYTIC CONVERTER; OFFENSE. (a) A metal
5 recycling entity shall maintain an accurate record of each
6 transaction in which the entity purchases or otherwise acquires a
7 catalytic converter that is removed from a motor vehicle from a
8 person described by Section 1956.123.

9 (b) A record meets the requirements of Subsection (a) if it
10 contains:

11 (1) a description made in accordance with the custom
12 of the trade for the volume of catalytic converters purchased or
13 otherwise acquired;

14 (2) the business name of the person from whom the
15 catalytic converters were purchased or otherwise acquired; and

16 (3) the date of the transaction.

17 (c) A metal recycling entity shall preserve each record
18 required by this section until the second anniversary of the date
19 the record was made. The records must be maintained in an easily
20 retrievable format and must be available for inspection as provided
21 by Section 1956.125 not later than 72 hours after the time of
22 purchase or acquisition.

23 (d) A record containing the information described by
24 Subsection (b) that is maintained in accordance with other law or as
25 a routine business practice satisfies the requirements of
26 Subsection (a).

27 (e) A metal recycling entity commits an offense if the

1 entity intentionally or knowingly fails to maintain a record as
2 required by this section. An offense under this subsection is a
3 Class A misdemeanor.

4 Sec. 1956.125. INSPECTION OF RECORDS. On request, a metal
5 recycling entity shall permit a peace officer, a representative of
6 the department, or a representative of a county, municipality, or
7 other political subdivision that issues a license or permit under
8 Section 1956.003(b) to, during the entity's usual business hours:

9 (1) enter the premises of the entity; and

10 (2) inspect a record required to be maintained by
11 Section 1956.124.

12 Sec. 1956.126. EFFECT ON LOCAL LAW. (a) Notwithstanding
13 Section 1956.003, a county, municipality, or political subdivision
14 of this state may not:

15 (1) with respect to a catalytic converter removed from
16 a motor vehicle, restrict the purchase, acquisition, sale,
17 transfer, or possession of the catalytic converter by a person
18 described by Section 1956.123; or

19 (2) alter or add to the recordkeeping requirements
20 provided by Section 1956.124.

21 (b) Subsection (a) does not affect the authority of a
22 county, municipality, or political subdivision of this state to:

23 (1) issue a license or permit as provided by Section
24 1956.003; or

25 (2) inspect a record as provided by Section 1956.125.

26 Sec. 1956.127. DECLARATION UPDATE. If the business
27 activity of a metal recycling entity substantially changes in the

1 extent to which the entity engages in transactions involving
2 catalytic converters removed from motor vehicles, the entity shall
3 update the entity's declaration submitted under Section 1956.022.

4 Sec. 1956.128. ADMINISTRATIVE PENALTY. (a) The commission
5 may impose an administrative penalty under Subchapter R, Chapter
6 411, Government Code, on a metal recycling entity that:

7 (1) violates Section 1956.123 due to the entity's
8 failure to exercise due diligence in purchasing or acquiring a
9 catalytic converter removed from a motor vehicle; or

10 (2) violates Section 1956.124.

11 (b) The amount of the administrative penalty may not exceed
12 \$10,000.

13 SECTION 3.08. Subchapter A, Chapter 2305, Occupations Code,
14 is amended by adding Section 2305.0041 to read as follows:

15 Sec. 2305.0041. LIMITATION ON BUYING AND SELLING CATALYTIC
16 CONVERTERS. A person subject to this subchapter may not buy or sell
17 a catalytic converter removed from a motor vehicle unless the
18 catalytic converter was removed from the motor vehicle in
19 connection with the person's repair of the vehicle.

20 SECTION 3.09. The heading to Section 2305.0051, Occupations
21 Code, is amended to read as follows:

22 Sec. 2305.0051. REPAIR RECORDS RELATED TO CATALYTIC
23 CONVERTERS.

24 SECTION 3.10. Section 2305.0051(a), Occupations Code, is
25 amended to read as follows:

26 (a) The owner of a garage or repair shop that sells or
27 transfers to any person, including a metal recycling entity

1 registered under Chapter 1956, a catalytic converter that was [~~the~~
2 ~~person~~] removed in connection with a motor vehicle repair shall
3 maintain a record of all repairs for the vehicle that includes:

- 4 (1) the name and address of the vehicle's owner; [~~and~~]
5 (2) the vehicle identification number of the vehicle;
6 and
7 (3) copies of all related invoices including, as
8 applicable, a notation that a catalytic converter was removed from
9 the vehicle.

10 SECTION 3.11. Section 2305.101(c), Occupations Code, is
11 amended to read as follows:

12 (c) An offense under this chapter that consists of the
13 violation of Section 2305.0041, 2305.0051, or 2305.007 is a Class A
14 misdemeanor.

15 SECTION 3.12. Chapter 2305, Occupations Code, is amended by
16 adding Subchapter D to read as follows:

17 SUBCHAPTER D. RECORDS OF CERTAIN SALES OR TRANSFERS OF CATALYTIC
18 CONVERTERS REMOVED FROM MOTOR VEHICLES

19 Sec. 2305.151. DEFINITION. In this subchapter, "catalytic
20 converter" has the meaning assigned by Section 1956.001.

21 Sec. 2305.152. APPLICABILITY. This subchapter applies only
22 to a person described by Section 1956.123(1)(A) through (G).

23 Sec. 2305.153. RECORD REQUIRED. (a) A person to whom this
24 subchapter applies shall, for each transaction in which the person
25 sells or transfers to another person a catalytic converter that is
26 removed from a motor vehicle, maintain an accurate record of the
27 transaction until the second anniversary of the date of the

1 transaction.

2 (b) A record is sufficient to meet the requirements of
3 Subsection (a) if it contains:

4 (1) a description made in accordance with the custom
5 of the trade for the volume of catalytic converters sold or
6 transferred;

7 (2) the name of the person to whom the catalytic
8 converters were sold or transferred; and

9 (3) the date of the transaction.

10 (c) A record containing the information described by
11 Subsection (b) that is maintained in accordance with other law or as
12 a routine business practice satisfies the requirements of
13 Subsection (a).

14 Sec. 2305.154. OFFENSE: FAILURE TO MAINTAIN RECORD. (a) A
15 person commits an offense if the person intentionally or knowingly
16 fails to maintain a record as required by Section 2305.153.

17 (b) An offense under this section is a Class A misdemeanor.

18 (c) If conduct that constitutes an offense under this
19 section also constitutes an offense under another provision of this
20 chapter, the person may be prosecuted only under this section.

21 Sec. 2305.155. INSPECTION OF CERTAIN RECORDS. (a) In this
22 section, "licensing authority" and "occupational license" have the
23 meanings assigned by Section 58.001.

24 (b) If an occupational license is required for a person to
25 engage in a business or occupation described by Section
26 1956.123(1)(A) through (G), the licensing authority that issues the
27 occupational license may at a reasonable time:

1 (1) enter the premises at which the person engages in
2 the regulated business or occupation; and

3 (2) inspect the records or information required to be
4 maintained under Section 2305.153.

5 (c) Regardless of whether an occupational license is
6 required, an officer of the Department of Public Safety or another
7 peace officer may enter the premises of and inspect the records of a
8 person described by Section 1956.123(1)(A) through (G), as provided
9 by Subsection (b).

10 SECTION 3.13. Section 1006.001(2), Transportation Code, is
11 amended to read as follows:

12 (2) "Economic motor vehicle theft" means motor vehicle
13 burglary or theft, including theft of a catalytic converter
14 attached to a motor vehicle, committed for financial gain.

15 SECTION 3.14. Sections 1006.153(b) and (e), Transportation
16 Code, are amended to read as follows:

17 (b) An insurer shall pay to the authority a fee equal to \$5
18 [~~\$4~~] multiplied by the total number of motor vehicle years of
19 insurance for insurance policies delivered, issued for delivery, or
20 renewed by the insurer. The fee shall be paid not later than:

21 (1) March 1 of each year for a policy delivered,
22 issued, or renewed from July 1 through December 31 of the previous
23 calendar year; and

24 (2) August 1 of each year for a policy delivered,
25 issued, or renewed from January 1 through June 30 of that year.

26 (e) Out of each fee collected under Subsection (b), \$1 shall
27 be deposited to the credit of the general revenue fund to be used

1 only for coordinated regulatory and law enforcement activities
2 intended to detect and prevent catalytic converter theft in this
3 state. The remainder of each fee collected under Subsection (b) and
4 any [~~or an~~] amount collected under Subsection (b-1) shall be
5 allocated as follows:

6 (1) 20 percent shall be appropriated to the authority
7 for the purposes of this chapter;

8 (2) 20 percent shall be deposited to the credit of the
9 general revenue fund, to be used only for criminal justice
10 purposes; and

11 (3) 60 percent shall be deposited to the credit of the
12 designated trauma facility and emergency medical services account
13 under Section 780.003, Health and Safety Code, to be used only for
14 the criminal justice purpose of funding designated trauma
15 facilities, county and regional emergency medical services, and
16 trauma care systems that provide trauma care and emergency medical
17 services to victims of accidents resulting from traffic offenses.

18 ARTICLE 4. TRANSITIONS

19 SECTION 4.01. The change in law made by this Act to Section
20 1956.017, Occupations Code, does not affect the entitlement of a
21 member serving on the advisory committee established under that
22 section immediately before the effective date of this Act to
23 continue to serve for the remainder of the member's term. As the
24 terms of members expire after the effective date of this Act, the
25 director of the Department of Public Safety shall appoint or
26 reappoint members who have the qualifications required by that
27 section.

1 SECTION 4.02. Not later than October 1, 2023, a metal
2 recycling entity registered under Chapter 1956, Occupations Code,
3 on the effective date of this Act shall submit a declaration
4 described by Section 1956.022(a)(3), as added by this Act, to the
5 Department of Public Safety.

6 SECTION 4.03. Section 1956.022(a), Occupations Code, as
7 amended by this Act, applies only to an application for a
8 certificate of registration submitted on or after January 1, 2024.
9 An application submitted before January 1, 2024, is governed by the
10 law in effect immediately before the effective date of this Act, and
11 the former law is continued in effect for that purpose.

12 SECTION 4.04. As soon as practicable after the effective
13 date of this Act, the Department of Public Safety shall adopt rules
14 necessary to implement the changes in law made by this Act to
15 Chapter 1956, Occupations Code.

16 SECTION 4.05. The changes in law made by this Act to
17 Sections 28.03, 31.03, and 71.02, Penal Code, apply only to an
18 offense committed on or after the effective date of this Act. An
19 offense committed before the effective date of this Act is governed
20 by the law in effect on the date the offense was committed, and the
21 former law is continued in effect for that purpose. For purposes
22 of this section, an offense was committed before the effective date
23 of this Act if any element of the offense occurred before that date.

24 SECTION 4.06. Section 1006.153, Transportation Code, as
25 amended by this Act, applies only to a fee due on or after the
26 effective date of this Act. A fee due before the effective date of
27 this Act is governed by the law in effect on the date the fee was

1 due, and the former law is continued in effect for that purpose.

2 ARTICLE 5. COORDINATION OF STATE AGENCIES TO DETECT AND PREVENT

3 THEFT OF CATALYTIC CONVERTERS

4 SECTION 5.01. (a) In this section, "authority" means the
5 Motor Vehicle Crime Prevention Authority.

6 (b) Not later than January 1, 2024, the authority shall
7 develop and implement a plan to coordinate efforts with the
8 Department of Public Safety, the Texas Department of Licensing and
9 Regulation, and the Texas Department of Motor Vehicles to:

10 (1) review the records of persons regulated by each
11 agency involving the purchase, acquisition, sale, or transfer of
12 catalytic converters removed from motor vehicles; and

13 (2) respond to suspicious activities that may be
14 detected through the analysis of the records described by
15 Subdivision (1) of this subsection.

16 (c) The authority may establish a task force composed of
17 persons regulated by the agencies listed in Subsection (b) of this
18 section who have substantial business experience in transactions
19 involving catalytic converters. The authority shall develop the
20 plan described by Subsection (b) of this section with the
21 participation of the task force, if established.

22 (d) Except as provided by Subsection (c) of this section,
23 the authority may appoint members to the task force as the authority
24 determines appropriate.

25 (e) In developing and implementing the plan described by
26 Subsection (b) of this section, the authority shall focus on:

27 (1) protecting each step in the legitimate stream of

1 commerce that begins with the removal of a catalytic converter from
2 a motor vehicle and includes recycling those catalytic converters
3 to ensure that the persons regulated by the agencies listed in
4 Subsection (b) of this section are not the means for inserting
5 stolen catalytic converters into the stream of commerce; and

6 (2) providing risk-based targeting and random
7 auditing of the records of the persons regulated by the agencies
8 listed in Subsection (b) of this section.

9 (f) The money deposited to the credit of the general revenue
10 fund for coordinated regulatory and law enforcement activities
11 intended to detect and prevent catalytic converter theft in this
12 state as described by Section 1006.153(e), Transportation Code, as
13 amended by this Act, may be appropriated to the authority for the
14 activities required by this section.

15 ARTICLE 6. EFFECTIVE DATE

16 SECTION 6.01. (a) This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2023.

21 (b) Sections 1956.001(6-b) and (7), Occupations Code, as
22 amended by this Act, and Section 1956.030, Occupations Code, as
23 added by this Act, take effect July 1, 2023.