

22107918D

SENATE BILL NO. 729

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 12, 2022)

(Patrons Prior to Substitute—Senators Ruff and Spruill [SB 41])

A BILL to amend and reenact §§ 18.2-146 and 59.1-136.3 of the Code of Virginia, relating to catalytic converters; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-146 and 59.1-136.3 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-146. Breaking, injuring, defacing, destroying, or preventing the operation of vehicle, aircraft, boat, or vessel; penalties.

Any person who shall individually or in association with one or more others willfully break, injure, tamper with, or remove any part or parts of any vehicle, aircraft, boat, or vessel for the purpose of injuring, defacing, or destroying said vehicle, aircraft, boat, or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat, or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat, or vessel, ~~shall be~~ is guilty of a Class 1 misdemeanor, *unless such violation of this section involves the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof, then he is guilty of a Class 6 felony. A prosecution or proceeding for a felony under this section is a bar to a prosecution or proceeding under § 18.2-137 for the same act.*

§ 59.1-136.3. Purchases of nonferrous scrap, metal articles, and proprietary articles.

A. Except as provided in § 59.1-136.4, scrap metal purchasers may purchase nonferrous scrap, metal articles, and proprietary articles from any person who is not an authorized scrap seller or the authorized agent and employee of an authorized scrap seller only in accordance with the following requirements and procedures:

1. At the time of sale, the seller of any nonferrous scrap, metal article, or proprietary article shall provide a driver's license or other government-issued current photographic identification including the seller's full name, current address, date of birth, and social security or other recognized identification number; and

2. The scrap metal purchaser shall record the seller's identification information, as well as the time and date of the transaction, the license number of the seller's vehicle, and a description of the items received from the seller, in a permanent ledger maintained at the scrap metal purchaser's place of business. The ledger shall be made available upon request to any law-enforcement official, conservator of the peace, or special conservator of the peace appointed pursuant to § 19.2-13, in the performance of his duties who presents his credentials at the scrap metal purchaser's normal business location during regular business hours. Records required by this subdivision shall be maintained by the scrap metal dealer at its normal place of business or at another readily accessible and secure location for at least five years.

B. Upon compliance with the other requirements of this section and § 59.1-136.4, a scrap metal purchaser may purchase proprietary articles from a person who is not an authorized scrap seller or the authorized agent and employee of an authorized scrap seller if the scrap metal purchaser complies with one of the following:

1. The scrap metal purchaser receives from the person seeking to sell the proprietary articles documentation, such as a bill of sale, receipt, letter of authorization, or similar evidence, establishing that the person lawfully possesses the proprietary articles to be sold; or

2. The scrap metal purchaser shall document a diligent inquiry into whether the person selling or delivering the same has a legal right to do so, and, after purchasing a proprietary article from a person without obtaining the documentation described in subdivision 1, shall submit a report to the local sheriff's department or the chief of police of the locality, by the close of the following business day, describing the proprietary article and including a copy of the seller's identifying information, and hold the proprietary article for not less than 15 days following purchase.

C. The scrap metal purchaser shall take a photographic or video image of all proprietary articles purchased from anyone other than an authorized scrap seller. Such image shall be of sufficient quality so as to reasonably identify the subject of the image and shall be maintained by the scrap metal purchaser no less than 30 days from the date the image is taken. Any image taken and maintained in accordance with this subdivision shall be made available upon the request of any law-enforcement officer conducting official law-enforcement business.

D. The scrap metal purchaser may purchase nonferrous scrap, metal articles, and proprietary articles

60 directly from an authorized scrap seller and from the authorized agent or employee of an authorized
61 scrap seller.

62 *E. For purchases of a catalytic converter or the parts thereof, a scrap metal purchaser shall adhere*
63 *to the compliance provisions of subdivisions B 1 and 2. Copies of the documentation required under*
64 *subdivisions B 1 and 2 shall (i) establish that the person from whom the scrap metal purchaser*
65 *purchased the catalytic converter or the parts thereof had the lawful possession of such catalytic*
66 *converter or the parts thereof at the time of sale or delivery and (ii) detail the scrap metal purchaser's*
67 *diligent inquiry into whether such person selling or delivering the catalytic converter or the parts*
68 *thereof had a legal right to do so. Such documentation shall be maintained by the scrap metal*
69 *purchaser at his normal place of business or at another readily accessible and secure location for at*
70 *least two years after the purchase. Such copies shall be made available upon request to any*
71 *law-enforcement officer, conservator of the peace, or special conservator of the peace appointed*
72 *pursuant to § 19.2-13 in the performance of his duties who presents his credentials at the scrap metal*
73 *purchaser's normal business location during normal business hours.*

74 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
75 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
76 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
77 **correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I,**
78 **requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of**
79 **\$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
80 **appropriation cannot be determined for periods of commitment to the custody of the Department**
81 **of Juvenile Justice.**