

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4831**

By Delegate Westfall

[Introduced January 17, 2024; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §61-3-49 the code of West Virginia, 1931, as amended, relating to  
 2 strengthening existing laws relating to the purchase of catalytic converters by scrap metal  
 3 dealers in this state.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 3. CRIMES AGAINST PROPERTY.**

**§61-3-49. Purchase of scrap metal by scrap metal purchasing businesses, salvage yards,  
 or recycling facilities; certificates, records, and reports of such purchases; specific  
 procedure for catalytic converters; criminal penalties.**

1 (a) For the purposes of this section, the following terms have the following meanings:

2 (1) "Business registration certificate" has the same meaning ascribed to it in §11-12-2 of  
 3 this code.

4 (2) "Catalytic converter" means a device that is incorporated in a motor vehicle's exhaust  
 5 system and contains a catalyst for converting pollutant gas emissions into less harmful emissions,  
 6 regardless of whether the device has been removed from a motor vehicle's exhaust system.

7 ~~(2)~~ (3) "Purchaser" means any person in the business of purchasing scrap metal or used  
 8 auto parts, any salvage yard owner or operator, or any public or commercial recycling facility  
 9 owner or operator, or any agent or employee thereof, who purchases any form of scrap metal or  
 10 used auto parts.

11 ~~(3)~~ (4) "Scrap metal" means any form of copper, aluminum, brass, lead, or other nonferrous  
 12 metal of any kind, a catalytic converter, or any materials derived from a catalytic converter, or steel  
 13 railroad track and track material.

14 (b) In addition to any requirement necessary to do business in this state, a scrap metal  
15 dealer shall:

16 (1) Have a current valid business registration certificate from the Tax Commissioner;

17 (2) Register any scales used for weighing scrap metal with the Division of Labor Weights  
 18 and Measures;

19 (3) Provide a notice of recycling activity to the Department of Environmental Protection;  
20 and

21 (4) Register as a scrap metal dealer with the Secretary of State, who shall maintain a list of  
22 scrap metal dealers and make it publicly available. The list shall include the dealer's business  
23 address, hours of operation, physical address, phone number, facsimile number, if any, and the  
24 name of the owners or principal officers of the business.

25 (c) Any purchaser of scrap metal shall make a record of such purchase that shall contain  
26 the following information for each transaction:

27 (1) The full name, permanent home and business addresses, and telephone number, if  
28 available, of the seller;

29 (2) A description and the motor vehicle license number of any vehicle used to transport the  
30 purchased scrap metal to the place of purchase;

31 (3) The time and date of the transaction;

32 (4) A complete description of the kind, character, and weight of the scrap metal purchased;  
33 and

34 (5) A statement of whether the scrap metal was purchased, taken as collateral for a loan, or  
35 taken on consignment.

36 (d) A purchaser also shall require and retain from the seller of the scrap metal the following:

37 (1) A signed certificate of ownership of the scrap metal being sold or a signed authorization  
38 from the owner of the scrap metal to sell the scrap metal; and

39 (2) A photocopy of a valid driver's license or identification card issued by the West Virginia  
40 Division of Motor Vehicles of the person delivering the scrap metal, or in lieu thereof, any other  
41 valid photo identification of the seller issued by any other state or the federal government:

42 *Provided*, That, if the purchaser has a copy of the seller's valid photo identification on file, the  
43 purchaser may reference the identification that is on file, without making a separate photocopy for  
44 each transaction.

45 (e) It is unlawful for any purchaser to purchase any scrap metal without obtaining and  
46 recording the information required under subsections (c) and (d) of this section. The provisions of  
47 this subsection do not apply to purchases made at wholesale under contract or as a result of a  
48 bidding process: *Provided*, That the purchaser retains and makes available for review consistent  
49 with subsection (g) of this section the contract, bill of sale, or similar documentation of the  
50 purchase made at wholesale under contract or as a result of a bidding process: *Provided*,  
51 *however*, That the purchaser may redact any pricing or other commercially sensitive information  
52 from the contract, bill of sale, or similar documentation before making it available for inspection.

53 (f) A purchaser of scrap metal may not knowingly purchase or possess a stainless steel or  
54 aluminum beer keg, whether damaged or undamaged, or any reasonably recognizable part  
55 thereof, for the intended purpose of reselling as scrap metal unless the purchaser receives the keg  
56 or keg parts from the beer manufacturer or its authorized representative.

57 (g) Using a form provided by the West Virginia State Police, or his or her own form, a  
58 purchaser of scrap metal shall retain the records required by this section at his or her place of  
59 business for not less than three years after the date of the purchase. Upon completion of a  
60 purchase, the records required to be retained at a purchaser's place of business shall be available  
61 for inspection by any law-enforcement officer or, upon written request and during the purchaser's  
62 regular business hours, by any investigator employed by a public utility or railroad to investigate  
63 the theft of public utility or railroad property: *Provided*, That in lieu of the purchaser keeping the  
64 records at his or her place of business, the purchaser shall file the records with the local  
65 detachment of the State Police and with the chief of police of the municipality or the sheriff of the  
66 county he or she is transacting business within 72 hours of completion of the purchase. The  
67 records shall be retained by the State Police and the chief of police of the municipality or the sheriff  
68 for a period of not less than three years.

69 (h) To the extent otherwise permitted by law, any investigator employed by a public utility or  
70 railroad to investigate the theft of public utility or railroad property may accompany a law-

71 enforcement officer upon the premises of a purchaser in the execution of a valid warrant or assist  
72 law enforcement in the review of records required to be retained pursuant to this section.

73 (i) Upon the entry of a final determination and order by a court of competent jurisdiction,  
74 scrap metal found to have been misappropriated, stolen, or taken under false pretenses may be  
75 returned to the proper owner of the material.

76 (j) Nothing in this section applies to scrap purchases by manufacturing facilities that melt,  
77 or otherwise alter, the form of scrap metal and transform it into a new product or to the purchase or  
78 transportation of food and beverage containers or other nonindustrial materials having a marginal  
79 value per individual unit.

80 (k)(1) Nothing in this section applies to a purchaser of a motor vehicle on which a catalytic  
81 converter is installed, a scrap metal dealer purchasing a detached catalytic converter or  
82 converters accompanying the motor vehicle or motor vehicles from which it or they were removed,  
83 a purchaser of a catalytic converter intended for installation on a vehicle owned or leased by the  
84 purchaser, or any person who purchases, other than for purposes of resale, a catalytic converter,  
85 or a motor vehicle on which a catalytic converter is installed, for personal, family, household, or  
86 business use.

87 (2) In transactions not exempted by subdivision (1) of this subsection, any person  
88 delivering one or more automobile catalytic converters to a scrap metal dealer shall, in addition to  
89 the requirements set forth in subsection (c) of this section, execute a document containing the  
90 name of the person or entity from whom or which the catalytic converter or converters being  
91 delivered was received and affirming that he or she is the lawful owner of the catalytic converters  
92 or is authorized by the lawful owner to sell the catalytic converters. Next to his or her signature the  
93 person delivering the catalytic converter or converters shall place a clear impression of his or her  
94 index finger or thumb that is in ink and free of smearing, or the scrap metal dealer may elect to  
95 obtain the fingerprint electronically. This documentation shall be maintained consistent with  
96 subsection (c) of this section. Payment shall be made by check payable to the seller according to

97 the provisions set forth in subsection (3) below. No scrap metal dealer may process, sell, or  
98 remove a catalytic converter from its premises for at least 14 days after its acquisition: *Provided,*  
99 That the 14-day retention requirement may be reduced to five days if, within the first consecutive  
100 five-day period, the scrap dealer provides all documentation required under this section to the  
101 local detachment of the State Police and: (A) The chief of police of the municipality; or (B) the  
102 sheriff of the county in which he or she is transacting business. A scrap metal dealer shall make a  
103 good faith effort to record any identifying information on a catalytic converter received or  
104 purchased and shall not purchase or take possession of a catalytic converter if the identifying  
105 information on it has been manually altered.

106 (3) Payment for catalytic converter purchased by licensee; check; mailing.

107 (A) If the licensee purchases a catalytic converter, payment for the catalytic converter shall  
108 be made by check payable to the seller.

109 (B) At the time of sale of the catalytic converter, the seller shall present to the licensee a  
110 valid photo identification card or driver's license of the seller issued by a federal or state  
111 government agency authorized to issue valid identification.

112 (C) The check may be mailed to the address shown on the identification, or the licensee  
113 may arrange for the check to be picked up personally by the seller at the place of business of the  
114 licensee.

115 (4) Statement required; catalytic converter.

116 (A) Every licensee, prior to the purchase of a catalytic converter within the state, shall  
117 obtain a written statement signed by the seller certifying that the seller has the lawful right to sell  
118 and dispose of the catalytic converter.

119 (B) This statement shall also contain the:

120 (i) Seller's name, business or residence address, and occupation;

121 (ii) Description, including serial numbers and other identifying marks, when practical, of  
122 every catalytic converter;

- 123 (iii) Amount paid to the seller;  
124 (iv) Date, time, and place of the sale; and  
125 (v) License plate number of any vehicle used to deliver the property to the place of  
126 purchase.
- 127 (C) The seller shall provide a copy of a receipt that with particularity:  
128 (i) The exact item that is being offered for sale;  
129 (ii) The name of the person who issued the receipt;  
130 (iii) The date of sale of the item prior to the item being offered to the licensee; and  
131 (iv) The price, if any, of the item when obtained by the seller.
- 132 (D) If a receipt is not available, the seller shall provide to the licensee a notarized  
133 declaration that describes with particularity:  
134 (i) The exact item that is being offered for sale;  
135 (ii) The name of the person who sold or otherwise transferred the item to the seller;  
136 (iii) The date of sale of the item; and  
137 (iv) The price, if any, of the item when obtained by the seller.
- 138 (E) If the seller does not provide a copy of the receipt or the notarized declaration as  
139 required by the subsections above, respectively, the licensee shall not purchase the catalytic  
140 converter, in whole or in part, and shall report the attempted sale to the applicable county police  
141 department.
- 142 (5) Upon purchase of any catalytic converter, in whole or in part, the licensee shall take one  
143 or more separate photographs of each individual catalytic converter offered.
- 144 (6) The licensee shall require the seller to verify the seller's identity by presenting a valid  
145 photo identification card or driver's license issued by a federal or state government agency  
146 authorized to issue valid identification. The licensee shall:  
147 (A) Take a photograph of the seller; and  
148 (B) Make a photocopy of the photo identification card or driver's license of the seller.

- 149           (7) The licensee shall keep at the licensee's place of business:
- 150           (A) The signed written statement required above;
- 151           (B) Receipt or notarized declaration required above;
- 152           (C) Photographs required above;
- 153           (D) A photocopy of the seller's photo identification card or driver's license; and
- 154           (E) Photograph of the seller required above for a period of two years after the date of  
155 purchase. The statement, receipt or notarized declaration, photographs, photocopy of the seller's  
156 photo identification, and photograph of the seller may be examined at any time by the director of  
157 finance, chief of police, attorney general, prosecuting attorney, or their designees.
- 158           (8) Every licensee, when the licensee purchases a catalytic converter within the state, shall  
159 attach a tag to the catalytic converter that shall include the year, make, model, license plate  
160 number, and vehicle identification number of the vehicle from which the catalytic converter was  
161 removed and the name of the seller.
- 162           (9) The licensee shall report the purchase to the applicable county police department, the  
163 record of which shall be maintained in the police department's database. The licensee shall  
164 maintain possession of the purchased catalytic converter for a period of 60 days before selling,  
165 exchanging, recycling, or otherwise disposing of the catalytic converter.
- 166           (l) Any person who knowingly or with fraudulent intent violates any provision of this section  
167 for which no penalty is specifically set forth, including the knowing failure to make a report or the  
168 knowing falsification of any required information, is guilty of a misdemeanor and, upon conviction  
169 of a first offense, shall be fined not less than \$1,000 nor more than \$3,000; upon conviction of a  
170 second offense, shall be fined not less than \$2,000 and not more than \$4,000 and,  
171 notwithstanding the provisions of §11-12-5 of this code, the court in which the conviction occurred  
172 shall issue an order directing the Tax Commissioner to suspend for a period of six months any  
173 business registration certificate held by that person; and upon conviction of a third or subsequent  
174 offense, shall be fined not less than \$3,000 and not more than \$5,000 and, notwithstanding the



175 provisions of §11-12-5 of this code, the court in which the conviction occurred shall issue an order  
176 directing the Tax Commissioner to cancel any business registration certificate held by that person  
177 and state the date the cancellation takes effect.

178 (m) A person may not have or take possession of any scrap metal that he or she knows, or  
179 has reason to know, has been stolen or unlawfully obtained. Any person violating this subsection is  
180 guilty of larceny.

181 (n) A scrap metal dealer may not purchase, possess, or receive scrap metal that the scrap  
182 metal dealer knows, or has reason to know, has been stolen or unlawfully obtained by the seller.  
183 Any person violating this subsection is guilty of larceny.

184 (o) A scrap metal dealer may not purchase, possess, or receive any of the following items  
185 of scrap metal, or any reasonably recognizable part thereof, without obtaining written  
186 documentation which reflects that the seller is authorized to possess and sell the item or items and  
187 that the seller is in lawful possession of the item of scrap metal:

188 (1) Utility access covers;

189 (2) Street light poles or fixtures;

190 (3) Road or bridge guard rails;

191 (4) Water meter covers;

192 (5) Highway or street signs;

193 (6) Traffic directional or traffic control signs;

194 (7) Traffic light signals;

195 (8) Any metal marked with any form of the name or initials of a governmental entity;

196 (9) Property marked as or readily identifiable as owned by a telephone, cable, electric,  
197 water, or other utility provider;

198 (10) Property owned and marked by a railroad;

199 (11) Cemetery markers or vases;

200 (12) Historical markers;

- 201 (13) Utility manhole covers and storm water grates;
- 202 (14) Fire hydrant or fire hydrant caps; or
- 203 (15) Twisted pair copper telecommunications wiring of 25 pair or greater in 19, 22, 24, or 26
- 204 gauge.
- 205 (p) Nothing in this section prohibits a scrap dealer from purchasing or taking possession of
- 206 scrap metal knowing or having reason to know, that it is stolen or obtained illegally if it is done
- 207 pursuant to a written agreement with law-enforcement officials.

NOTE: The purpose of this bill is to strengthen existing laws relating to the purchase of catalytic converters by scrap metal dealers in this state.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.