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## HOUSE BILL NO. 2372

Offered January 16, 2023

A BILL to amend and reenact §§ 18.2-146, 59.1-136.1, and 59.1-136.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-146.1, relating to possession, purchase, and sale of catalytic converters; penalty.

Patrons—Wyatt, Ballard, Campbell, J.L., McGuire, Murphy and Wiley

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-146, 59.1-136.1, and 59.1-136.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-146.1 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, 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.

*A person who is in possession of a catalytic converter that has been removed from a motor vehicle is presumed to have obtained the catalytic converter in violation of this section unless the person is (i) an authorized agent or employee acting in the performance of his official duties for a motor vehicle dealer, motor vehicle garage or repair shop, or salvage yard that is licensed or registered by the Commonwealth or (ii) a person who possesses vehicle registration documentation indicating that the catalytic converter in the person's possession is the result of a replacement of a catalytic converter from a vehicle registered in that person's name.*

**§ 18.2-146.1. Unlawful purchase or sale of a catalytic converter from a motor vehicle exhaust system that has been detached from a motor vehicle; penalty.**

*Any person who sells, offers for sale, or purchases a catalytic converter from a motor vehicle exhaust system that has been detached from a motor vehicle is guilty of a Class 6 felony.*

*Nothing in this subsection shall be construed to prohibit the selling, offering for sale, or purchasing of a new catalytic converter that has never been installed on a motor vehicle.*

**§ 59.1-136.1. Definitions.**

For the purpose of this article:

"Authorized scrap seller" means licensed plumbers, electricians, HVAC contractors, building and construction contractors, demolition contractors, construction and demolition debris contractors, public utilities, transportation companies, industrial and manufacturing companies, marine, automobile, and aircraft salvage and wrecking companies, and government entities.

"Broker" means any person or his authorized agent who negotiates, purchases, sells, or offers for sale any scrap metal either directly or through an authorized agent without obtaining title to or ownership of the scrap metal.

"Ferrous scrap" means any scrap metal consisting primarily of iron, steel, or both, but excluding any scrap metal consisting primarily of stainless steel. Ferrous scrap includes large manufactured articles such as automobile bodies that may contain other substances to be removed and sorted during normal operations of scrap metal processors.

"Metal article" means any manufactured item, consisting of metal, that is usable for its originally intended purpose without processing, repairs, or alteration and that is not otherwise excluded by the definitions in this section. Examples include, without limitation, railings, copper or aluminum wire, copper pipe and tubing, plumbing fixtures, copper and aluminum gutters, copper and aluminum downspouts, and cast-iron radiators.

"Nonferrous scrap" means any scrap metal consisting primarily of (i) stainless steel or (ii) any metal other than iron or steel. Nonferrous scrap does not include aluminum beverage cans; postconsumer household items such as pots, pans, barbecue grills, and lawn chairs; used flashing removed during

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59 building renovation or demolition; or small quantities of nonferrous metals contained in large  
60 manufactured articles, such as automobile bodies and appliances.

61 "Proprietary article" means (i) any metal article stamped, engraved, stenciled, or otherwise marked so  
62 as to identify it as being or having been the property of a governmental entity or public utility or  
63 transportation, shipbuilding, ship repair, mining, or manufacturing company; (ii) any hard drawn copper  
64 electrical conductor, cable, or wire that is three-eighths of one inch or greater in diameter, stranded or  
65 solid; (iii) any aluminum conductor, cable, or wire three quarters of one inch or greater in diameter,  
66 stranded or solid; (iv) stainless steel beer kegs; (v) ~~any catalytic converter from a motor vehicle exhaust~~  
67 ~~system that has been detached from a motor vehicle;~~ (vi) any telecommunications cable that is one-half  
68 of one inch or greater in diameter and that contains 50 or more individual strands of solid, insulated,  
69 color-coded copper wire, including such telecommunication cable that has been unsheathed or burned;  
70 ~~(vii) (vi) any manhole cover; (viii) (vii) any bronze or copper cemetery plaque, urn, or marker; (ix) (viii)~~  
71 ~~aluminum bleacher seats or guardrails; or (x) (ix) any mining cable that is one-half inch or greater in~~  
72 ~~diameter and is composed of one or more stranded copper conductors and stamped, engraved, stenciled,~~  
73 ~~or otherwise marked with "Mine Safety and Health Administration" or "MSHA."~~

74 "Scrap metal" means any manufactured item or article consisting of or containing metal; any metal  
75 removed from or obtained by cutting, demolishing, or disassembling any building, structure,  
76 manufactured item, or article; and any other metal that is no longer used for its original purpose and  
77 that can be processed for reuse in mills, foundries, and other manufacturing facilities.

78 "Scrap metal processor" means a business entity in good standing authorized to conduct business in  
79 the Commonwealth that regularly utilizes machinery and equipment at one or more established locations  
80 in the normal course of business for processing and manufacturing scrap metal into prepared grades for  
81 sale as raw material to mills, foundries, and other manufacturing facilities.

82 "Scrap metal purchaser" means any person or business, other than an authorized scrap seller or a  
83 broker buying or selling processed scrap metal, who purchases scrap metal either directly or through an  
84 authorized agent in excess of \$20,000 during any 12-month period.

85 **§ 59.1-136.3. Purchases of nonferrous scrap, metal articles, and proprietary articles.**

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

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

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

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

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

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

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

121 conducting official law-enforcement business.

122 D. The scrap metal purchaser may purchase nonferrous scrap, metal articles, and proprietary articles  
123 directly from an authorized scrap seller and from the authorized agent or employee of an authorized  
124 scrap seller.

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

137 2. That the provisions of this act may result in a net increase in periods of imprisonment or  
138 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
139 necessary appropriation cannot be determined for periods of imprisonment in state adult  
140 correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I,  
141 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of  
142 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
143 appropriation cannot be determined for periods of commitment to the custody of the Department  
144 of Juvenile Justice.