

Date of Hearing: April 17, 2023

ASSEMBLY COMMITTEE ON TRANSPORTATION
Laura Friedman, Chair
AB 641 (Vince Fong) – As Amended April 10, 2023

SUBJECT: Automobile dismantlers: catalytic converters

SUMMARY: Makes it a misdemeanor for a person to possess six or more used catalytic converters that have been cut from a vehicle unless they are a licensed automobile dismantler or are expressly excluded from having to be a licensed automobile dismantler. Specifically, **this bill:**

- 1) Provides that a junk dealer or recycler, or core recycler does not have to have an automobile dismantler license if they possess six or more catalytic converters.
- 2) Provides that automobile dismantler does not include a person who possesses six or more catalytic converters if:
 - a) They are a business of a licensed dealer, manufacturer, or transporter.
 - b) They operate and maintain any fleet of motor vehicles used for the transportation of persons or property.
 - c) They are an agricultural, farming, mining, or ranching business that does not sell parts of the vehicles except for either of the following purposes:
 - i) For use in repairs performed by that business.
 - ii) For use by a licensed dismantler.
 - d) Any motor vehicle repair business registered with the Bureau of Automotive Repair, or those exempt from registration that does not sell parts of vehicles, except for either of the following purposes:
 - i) For use in repairs performed by that business.
 - ii) For use by a licensed dismantler.
 - e) Any person engaged in the restoration of vehicles having historic or classic significance.
 - f) The owner of a steel mill, scrap metal processing facility, or similar establishment purchasing vehicles of a type subject to registration, not for the purposes of selling the vehicles, in whole or in part, but exclusively for the purposes of reducing the vehicles to their component materials, if either the facility obtains, on a form approved by the Department of Motor Vehicles (DMV), that has been cleared for dismantling.
 - g) Any person who acquires used parts or components for resale from vehicles which have been previously cleared for dismantling.

EXISTING LAW:

- 1) Defines an “automobile dismantler” as a person not expressly excluded who is engaged in the business of buying, selling, or dealing in vehicles of a type required to be registered under this code, including nonrepairable vehicles, for the purpose of dismantling the vehicles, who buys or sells the integral parts and component materials thereof, in whole or in part, or deals in used motor vehicle parts. This section does not apply to the occasional and incidental dismantling of vehicles by dealers who have secured dealers plates from the department for the current year whose principal business is buying and selling new and used vehicles, or by owners who desire to dismantle not more than three personal vehicles within any 12-month period or who keeps or maintains on real property owned by them, or under their possession or control, two or more unregistered motor vehicles no longer intended for, or in condition for, legal use on the highways, whether for the purpose of resale or used parts, or for the purpose of reclaiming for use some or all of the materials, whether metal, glass, fabric or otherwise, or to dispose of them, or for any other purpose. (Vehicle Code Section (VEH) 220)
- 2) The term “automobile dismantler” does not include any of the following:
 - a) The owner or operator of any premises on which two or more unregistered and inoperable vehicles are held or stored, if the vehicles are used for restoration or replacement parts or otherwise, in conjunction with any of the following:
 - i) Any business of a licensed dealer, manufacturer, or transporter.
 - ii) The operation and maintenance of any fleet of motor vehicles used for the transportation of persons or property.
 - iii) Any agricultural, farming, mining, or ranching business that does not sell parts of the vehicles, except for either of the following purposes:
 - iv) For use in repairs performed by that business.
 - v) Any motor vehicle repair business registered with the Bureau of Automotive Repair, or those exempt from registration under the Business and Professions Code or applicable regulations, that does not sell parts of the vehicles, as provided.
 - vi) Any person engaged in the restoration of vehicles of the type described in Section 5004 or in the restoration of other vehicles having historic or classic significance.
 - vii) The owner of a steel mill, scrap metal processing facility, or similar establishment purchasing vehicles of a type subject to registration, not for the purpose of selling the vehicles, in whole or in part, but exclusively for the purpose of reducing the vehicles to their component materials, if either the facility obtains, on a form approved or provided by the department, a certification by the person from whom the vehicles are obtained that each of the vehicles has been cleared for dismantling pursuant to Section 5500 or 11520, or the facility complies with Section 9564.

- viii) Any person who acquires used parts or components for resale from vehicles which have been previously cleared for dismantling. (VEH 221)
- 3) Makes it a misdemeanor for a person to act as an automobile dismantler without first having an established place of business and without first having procured a license or temporary permit from DMV. Creates a fine of at least \$250 (\$1150 with penalty assessments) for first offense, \$500 (\$2130 with penalty assessments) for a second offense and \$1000 (\$4180 with penalty assessments) for a third offense. (VEH 11500).
 - 4) Provides that no person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, a required motor vehicle pollution control device or system, including catalytic converters, that alters or modifies the original design or performance of the motor vehicle pollution control device or system. If the court finds that a person has willfully violated this section, the court shall impose the maximum fine that may be imposed in the case, and no part of the fine may be suspended. (VEH 27156 and 38391)
 - 5) States that no person shall either individually or in association with one or more other persons, willfully injure or tamper with any vehicle or the contents thereof or break or remove any part of a vehicle without the consent of the owner. This offense is a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding \$1,000, or by both. (VEH 40000.9)
 - 6) States that no person shall with intent to commit any malicious mischief, injury, or other crime, climb into or upon a vehicle whether it is in motion or at rest, nor shall any person attempt to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended, nor shall any person set in motion any vehicle while the same is at rest and unattended. This offense is a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding \$1,000, or by both. (VEH 10853, 40000.9)
 - 7) Provides that every person who defaces, damages or destroys real or personal property that is not their own, is guilty of vandalism. If the amount of the damage is less than \$400, the offense is a misdemeanor, punishable by imprisonment in a county jail, not exceeding one year, or by a fine of \$1,000 or by both. If the amount of the damage is \$400 or more, the offense is a felony, punishable imprisonment in a county jail not exceeding one year, or by a fine of not more than \$10,000, or both. (Penal code section (PEN) 594).
 - 8) Defines "Receiving stolen property" as buying or receiving any property that has been stolen knowing the property is stolen, or concealing, selling, or withholding any property from the owner, knowing the property is stolen. Receiving stolen property that does not exceed \$950 is a misdemeanor, as specified, and receiving stolen property that exceeds \$950 is a wobbler. (PEN 496)
 - 9) Defines "Grand theft" as theft that is committed when the money, labor, or real or personal property taken is of a value exceeding \$950, except as specified, and states that grand theft is a wobbler. (PEN 487, 488, 489)
 - 10) Defines "Petty theft" as obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed \$950 and states that petty theft is a

misdemeanor, punishable by a fine not exceeding \$1,000 or by imprisonment in the county jail not exceeding six months, or both. (PEN 490, 490.2)

11) Exempts the following persons from being required to be an automotive repair dealer:

- a) An employee of an automotive repair dealer if the employee repairs motor vehicles only as an employee.
- b) A person who solely engages in the business of repairing the motor vehicles of one or more commercial, industrial, or governmental establishments.
- c) A person who is registered as an electronic and appliance repair dealer and whose work is limited to the installation or replacement of a motor vehicle radio, antenna, audio recorder, audio playback equipment, ignition interlock device, or burglar alarm.
- d) A person whose primary business is the wholesale supply of new or rebuilt automotive parts who solely engages in the remachining of individual automotive parts without compensation for warranty adjustments to those parts and who does not engage in repairing or diagnosing malfunctions of motor vehicles or motorcycles.

FISCAL EFFECT: Unknown

COMMENTS:

Catalytic converter thefts are on the rise. The Bureau of Automotive Repair (BAR) reported about 1,600 converter thefts per month statewide in 2021. According to data provided by the Personal Insurance Federation of California, insurance claims for catalytic converter thefts in California have gone up from a monthly average of 183 in 2020 to 477 claims in January of 2022. Claims rose by 308% from 2019 to 2020 and 100% from 2020 to 2021. California had the highest number of claims in the United States, accounting for 28% of all theft claims in the country. The insurance industry paid over \$23 million in repair costs for catalytic converters in 2021 alone, an 11.5% increase from the year before.

A catalytic converter is an exhaust emission control device that converts toxic gases and pollutants in exhaust gas from an internal combustion engine into less-toxic pollutants.

Catalytic converter theft has been on the rise because they are coated with precious metals such as rhodium that is valued at over \$14,000 per ounce and palladium which is valued at \$2,500 per ounce. Toyota and Honda vehicles have been particularly attractive to thieves, because the location of the converters on certain vehicles that make it so that a thief can steal one with basic tools, such as a pipe wrench or cordless saw, in a manner of minutes.

The increase in theft, combined with supply chain issues has resulted in a shortage of replacement catalytic converters. This is likely to grow worse because of the war in Ukraine and Russia being the world's largest producer of palladium.

According to the author, "Families, especially low-income Californians, are financially strained with inflation and the high cost of everything from rent to energy to groceries. Catalytic converter theft costs them money that could have gone to pay the bills, and loopholes must be

closed to stop these rampant thefts. AB 641 will give law enforcement the tool they need to crack down on catalytic converter theft and unlicensed dismantling. Thieves caught with converters should be charged with unlicensed vehicle dismantling, at a minimum. This bill will discourage catalytic converter thieves, and bring relief to California motorists.”

BAR has made several recommendations to deter theft of catalytic converters, including parking cars in well-lit areas, installing motion-sensing alarm systems, installing theft prevention devices like steel cages, and etching the converter shell with a VIN or license plate number.

The California District Attorney’s Association, writing in support of this bill, argues “AB 641 will improve public safety and give law enforcement the tools they need to hold thieves accountable. By requiring individuals in possession of six or more catalytic converters to register as automobile dismantlers, thieves caught with converters could be charged with unlicensed vehicle dismantling, regardless of whether the catalytic converters can be tracked to a victim. Unlicensed vehicle dismantling is currently a misdemeanor with fines ranging from \$250 to \$1,000 per offense.”

Committee concerns: Last year the Legislature passed and the Governor signed AB 1740 (Muratsuchi), Chapter 513, Statutes of 2022 and SB 1087 (Gonzalez), Chapter 514, Statutes of 2022 which prohibits a core recycler from entering into a transaction to purchase or receive a catalytic converter from any person that is not a commercial enterprise, as defined, or verifiable owner of the vehicle from which the catalytic converter was removed. These two laws place strict record keeping requirements on core recyclers on where they got their catalytic converters from. The goal of that legislation is to make it harder for catalytic converter thieves to be able to sell their stolen catalytic converters to smelting operations. This removes the impetus to steal the catalytic converter to begin with as their value is not in the attachment of the device to another vehicle, but rather in the precious metals they contain.

Nonetheless, two bills have been introduced this session to make it a crime to possess a catalytic converter. It is already a crime to steal a catalytic converter, sell stolen property, and knowingly receive stolen property. Law enforcement has indicated to the Committee that they have had a difficult time catching catalytic converter thieves in the act. As a result, there have been numerous bills introduced in the past two legislative sessions to make it a crime to possess a detached catalytic converter, and several cities have passed ordinances making it a crime to merely possess a catalytic converter.

While AB 1519 (Bains) of 2023 makes it a misdemeanor to knowingly possess a catalytic converter that has had a vehicle identification number (VIN) or other identifier removed, this bill makes it a misdemeanor to be in possession of six or more used catalytic converters. Doing so may help a police officer arrest a person in possession of multiple catalytic converters; however, it also may have the potential to criminalize otherwise legal behavior by legitimate businesses that may be transporting used catalytic converters.

AB 1519 has the additional criminal element of having to show a VIN number was removed from a catalytic converter. VINs are added to catalytic converters so law enforcement can find a victim in the case of a potential theft, a purpose that would be defeated by a person removing the VIN to avoid being tied to a theft.

This bill would essentially place a person in possession of a legal item in a situation where they are forced to prove their innocence to an officer to avoid a criminal charge that carries jail time, regardless of whether law enforcement can identify an actual victim or show that the person had knowledge that they were in possession of a stolen item. There are many legitimate business reasons a person may possess multiple used catalytic converters, including the exemptions this bill lays out. However, a person stopped by a police officer would be placed in a situation where they would have to prove their innocence by meeting the exemptions, a notion contrary to American jurisprudence that is fundamentally based on the notion that a person is innocent until proven guilty.

Related Legislation:

SB 55 (Umberg) requires a person holding a retail seller's permit to sell new or used vehicles equipped with a catalytic converter to etch the catalytic converter with a VIN unless the buyer declines to have the VIN etched at the point of sale. *SB 55 passed out of Senate Transportation Committee and is pending before Senate Public Safety Committee.*

AB 1519 (Bains) makes it a misdemeanor to remove a VIN number from a catalytic converter and to knowingly possess three or more catalytic converters where a VIN number has been removed. *AB 1519 is set to be heard in this Committee on April 17, 2023.*

Previous Legislation:

AB 1740 (Muratsuchi), Chapter 513, Statutes of 2022 and SB 1087 (Gonzalez), Chapter 514, Statutes of 2022 which prohibits a core recycler from entering into a transaction to purchase or receive a catalytic converter from any person that is not a commercial enterprise, as defined, or verifiable owner of the vehicle from which the catalytic converter was removed.

AB 1653 (Patterson), Chapter 105, statutes of 2022 adds vehicle burglary and theft of vehicle parts and accessories to the California Highway Patrol regional property crimes task force for organized retail theft.

SB 366 (Umberg) Chapter 601, Statutes of 2021 increased the fines for being an unlicensed automobile dismantler and reconstituted the Vehicle Dismantling Industry Strike Team (VDIST), which amongst other things, requires a study the number of unlicensed automobile dismantlers investigated and the number of investigations that resulted in an enforcement action for the theft of catalytic converters.

SB 986 (Umberg of 2022) would have required a traceable method of payment for catalytic converters and prohibits a dealer or retailer from selling a new or used motor vehicle equipped with a catalytic converter unless the catalytic converter has been engraved or etched with the vehicle identification number (VIN) of the vehicle to which it is attached, punishable by an infraction, with exceptions. That bill died on the Assembly Floor.

AB 1622 (Chen of 2022) would have required the Department of Consumer Affairs to provide a licensed smog check station with a sign informing customers about strategies for deterring catalytic converter theft, including the etching of identifying information on the catalytic converter, and require the sign to be posted conspicuously in all licensed smog check stations in an area frequented by customers. The bill would also authorize stations where licensed smog check technician repairs are performed to offer and recommend to customers the etching as an

optional service provided in conjunction with the smog check. That bill died in the Assembly Transportation Committee.

AB 1659 (Patterson of 2022) would have revised the definition of an “automobile dismantler” to include a person who keeps or maintains two or more used catalytic converters that are not attached to a motor vehicle on property owned by the person, or under their possession or control, for specified purposes. That bill died in the Assembly Transportation Committee.

AB 1984 (Choi of 2022) would have prohibited the purchase, sale, receipt, or possession of a stolen catalytic converter, as specified. The bill specifies that a peace officer would need not to have actual knowledge that the catalytic converter is stolen to establish probable cause for arrest, and that for prosecution, circumstantial evidence may be used to prove the stolen nature of the catalytic converter. That bill died in the Assembly Transportation Committee.

AB 2398 (Villapudua of 2022) would have made possession of a detached catalytic converter a wobbler, punishable by imprisonment in a county jail for not more than one year, or in the county jail for 16 months, or two, or three years. That bill failed passage in the Assembly Public Safety Committee.

AB 2407 (O’Donnell of 2022) would have required a core recycler to report specified information about the purchase and sale of catalytic converters to the chief of police or the sheriff, as prescribed, and to request to receive theft alert notifications regarding the theft of catalytic converters from a specified theft alert system. The bill would also require a core recycler to obtain the thumbprint of a seller of a catalytic converter and to preserve the thumbprint for two years. The bill would limit the inspection or seizure of a thumbprint to that performed by law enforcement pursuant to a criminal search warrant based upon probable cause. AB 2407 was held on suspense in Senate Appropriations Committee.

AB 2682 (Gray of 2022) would have required any automotive repair dealer that installs or replaces a catalytic converter on a motor vehicle to ensure that the catalytic converter is permanently marked with the vehicle identification number (VIN) of the vehicle on which it is being installed, as specified, with cost recovery and penalties, as specified. Requires a smog check station to notify a customer whether the catalytic converter is permanently marked, as specified. Prohibits a person from removing, altering, or obfuscating any VIN or other unique marking that has been added to a catalytic converter, or possessing a catalytic converter whether the VIN has been removed, altered, or obfuscated, and provides exceptions, as specified, and provides penalties, as specified. Requires no manufacturer shall deliver a new vehicle assembled after January 1, 2024, equipped with a catalytic converter for sale in this state unless the catalytic converter has been permanently marked with the VIN of the vehicle to which it is attached. That bill was held on suspense in Senate Appropriations Committee.

SB 919 (Jones of 2022) would have prohibited a core recycler from purchasing or otherwise receiving any catalytic converter that is not engraved, etched, or otherwise permanently marked with the VIN of the vehicle that it was removed from. The bill would require a core recycler to maintain a log that includes a description of all catalytic converters purchased or received by the core recycler, as specified. The bill would prohibit a person from buying, selling, receiving, or possessing a stolen catalytic converter as well as removing, altering, or obfuscating a VIN or other unique marking that has been added to a catalytic converter. This bill would prohibit a dealer or retail seller from selling a motor vehicle equipped with a catalytic converter unless the catalytic converter has been engraved, etched, or otherwise permanently marked with the VIN of

the vehicle to which it is attached. SB 919 passed Senate Business, Professions and Economic Development Committee and died in Senate Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Auto Club of Southern California (AAA)
Burbank Police Officers' Association
California Coalition of School Safety Professionals
California District Attorneys Association
California Law Enforcement Association of Records Supervisors
California New Car Dealers Association
California State Sheriffs' Association
CARMAX
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Deputy Sheriffs' Association of Monterey County
Fullerton Police Officers' Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association
Upland Police Officers Association

Opposition

None on file

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