

23102054D

## SENATE BILL NO. 1135

Offered January 11, 2023

Prefiled January 10, 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—McDougle, DeSteph and Stanley; Delegates: Fowler and Wyatt

Referred to Committee on the Judiciary

**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

INTRODUCED

SB1135

59 household items such as pots, pans, barbecue grills, and lawn chairs; used flashing removed during  
60 building renovation or demolition; or small quantities of nonferrous metals contained in large  
61 manufactured articles, such as automobile bodies and appliances.

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

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

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

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

86 **§ 59.1-136.3. Purchases of nonferrous scrap, metal articles, and proprietary articles.**

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

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

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

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

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

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

117 C. The scrap metal purchaser shall take a photographic or video image of all proprietary articles  
118 purchased from anyone other than an authorized scrap seller. Such image shall be of sufficient quality so  
119 as to reasonably identify the subject of the image and shall be maintained by the scrap metal purchaser  
120 no less than 30 days from the date the image is taken. Any image taken and maintained in accordance

with this ~~subdivision~~ *subsection* 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 directly from an authorized scrap seller and from the authorized agent or employee of an authorized scrap seller.

E. For purchases of a catalytic converter or the parts thereof, a scrap metal purchaser shall adhere to the compliance provisions of subdivisions B 1 and 2. Copies of the documentation required under subdivisions B 1 and 2 shall (i) establish that the person from whom the scrap metal purchaser purchased the catalytic converter or the parts thereof had the lawful possession of such catalytic converter or the parts thereof at the time of sale or delivery and (ii) detail the scrap metal purchaser's diligent inquiry into whether such person selling or delivering the catalytic converter or the parts thereof had a legal right to do so. Such documentation shall be maintained by the scrap metal purchaser at his normal place of business or at another readily accessible and secure location for at least two years after the purchase. Such copies shall be made available upon request to any law-enforcement officer, 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 normal business hours.

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