

As Reported by the House Public Safety Committee

136th General Assembly

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Sub. H. B. No. 210

Representatives Roemer, Plummer

Cosponsor: Representative Abrams

To amend sections 2913.02, 2913.51, 4737.012, 1
4737.04, 4737.041, 4737.043, 4737.045, 4737.99, 2
4738.03, 4738.07, 4738.12, and 4775.09 and to 3
enact sections 4737.046 and 4737.98 of the 4
Revised Code regarding the sale of used 5
catalytic converters. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2913.02, 2913.51, 4737.012, 7
4737.04, 4737.041, 4737.043, 4737.045, 4737.99, 4738.03, 8
4738.07, 4738.12, and 4775.09 be amended and sections 4737.046 9
and 4737.98 of the Revised Code be enacted to read as follows: 10

Sec. 2913.02. (A) No person, with purpose to deprive the 11
owner of property or services, shall knowingly obtain or exert 12
control over either the property or services in any of the 13
following ways: 14

(1) Without the consent of the owner or person authorized 15
to give consent; 16

(2) Beyond the scope of the express or implied consent of 17
the owner or person authorized to give consent; 18

(3) By deception; 19

(4) By threat;	20
(5) By intimidation.	21
(B) (1) Whoever violates this section is guilty of theft.	22
(2) Except as otherwise provided in this division or	23
division (B) (3), (4), (5), (6), (7), (8), or (9) , <u>or (10)</u> of	24
this section, a violation of this section is misdemeanor theft,	25
a misdemeanor of the first degree. If the value of the property	26
or services stolen is one thousand dollars or more and is less	27
than seven thousand five hundred dollars or if the property	28
stolen is any of the property listed in section 2913.71 of the	29
Revised Code, a violation of this section is theft, a felony of	30
the fifth degree. If the value of the property or services	31
stolen is seven thousand five hundred dollars or more and is	32
less than one hundred fifty thousand dollars, or if the offender	33
has been convicted of or pleaded guilty to a felony theft	34
offense within the previous three years, a violation of this	35
section is grand theft, a felony of the fourth degree. If the	36
value of the property or services stolen is one hundred fifty	37
thousand dollars or more and is less than seven hundred fifty	38
thousand dollars, or if the offender two or more times has been	39
convicted of or pleaded guilty to a felony theft offense within	40
the previous three years, a violation of this section is	41
aggravated theft, a felony of the third degree. If the value of	42
the property or services is seven hundred fifty thousand dollars	43
or more and is less than one million five hundred thousand	44
dollars, a violation of this section is aggravated theft, a	45
felony of the second degree. If the value of the property or	46
services stolen is one million five hundred thousand dollars or	47
more, a violation of this section is aggravated theft of one	48
million five hundred thousand dollars or more, a felony of the	49

first degree. 50

(3) Except as otherwise provided in division (B) (4), (5), 51
(6), (7), (8), ~~or (9)~~, or (10) of this section, if the victim of 52
the offense is an elderly person, disabled adult, active duty 53
service member, or spouse of an active duty service member, a 54
violation of this section is theft from a person in a protected 55
class, and division (B) (3) of this section applies. Except as 56
otherwise provided in this division, theft from a person in a 57
protected class is a felony of the fifth degree. If the value of 58
the property or services stolen is one thousand dollars or more 59
and is less than seven thousand five hundred dollars, or if the 60
offender has been convicted of or pleaded guilty to a felony 61
theft offense within the previous three years, theft from a 62
person in a protected class is a felony of the fourth degree. If 63
the value of the property or services stolen is seven thousand 64
five hundred dollars or more and is less than thirty-seven 65
thousand five hundred dollars, or if the offender two or more 66
times has been convicted of or pleaded guilty to a felony theft 67
offense within the previous three years, theft from a person in 68
a protected class is a felony of the third degree. If the value 69
of the property or services stolen is thirty-seven thousand five 70
hundred dollars or more and is less than one hundred fifty 71
thousand dollars, theft from a person in a protected class is a 72
felony of the second degree. If the value of the property or 73
services stolen is one hundred fifty thousand dollars or more, 74
theft from a person in a protected class is a felony of the 75
first degree. If the victim of the offense is an elderly person, 76
in addition to any other penalty imposed for the offense, the 77
offender shall be required to pay full restitution to the victim 78
and to pay a fine of up to fifty thousand dollars. The clerk of 79
court shall forward all fines collected under division (B) (3) of 80

this section to the county department of job and family services 81
to be used for the reporting and investigation of elder abuse, 82
neglect, and exploitation or for the provision or arrangement of 83
protective services under sections 5101.61 to 5101.71 of the 84
Revised Code. 85

(4) If the property stolen is a firearm or dangerous 86
ordnance, a violation of this section is grand theft. Except as 87
otherwise provided in this division, grand theft when the 88
property stolen is a firearm or dangerous ordnance is a felony 89
of the third degree, and there is a presumption in favor of the 90
court imposing a prison term for the offense. If the firearm or 91
dangerous ordnance was stolen from a federally licensed firearms 92
dealer, grand theft when the property stolen is a firearm or 93
dangerous ordnance is a felony of the first degree. The offender 94
shall serve a prison term imposed for grand theft when the 95
property stolen is a firearm or dangerous ordnance consecutively 96
to any other prison term or mandatory prison term previously or 97
subsequently imposed upon the offender. 98

(5) If the property stolen is a motor vehicle, a violation 99
of this section is grand theft of a motor vehicle, a felony of 100
the fourth degree. 101

(6) If the property stolen is any dangerous drug, a 102
violation of this section is theft of drugs, a felony of the 103
fourth degree, or, if the offender previously has been convicted 104
of a felony drug abuse offense, a felony of the third degree. 105

(7) If the property stolen is a police dog or horse or an 106
assistance dog and the offender knows or should know that the 107
property stolen is a police dog or horse or an assistance dog, a 108
violation of this section is theft of a police dog or horse or 109
an assistance dog, a felony of the third degree. 110

(8) If the property stolen is anhydrous ammonia, a 111
violation of this section is theft of anhydrous ammonia, a 112
felony of the third degree. 113

(9) Except as provided in division (B) (2) of this section 114
with respect to property with a value of seven thousand five 115
hundred dollars or more and division (B) (3) of this section with 116
respect to property with a value of one thousand dollars or 117
more, if the property stolen is a special ~~purpose~~ purchase 118
article as defined in section 4737.04 of the Revised Code or is 119
a bulk merchandise container as defined in section 4737.012 of 120
the Revised Code, a violation of this section is theft of a 121
special ~~purpose~~ purchase article or articles or theft of a bulk 122
merchandise container or containers, a felony of the fifth 123
degree. 124

~~(10)~~ (10) (a) If the property stolen is a catalytic 125
converter, a violation of this section is theft of a catalytic 126
converter, a felony of the fifth degree. 127

(b) If the offender has previously been convicted of or 128
pleaded guilty to a violation of Chapter 2911. or 2913. of the 129
Revised Code, theft of a catalytic converter is a felony of the 130
fourth degree. 131

(c) If the property stolen is a catalytic converter and 132
the offender is a business entity, a violation of this section 133
is enterprise theft of a catalytic converter and, 134
notwithstanding section 2929.31 of the Revised Code, is 135
punishable by a fine of not less than ten thousand dollars and 136
not more than fifty thousand dollars per violation. 137

(d) The clerk of the court shall pay any fine imposed 138
pursuant to division (B) (10) of this section to the county, 139

township, municipal corporation, park district as created 140
pursuant to section 511.18 or 1545.04 of the Revised Code, or 141
state law enforcement agencies in this state that primarily were 142
responsible for, or involved in, arresting and prosecuting the 143
offender. 144

(e) As used in division (B) (10) of this section, 145
"catalytic converter" has the same meaning as in section 4737.04 146
of the Revised Code. 147

(11) In addition to the penalties described in division 148
(B) (2) of this section, if the offender committed the violation 149
by causing a motor vehicle to leave the premises of an 150
establishment at which gasoline is offered for retail sale 151
without the offender making full payment for gasoline that was 152
dispensed into the fuel tank of the motor vehicle or into 153
another container, the court may do one of the following: 154

(a) Unless division ~~(B) (10) (b)~~ (B) (11) (b) of this section 155
applies, suspend for not more than six months the offender's 156
driver's license, probationary driver's license, commercial 157
driver's license, temporary instruction permit, or nonresident 158
operating privilege; 159

(b) If the offender's driver's license, probationary 160
driver's license, commercial driver's license, temporary 161
instruction permit, or nonresident operating privilege has 162
previously been suspended pursuant to division ~~(B) (10) (a)~~ (B) (11) 163
(a) of this section, impose a class seven suspension of the 164
offender's license, permit, or privilege from the range 165
specified in division (A) (7) of section 4510.02 of the Revised 166
Code, provided that the suspension shall be for at least six 167
months; 168

(c) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to division ~~(B) (10) (a)~~ (B) (11) (a) or (b) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

~~(11)~~ (12) In addition to the penalties described in division (B) (2) of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to section 2929.18 or 2929.28 of the Revised Code. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of section 2913.72 of the Revised Code.

(C) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division ~~(B) (10)~~ (B) (11) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Chapter 4510. of the Revised Code.

Sec. 2913.51. (A) As used in this section:

(1) "Bulk merchandise container" has the same meaning as in section 4737.012 of the Revised Code.

(2) "Catalytic converter" and "special purchase article" have the same meanings as in section 4737.04 of the Revised

<u>Code.</u>	198
<u>(3) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.</u>	199 200
<u>(4) "Dangerous ordnance" and "firearm" have the same meanings as in section 2923.11 of the Revised Code.</u>	201 202
<u>(5) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.</u>	203 204
<u>(B)</u> No person shall receive, retain, or dispose of property of another knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.	205 206 207 208
(B) <u>(C)</u> It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.	209 210 211 212 213 214
(C) <u>(D)</u> Whoever violates this section is guilty of receiving stolen property. Except as otherwise provided in this division or division (D) <u>(E)</u> or <u>(F)</u> of this section, receiving stolen property is a misdemeanor of the first degree. If the value of the property involved is one thousand dollars or more and is less than seven thousand five hundred dollars, if the property involved is any of the property listed in section 2913.71 of the Revised Code, receiving stolen property is a felony of the fifth degree. If the property involved is a motor vehicle, as defined in section 4501.01 of the Revised Code, if the property involved is a dangerous drug, a firearm, or dangerous ordnance, as defined in section 4729.01 of the Revised	215 216 217 218 219 220 221 222 223 224 225 226

~~Code, or~~ if the value of the property involved is seven thousand 227
five hundred dollars or more and is less than one hundred fifty 228
thousand dollars, ~~or if the property involved is a firearm or~~ 229
~~dangerous ordnance, as defined in section 2923.11 of the Revised~~ 230
~~Code,~~ receiving stolen property is a felony of the fourth 231
degree. If the value of the property involved is one hundred 232
fifty thousand dollars or more, receiving stolen property is a 233
felony of the third degree. 234

~~(D)~~ (E) Except as provided in division ~~(C)~~ (D) of this 235
section with respect to property involved in a violation of this 236
section with a value of seven thousand five hundred dollars or 237
more, if the property involved in violation of this section is a 238
special purchase article ~~as defined in section 4737.04 of the~~ 239
~~Revised Code~~ or a bulk merchandise container ~~as defined in~~ 240
~~section 4737.012 of the Revised Code,~~ a violation of this 241
section is receiving a stolen special purchase article or 242
articles or receiving a stolen bulk merchandise container or 243
containers, a felony of the fifth degree. 244

(F) (1) Except as otherwise provided in this division, if 245
the property involved is a catalytic converter, a violation of 246
this section is receiving a stolen catalytic converter, a felony 247
of the fifth degree. 248

(2) If the offender has previously been convicted of or 249
pleaded guilty to a violation of Chapter 2911. or 2913. of the 250
Revised Code, receiving a stolen catalytic converter is a felony 251
of the fourth degree. 252

(3) If the property involved is a catalytic converter and 253
the offender is a business entity, a violation of this section 254
is enterprise receipt of a stolen catalytic converter and, 255
notwithstanding section 2929.31 of the Revised Code, is 256

punishable by a fine of not less than ten thousand dollars and 257
not more than fifty thousand dollars per violation. 258

(4) The clerk of the court shall pay any fine imposed 259
pursuant to division (F) of this section to the county, 260
township, municipal corporation, park district, as created 261
pursuant to section 511.18 or 1545.04 of the Revised Code, or 262
state law enforcement agencies in this state that primarily were 263
responsible for or involved in arresting and prosecuting the 264
offender. 265

Sec. 4737.012. (A) Notwithstanding ~~division (A) of~~ section 266
4737.01 of the Revised Code, a dealer who is in the business of 267
purchasing, reselling, exchanging, recycling, shredding, or 268
receiving bulk merchandise containers shall not purchase or 269
receive plastic bulk merchandise containers that are marked with 270
a company name or logo, or more than nine wooden bulk 271
merchandise containers, from any other person at one time, 272
unless the dealer maintains a record book or electronic file in 273
which the dealer keeps an accurate and complete record of all 274
containers purchased or received by the dealer. Every entry in 275
the record book or electronic file shall be numbered 276
consecutively. Until the registry developed by the director of 277
public safety pursuant to section 4737.045 of the Revised Code 278
is operational, a dealer shall maintain the record for each 279
container purchased or received for a minimum period of one year 280
after the date the dealer purchased or received the container. 281
Beginning on the date the registry is operational, a dealer 282
shall maintain the record for each container purchased or 283
received only for a period of sixty days after the date the 284
dealer purchased or received the container. The director shall 285
adopt rules for the format and maintenance of the records 286
required under this division. 287

The records shall contain all of the following:	288
(1) The name and residence of the person from whom the containers were purchased or received, a copy of that person's personal identification card, and, if required, a photograph of the person taken pursuant to division (B) (2) of this section;	289 290 291 292
(2) A description of the containers, including the number purchased or received and, if required, a photograph of the containers taken pursuant to division (B) (1) of this section;	293 294 295
(3) The date and time the dealer purchased or received the containers;	296 297
(4) If the seller or provider of the containers arrives at the dealer's place of business in a motor vehicle, the license plate number of that motor vehicle along with the state that issued the license plate.	298 299 300 301
(B) Every dealer who is in the business of reselling bulk merchandise containers shall take a photograph, in accordance with rules adopted by the director, of both of the following:	302 303 304
(1) Each container for which the dealer must make a record under division (A) of this section;	305 306
(2) Each person who sells or otherwise gives the dealer the containers.	307 308
The dealer shall take the required photographs at the time the dealer purchases or receives the containers and shall keep the photographs as part of the record in accordance with division (A) of this section.	309 310 311 312
(C) A dealer who is in the business of purchasing, reselling, exchanging, recycling, shredding, or receiving bulk merchandise containers shall fulfill the requirements of section	313 314 315

4737.041 of the Revised Code with respect to the containers 316
purchased or received by the dealer for which the dealer must 317
make a record under division (A) of this section. No dealer 318
shall purchase or receive any bulk merchandise container for 319
which the dealer must make a record under division (A) of this 320
section without complying with ~~division (B), (C), or (D)~~ 321
divisions (A) (2) to (4) of section 4737.041 of the Revised Code. 322

(D) As used in this section, "bulk merchandise container" 323
means a plastic or wooden carrier or holder used by a 324
manufacturer or distributor to transport merchandise to 325
wholesale and retail outlets. 326

Sec. 4737.04. (A) As used in this section and sections 327
4737.041, 4737.042, 4737.043, 4737.044, 4737.045, 4737.046, and 328
4737.99 of the Revised Code: 329

(1) "Scrap metal dealer" means the owner or operator of a 330
business that purchases or receives scrap metal for the purpose 331
of sorting, grading, and shipping metals to third parties for 332
direct or indirect melting into new products. 333

(2) "Special purchase article" means all of the following: 334

(a) Beer kegs; 335

(b) Cable, wire, electrical components, and other 336
equipment used in providing cable service or any utility 337
service, including, but not limited to, copper or aluminum 338
coverings, housings, or enclosures related thereto; 339

(c) Grave markers, sculptures, plaques, and vases made out 340
of metal, the appearance of which suggests that the articles 341
have been obtained from a cemetery; 342

(d) Guard rails for bridges, highways, and roads; highway 343

and street signs; street light poles and fixtures; worker access	344
hole covers, water meter covers, and other similar types of	345
utility access covers; traffic directional and control signs and	346
light signals, metal marked with the name of a political	347
subdivision of the state, and other metal articles that are	348
purchased and installed for use upon authorization of the state	349
or any political subdivision of the state;	350
(e) Historical, commemorative, and memorial markers and	351
plaques made out of metal;	352
(f) Four-wheel metal carts, commonly referred to as	353
"grocery carts," that are generally used by individuals to	354
collect and transport consumer goods while shopping;	355
(g) Four-wheel metal carts, commonly referred to as "metal	356
bossies," that are used to transport or merchandise food	357
products that are stored in crates, shells, or trays;	358
(h) Railroad material, including journal brasses, rail	359
spikes, rails, tie plates, frogs, and communication wire;	360
(i) Metal trays, merchandise containers, or similar	361
transport containers used by a product producer, distributor,	362
retailer, or an agent of a product producer, distributor, or	363
retailer as a means for the bulk transportation, storage, or	364
carrying of retail containers of milk, baked goods, eggs, or	365
bottled beverage products;	366
(j) "Burnt wire," which is any coated metal wire that has	367
been smelted, burned, or melted thereby removing the	368
manufacturer's or owner's identifying marks.	369
(3) "Bulk merchandise container" has the same meaning as	370
in section 4737.012 of the Revised Code.	371

(4) "Bulk merchandise container dealer" means a dealer who is subject to section 4737.012 of the Revised Code.	372 373
(5) <u>"Catalytic converter" includes a catalytic converter core, diesel particulate filter, and diesel oxidation catalyst.</u>	374 375
(6) <u>"Common recycled matter" means bottles and other containers made out of steel, tin, or aluminum and other consumer goods that are metal that are recycled by individual consumers and not in the bulk or quantity that could be supplied or recycled by large business establishments. "Common recycled matter" does not include a metal tray used by a product producer, distributor, retailer, or agent of a product producer, distributor, or retailer as a means for the bulk transportation, storage, or carrying of retail containers of milk, baked goods, eggs, or bottled beverage products.</u>	376 377 378 379 380 381 382 383 384 385
(6) (7) "Consumer goods" has the same meaning as in section 1309.102 of the Revised Code.	386 387
(7) (8) "Recyclable materials" means the metal materials described in division (C) (5) of this section, on the condition that those metal materials are not special purchase articles.	388 389 390
(8) (9) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.	391 392
(B) (1) No person shall engage in the business of scrap metal dealing or act as a bulk merchandise container dealer without first registering with the director of public safety in accordance with section 4737.045 of the Revised Code.	393 394 395 396
(2) No person shall receive, purchase, or sell a special purchase article or a bulk merchandise container except as in accordance with sections 4737.012 and 4737.04 to 4737.045 <u>4737.046</u> of the Revised Code.	397 398 399 400

(C) Every scrap metal dealer shall maintain a record book 401
or electronic file, in which the dealer shall keep an accurate 402
and complete record of all articles purchased or received by the 403
dealer in the course of the dealer's daily business. The record 404
shall include a copy of any check issued pursuant to division 405
(A) (4) of section 4737.041 of the Revised Code. On and after 406
September 11, 2008, every entry in the record book or electronic 407
file shall be numbered consecutively and, on or after September 408
28, 2012, shall be maintained for inspection in numerical order. 409
Until the registry developed by the director pursuant to section 410
4737.045 of the Revised Code is operational, a dealer shall 411
maintain the record for each article purchased or received for a 412
minimum period of one year after the date the dealer purchased 413
or received the article, except that the dealer shall maintain 414
the photograph required under division (I) of this section only 415
for a period of sixty days after the dealer purchased or 416
received the article. Beginning on the date the registry is 417
operational, a dealer shall maintain the record for each article 418
purchased or received only for a period of sixty days after the 419
date the dealer purchased or received the article. The director 420
shall adopt rules for the format and maintenance of the records 421
required under this division. 422

The records shall contain all of the following: 423

(1) The name and residence of the person from whom the 424
articles were purchased or received, a copy of that person's 425
personal identification card, and a photograph of the person 426
taken pursuant to division (I) of this section; 427

(2) The date and time the scrap metal dealer purchased or 428
received the articles and the weight of the articles as 429
determined by a licensed commercial scale; 430

(3) If the seller or provider of the articles arrives at 431
the dealer's place of business in a motor vehicle, the license 432
plate number of that motor vehicle along with the state that 433
issued the license plate; 434

(4) For metal articles that are not recyclable materials, 435
a full and accurate description of each article purchased or 436
received by the dealer that includes identifying letters or 437
marks written, inscribed, or otherwise included on the article 438
and the name and maker of the article if known; 439

(5) For recyclable materials that are not special purchase 440
articles, the following category codes to identify the 441
recyclable materials that the dealer receives: 442

(a) "Number one copper," which includes clean copper pipe, 443
clean copper wire, or other number one copper that does not have 444
solder, paint, or coating; 445

(b) "Number two copper," which includes unclean copper 446
pipe, unclean copper wire, or other number two copper; 447

(c) "Sheet copper," which includes copper roofing, copper 448
gutters, copper downspouts, and other sheet copper; 449

(d) "Insulated copper wire"; 450

(e) "Aluminum or copper radiators," which includes 451
aluminum radiators, aluminum copper radiators, and copper 452
radiators; 453

(f) "Red brass," which includes red brass valves and other 454
red brass; 455

(g) "Yellow brass," which includes yellow brass fixtures, 456
yellow brass valve and fitting, ornamental brass, and other 457
yellow brass; 458

(h) "Aluminum sheet";	459
(i) "Aluminum extrusions," which includes aluminum bleachers, aluminum benches, aluminum frames, aluminum pipe, and other aluminum extrusions;	460 461 462
(j) "Cast aluminum," which includes aluminum grills, lawnmower decks made of aluminum, aluminum motor vehicle parts and rims, and other cast aluminum;	463 464 465
(k) "Clean aluminum wire";	466
(l) "Unclean aluminum wire";	467
(m) "Aluminum exteriors," which includes aluminum siding, aluminum gutters and downspouts, aluminum shutters, aluminum trim, and other aluminum exterior items;	468 469 470
(n) "Contaminated aluminum";	471
(o) "Stainless steel," which includes, sinks, appliance housing, dishes, pots, pans, pipe, and other items made out of stainless steel;	472 473 474
(p) "Large appliances," which includes consumer and other appliances;	475 476
(q) "Steel structural," which includes all structural steel such as I-beams, trusses, channel iron, and similar steel from buildings;	477 478 479
(r) "Miscellaneous steel," which includes steel grates, steel farm machinery, steel industrial machinery, steel motor vehicle frames, and other items made out of steel;	480 481 482
(s) "Sheet irons," which includes bicycles, motor vehicle body parts made of iron, and other items made using sheet iron;	483 484
(t) "Motor vehicle nonbody parts," which includes motor	485

vehicle batteries, radiators, and other nonbody motor vehicle parts;	486 487
(u) "Catalytic converters";	488
(v) "Lead";	489
(w) "Electric motors";	490
(x) "Electronic scrap," which includes any consumer or commercial electronic equipment such as computers, servers, routers, video displays, and similar products.	491 492 493
(6) For recyclable materials that are special purchase articles, the relevant category provided in division (A) (2) of this section.	494 495 496
(D) Railroad material, including journal brasses, rail spikes, rails, tie plates, frogs, and communication wire, other than purchases and sales under sections 4973.13 to 4973.16 of the Revised Code, shall be held by a scrap metal dealer for a period of thirty days after being purchased or acquired.	497 498 499 500 501
(E) (1) The records required under division (C) of this section or under section 4737.012 of the Revised Code shall be open for inspection by the representative of any law enforcement agency, railroad police officers, and the director of public safety or the director's designated representative during all business hours. A scrap metal dealer or bulk merchandise container dealer shall do both <u>all</u> of the following:	502 503 504 505 506 507 508
(a) Provide a copy of those records to any law enforcement agency or railroad police officer that requests the records or to the director or director's representative, upon request;	509 510 511
(b) Prepare a daily electronic report, the content and format of which shall be established in rules adopted by the	512 513

director, listing all retail transactions that occurred during 514
the preceding day and containing the information described in 515
division (C) of this section or division (A) of section 4737.012 516
of the Revised Code, as applicable. The dealer shall 517
electronically transfer, by twelve noon eastern standard time, 518
the report to the director of public safety for inclusion in the 519
registry created pursuant to division (E) of section 4737.045 of 520
the Revised Code. 521

(2) A law enforcement agency may inspect any photographic 522
records collected and maintained by a scrap metal dealer of 523
either yard operations or individual transactions. Records 524
submitted to any law enforcement agency pursuant to this section 525
are not public records for purposes of section 149.43 of the 526
Revised Code. 527

(3) Records submitted to any law enforcement agency, 528
railroad police officer, or the director of public safety or the 529
director's designated representative as required by section 530
4737.012 of the Revised Code and sections 4737.04 to ~~4737.045~~ 531
4737.046 of the Revised Code shall not be public records for the 532
purposes of section 149.43 of the Revised Code. 533

(4) Notwithstanding division (E) (3) of this section, the 534
names and addresses of scrap metal dealers and bulk merchandise 535
container dealers shall be made available to the public by the 536
director upon request. 537

(5) A person who claims to own a stolen article that may 538
be identified in those records, or an agent of that person, who 539
provides proof of having filed a stolen property report with the 540
appropriate law enforcement agency, may request those records. 541
The law enforcement agency shall provide those records upon a 542
request made by such a person or that person's agent, but the 543

law enforcement agency shall redact information that reveals the 544
name of the seller of any article and the price the dealer paid 545
for any article the dealer purchased or the estimated value of 546
any article the dealer received. The law enforcement agency 547
shall determine which records to provide, based upon the time 548
period that the alleged theft is reported to have taken place. A 549
law enforcement agency may charge or collect a fee for providing 550
records as required by this section. 551

(6) The director of public safety shall impose a civil 552
penalty of five hundred dollars on a person who violates 553
division (E) (1) (b) of this section, including any person who 554
concurrently violates division (E) (2) of section 4737.046 of the 555
Revised Code. The director shall impose an additional fine of 556
five hundred dollars for each day the violation continues. The 557
director shall deposit the fine into the state treasury to the 558
credit of the infrastructure protection fund created under 559
section 4737.045 of the Revised Code. 560

(7) The director of public safety shall suspend, in 561
accordance with Chapter 119. of the Revised Code, the 562
registration of a person that violates division (E) (1) (b) of 563
this section until such time as the director determines that the 564
person has taken necessary steps to comply with that division. A 565
person whose registration is suspended under this division may 566
petition the director for reinstatement not more than once every 567
ninety days. The director's determination as to whether to grant 568
such a petition and reinstate the person's registration is 569
subject to appeal under section 119.12 of the Revised Code. 570

(F) (1) No scrap metal dealer shall purchase or receive any 571
metal articles, and no bulk merchandise container dealer shall 572
purchase or receive any bulk merchandise containers, from a 573

person who refuses to show the dealer the person's personal 574
identification card, or who refuses to allow the dealer to take 575
a photograph of the person as required under division (I) of 576
this section or of the person or container as required under 577
division (B) of section 4737.012 of the Revised Code. 578

(2) The law enforcement agency that serves the 579
jurisdiction in which a scrap metal dealer or a bulk merchandise 580
container dealer is located shall provide to the scrap metal 581
dealer or bulk merchandise container dealer a searchable, 582
electronic list prepared in accordance with rules adopted by the 583
director, as that agency determines appropriate, of the names 584
and descriptions of persons known to be thieves or receivers of 585
stolen property. The law enforcement agency may request the 586
appropriate clerk of courts to provide the list. No scrap metal 587
dealer or bulk merchandise container dealer shall purchase or 588
receive articles from any person who is either identified on the 589
list the dealer receives from the law enforcement agency, or who 590
appears on the lists made available by the director pursuant to 591
division (E) of section 4737.045 of the Revised Code. The law 592
enforcement agency also shall provide the list, in an electronic 593
format, ~~to the department of public safety, in an electronic~~ 594
~~format in accordance with rules adopted by the director,~~ 595
for 596
inclusion in the registry created in under division (E) of 597
section 4737.045 of the Revised Code.

(3) A law enforcement agency shall submit all records of 598
any investigation into a scrap metal dealer or bulk merchandise 599
container dealer to the registry created pursuant to division 600
(E) of section 4737.045 of the Revised Code. 601

(4) No scrap metal dealer or bulk merchandise container 602
dealer shall purchase or receive any special purchase articles 603

or bulk merchandise containers from any person who is under 604
eighteen years of age. 605

~~(4)~~ (5) No scrap metal dealer shall purchase or receive 606
any special purchase article without complying with division (C) 607
and (I) of this section and ~~division (B), (C), or (D)~~ divisions 608
(A) (2) to (4) of section 4737.041 of the Revised Code. 609

~~(5)~~ (6) No scrap metal dealer shall purchase or receive 610
more than one catalytic converter per day from the same person 611
except from a motor vehicle dealer as defined in section 4517.01 612
of the Revised Code. 613

~~(6)~~ (7) No scrap metal dealer shall purchase or receive a 614
beer keg that is marked with a company name or logo except from 615
a manufacturer of beer as described in section 4303.02 of the 616
Revised Code or an agent authorized by the manufacturer to 617
dispose of damaged kegs. 618

~~(7)~~ (8) No scrap metal dealer shall treat a transaction as 619
exempt from section 4737.04 or 4737.041 of the Revised Code 620
unless the ~~seller~~ scrap metal dealer provides evidence of 621
satisfying one or more of the exceptions described in division 622
~~(D) (3)~~ (A) of section 4737.043 of the Revised Code. 623

~~(G)~~ (G) (1) Every scrap metal dealer and bulk merchandise 624
container dealer shall post a notice in a conspicuous place on 625
the dealer's premises notifying persons who may wish to transact 626
business with the dealer of the penalties applicable to any 627
person who does any of the following: 628

~~(1)~~ (a) Provides a false personal identification card to 629
the dealer; 630

~~(2)~~ (b) With purpose to defraud, provides any other false 631
information to the dealer in connection with the dealer's duty 632

to maintain the records required under division (C) of this 633
section or under section 4737.012 of the Revised Code; 634

~~(3)~~ (c) Violates section 2913.02 of the Revised Code. 635

(2) (a) Every scrap metal dealer and bulk merchandise 636
container dealer shall post a copy of its registration in a 637
conspicuous place on the dealer's premises. 638

(b) The director of public safety shall impose a civil 639
penalty of five hundred dollars on any person who violates 640
division (G) (2) (a) of this section and shall deposit that 641
penalty into the state treasury to the credit of the 642
infrastructure protection fund created under section 4737.045 of 643
the Revised Code. 644

(H) (1) Except as otherwise provided in division (F) (2) of 645
this section, a clerk of courts or an employee of a clerk of 646
courts; a chief of police, marshal, or other chief law 647
enforcement officer; a sheriff, constable, or chief of police of 648
a township police department or police district police force; a 649
deputy, officer, or employee of the law enforcement agency 650
served by the marshal or the municipal or township chief, the 651
office of the sheriff, or the constable; and an employee of the 652
department of public safety is immune from liability in a civil 653
action, including an action for defamation, libel, or slander, 654
to recover damages for injury, death, or loss to persons or 655
property or reputation allegedly caused by an act or omission in 656
connection with compiling and providing the list required by 657
division (F) (2) of this section. 658

(2) The immunity described in division (H) (1) of this 659
section does not apply to a person described in that division 660
if, in relation to the act or omission in question, any of the 661

following applies: 662

(a) The act or omission was manifestly outside the scope 663
of the person's employment or official responsibilities. 664

(b) The act or omission was with malicious purpose, in bad 665
faith, or in a wanton or reckless manner. 666

(c) Liability for the act or omission is expressly imposed 667
by a section of the Revised Code. 668

(I) Every scrap metal dealer shall take a photograph, in 669
accordance with rules adopted by the director, of each person 670
who sells or otherwise gives the dealer an article for which the 671
dealer must make record under division (C) of this section. 672

The dealer shall take the required photograph at the time 673
the dealer purchases or receives the article and shall keep the 674
photograph as part of the record in accordance with division (C) 675
of this section. 676

(J) (1) An individual listed as a known thief or receiver 677
of stolen property on a list prepared pursuant to division (F) 678
(2) of this section may request that the individual's name be 679
removed from the list by filing an application with the law 680
enforcement agency responsible for preparing the list. 681

(2) A law enforcement agency receiving an application in 682
accordance with division (J) (1) of this section shall remove the 683
applicant's name from the list of known thieves and receivers of 684
stolen property if the individual has not been convicted of or 685
pleaded guilty to either a misdemeanor that is a theft offense, 686
as defined in section 2913.01 of the Revised Code, within three 687
years immediately prior to the date of the application or a 688
felony that is a theft offense within six years immediately 689
prior to the date of the application. 690

(K) A scrap metal dealer that sells or otherwise transfers 691
a catalytic converter to any person other than an individual 692
shall provide the director with all of the following: 693

(1) A copy of the scrap metal dealer's primary owner's 694
driver's license or state identification card; 695

(2) The scrap metal dealer's federal employer 696
identification number; 697

(3) The scrap metal dealer's permanent physical address, 698
which shall not be a post office box; 699

(4) Any additional information required by the director. 700

Sec. 4737.041. (A) A scrap metal dealer or bulk 701
merchandise container dealer shall do all of the following with 702
respect to each special purchase article or catalytic converter 703
the scrap metal dealer purchases or receives or with respect to 704
each bulk merchandise container a bulk merchandise container 705
dealer purchases or receives that is subject to division (A) of 706
section 4737.012 of the Revised Code: 707

~~(A)~~ (1) Comply with the requirements of this section in 708
addition to complying with the applicable requirements of 709
section 4737.012 or 4737.04 of the Revised Code; 710

~~(B)~~ (2) Take a photograph of each special purchase 711
article, catalytic converter, or bulk merchandise container; 712

~~(C)~~ (3) Obtain from the seller or provider of the special 713
purchase article, catalytic converter, or bulk merchandise 714
container proof that the seller or provider owns the special 715
purchase article, catalytic converter, or bulk merchandise 716
container. Subject to division (C) of this section, if the item 717
is a catalytic converter, only the following items constitute 718

<u>proof of ownership:</u>	719
<u>(a) If the seller or provider is the owner of the motor</u>	720
<u>vehicle from which the catalytic converter was removed, either</u>	721
<u>of the following:</u>	722
<u>(i) Title to or registration of the vehicle from which the</u>	723
<u>catalytic converter was removed;</u>	724
<u>(ii) A bill, invoice, or receipt from a motor vehicle</u>	725
<u>collision repair operator as defined in section 4775.01 of the</u>	726
<u>Revised Code or a motor vehicle dealer as defined in section</u>	727
<u>4517.01 of the Revised Code that clearly indicates both of the</u>	728
<u>following:</u>	729
<u>(I) The removal and replacement of the catalytic</u>	730
<u>converter;</u>	731
<u>(II) The make, model, year, and vehicle identification</u>	732
<u>number of the motor vehicle that was repaired.</u>	733
<u>(b) If the seller or provider is the motor vehicle</u>	734
<u>collision repair operator or motor vehicle dealer that repaired</u>	735
<u>the motor vehicle from which the catalytic converter was</u>	736
<u>removed, both of the following:</u>	737
<u>(i) The motor vehicle collision repair operator's</u>	738
<u>registration certificate or motor vehicle dealer's license</u>	739
<u>number;</u>	740
<u>(ii) A bill, invoice, or receipt that clearly indicates</u>	741
<u>both of the following:</u>	742
<u>(I) The removal and replacement of the catalytic</u>	743
<u>converter;</u>	744
<u>(II) The make, model, year, and vehicle identification</u>	745

number of the motor vehicle that was repaired. 746

~~(D)~~ (4) If payment is rendered for the special purchase 747
articles, catalytic converters, or bulk merchandise containers, 748
issue a check for the purchase of the special purchase articles, 749
catalytic converters, or bulk merchandise containers; 750

~~(E)~~ (5) Withhold payment for the purchase of the special 751
purchase articles, catalytic converters, or bulk merchandise 752
containers for a period of two days after the day the special 753
purchase articles, catalytic converters, or bulk merchandise 754
containers are purchased; 755

~~(F)~~ (6) If an asserted owner of stolen special purchase 756
articles, catalytic converters, or bulk merchandise containers 757
or that owner's agent provides proof of having filed a stolen 758
property report with the appropriate law enforcement agency, 759
make records describing special purchase articles, catalytic 760
converters, or bulk merchandise containers the dealer purchased 761
or received after the alleged date of theft available for 762
inspection to the asserted owner or owner's agent for a period 763
of six months after the alleged date of theft of the articles, 764
except that the dealer shall withhold the name of the person 765
from whom the special purchase articles, catalytic converters, 766
or bulk merchandise containers were purchased or received and 767
the amount paid for the special purchase articles, catalytic 768
converters, or bulk merchandise containers. 769

(B) A person, other than a scrap metal dealer or a motor 770
vehicle dealer licensed under Chapter 4517. of the Revised Code, 771
when receiving a used catalytic converter in the ordinary course 772
of business, including a person licensed or registered under 773
Chapter 4737., 4738., or 4775. of the Revised Code, shall meet 774
the requirements of division (A) of this section with respect to 775

each used catalytic converter the person purchases or receives 776
as if the person were a scrap metal dealer, including the 777
requirements of divisions (C), (E), (F), and (K) of section 778
4737.04 of the Revised Code. No person described in this 779
division shall recklessly fail to comply with this division. 780

(C) (1) Not later than ninety days after the effective date 781
of this amendment, the director of public safety shall create an 782
affidavit form and publish the form on a publicly available web 783
site maintained by the department of public safety. 784

(2) The affidavit form shall include the name and contact 785
information of the seller or provider, a statement of the 786
reasons the seller or provider is unable to produce the items 787
described in division (A) (3) of this section, and any other 788
information and documents required by the director. 789

(3) A scrap metal dealer, bulk merchandise container 790
dealer, or person described in division (B) of this section may 791
accept an affidavit form that is completed and signed by a 792
seller or provider who is a natural person in lieu of the items 793
otherwise required to establish ownership of a catalytic 794
converter under division (A) (3) of this section. 795

(4) Whoever knowingly makes a false statement on an 796
affidavit described in division (C) of this section is guilty of 797
the offense of falsification under section 2921.13 of the 798
Revised Code. 799

Sec. 4737.043. ~~Sections~~ (A) Subject to division (B) of 800
this section, sections 4737.04 and 4737.041 of the Revised Code 801
do not apply with respect to any of the following: 802

~~(A)~~ (1) The donation of articles to nonprofit 803
organizations or to any other person, on the condition that the 804

person donating the articles receives no payment or any other 805
valuable consideration in exchange for or due to donating the 806
articles; 807

~~(B)~~ (2) The sale or donation of common recycled matter; 808

~~(C)~~ (3) Sales transacted between a scrap metal dealer and 809
an organization that is exempt from federal taxation under 810
section 501(c) (3) of the "Internal Revenue Code of 1986," 100 811
Stat. 285, 26 U.S.C. 501(c) (3), as amended, and that collects, 812
for its own fundraising purposes, scrap ferrous and nonferrous 813
metals for recycling rather than disposal; 814

~~(D)~~ (4) Sales transacted between a scrap metal dealer and 815
a government unit or another business, including a demolition 816
company, public utility company, or another scrap metal dealer, 817
on the condition that the government unit or business satisfies 818
the following criteria: 819

~~(1)~~ (a) In the course of providing the government unit's 820
or business's services to others or maintaining the government 821
unit's or business's property, whether onsite or offsite, the 822
government unit or business generates scrap ferrous and 823
nonferrous metals for recycling rather than disposal. 824

~~(2)~~ (b) If the sales transaction involves a government 825
unit, reference to the government unit as a bona fide unit of 826
government can be readily found by the public. 827

~~(3)~~ (c) If the sales transaction involves a business, the 828
business satisfies one of the following criteria: 829

~~(a)~~ (i) The business is registered with the secretary of 830
state. 831

~~(b)~~ (ii) The business has been issued a license under 832

section 5739.17 of the Revised Code. 833

~~(e)~~ (iii) The business advertises its services in a 834
newspaper of general circulation once a week for not less than 835
six consecutive months or provides a receipt showing payment for 836
such advertising, a telephone book, electronic media that is 837
available to the public, or some other type of media that is 838
owned and operated by a person other than the business and, if 839
an individual operates the business, the individual advertising 840
the business has a specific place of business that is not the 841
individual's permanent home residence. 842

~~(4)~~ (d) The government unit provides proof of compliance 843
with division ~~(D) (2)~~ (A) (4) (b) of this section or the business 844
provides proof of compliance with division ~~(D) (3)~~ (A) (4) (c) of 845
this section to the scrap metal dealer with whom the government 846
unit or business transacts business. 847

~~(E)~~ (5) Sales transacted between a scrap metal dealer and 848
a person whose primary business is to create products that 849
result in bulk quantities of ferrous and nonferrous metal used 850
for recycling rather than disposal. 851

~~(F)~~ ~~Sales of catalytic converters transacted between a~~ 852
~~scrap metal dealer and a motor vehicle dealer as defined in~~ 853
~~section 4517.01 of the Revised Code.~~ 854

(B) No provision of sections 4737.04 and 4737.041 of the 855
Revised Code that is specific to sales or donations of catalytic 856
converters applies to a sale or donation of a motor vehicle, 857
even if a catalytic converter is a component or part of such 858
motor vehicle. The exceptions described in division (A) of this 859
section do not apply to sales or donations of catalytic 860
converters. 861

Sec. 4737.045. (A) To register as a scrap metal dealer or 862
a bulk merchandise container dealer with the director of public 863
safety as required by division (B) of section 4737.04 of the 864
Revised Code, a person shall do all of the following: 865

(1) Provide the name and street address of the dealer's 866
place of business; 867

(2) Provide the name of the primary owner of the business, 868
and of the manager of the business, if the manager is not the 869
primary owner; 870

(3) Provide the electronic mail address of the business; 871

(4) Provide confirmation that the dealer has the 872
capabilities to electronically connect with the department of 873
public safety for the purpose of sending and receiving 874
information; 875

(5) Provide any other information required by the director 876
in rules the director adopts pursuant to sections 4737.01 to 877
~~4737.045~~4737.046 of the Revised Code; 878

(6) Pay an initial registration fee of two hundred 879
dollars. 880

(B) A person engaging in the business of a scrap metal 881
dealer or a bulk merchandise container dealer in this state on 882
or before September 28, 2012, shall register with the director 883
not later than January 1, 2013. With respect to a person who 884
commences engaging in the business of a scrap metal dealer or a 885
bulk merchandise container dealer after September 28, 2012, the 886
person shall register with the director pursuant to this section 887
prior to commencing business as a scrap metal dealer or a bulk 888
merchandise container dealer. 889

(C) A registration issued to a scrap metal dealer or a bulk merchandise container dealer pursuant to this section is valid for a period of one year. A dealer shall renew the registration in accordance with the rules adopted by the director and pay a renewal fee of one hundred fifty dollars to cover the costs of operating and maintaining the registry created pursuant to division (E) of this section.

(D) A scrap metal dealer or a bulk merchandise container dealer registered under this section shall prominently display a copy of the annual registration certificate received from the director pursuant to division (E) (2) of this section.

(E) The director shall do all of the following:

(1) Develop and implement, by January 1, 2014, and maintain as a registry a secure database for use by law enforcement agencies that is capable of all of the following:

(a) Receiving and securely storing all of the information required by division (A) of this section and the daily transaction data that scrap metal dealers and bulk merchandise dealers are required to send pursuant to division (E) (1) of section 4737.04 of the Revised Code;

(b) Providing secure search capabilities to law enforcement agencies for enforcement purposes;

(c) Creating a link and retransmission capability for receipt of routine scrap theft alerts published by the institute of scrap recycling industries for transmission to dealers and law enforcement agencies in the state;

(d) Making the electronic lists prepared pursuant to division (F) (2) of section 4737.04 of the Revised Code available through an electronic searchable format for individual law

enforcement agencies and for dealers in the state;	919
(e) Providing, without charge, interlink programming	920
enabling the transfer of information to dealers.	921
(2) Issue, reissue, or deny registration to dealers;	922
(3) Adopt rules to enforce sections 4737.01 to 4737.045 of	923
the Revised Code, rules establishing procedures to renew a	924
registration issued under this section, rules for the format and	925
maintenance for the records required under division (A) of	926
section 4737.012 of the Revised Code or division (C) of section	927
4737.04 of the Revised Code, and rules regarding the delivery of	928
the report required by division (E) (1) of section 4737.04 of the	929
Revised Code to the registry, which shall be used exclusively by	930
law enforcement agencies.	931
(F) A scrap metal dealer or bulk merchandise container	932
dealer may search, modify, or update only the dealer's own	933
business data contained within the registry established in	934
division (E) of this section.	935
(G) All fees received by the director pursuant to this	936
section and division (F) of section 4737.99 of the Revised Code	937
shall be used to develop and maintain the registry required	938
under this section and for the department of public safety's	939
operating expenses. The fees shall be deposited into the	940
infrastructure protection fund which is hereby created in the	941
state treasury.	942
<u>(H) (1) The director of public safety shall not issue a</u>	943
<u>registration to, or renew the registration of, a person who was</u>	944
<u>convicted of, or pleaded guilty to, a violation of section</u>	945
<u>4737.041 of the Revised Code, a violation of section 2923.03 of</u>	946
<u>the Revised Code when division (G) of section 4737.99 of the</u>	947

Revised Code applies, a violation of section 2913.02 of the 948
Revised Code when the person is sentenced pursuant to division 949
(B) (10) of that section, or a violation of section 2913.51 of 950
the Revised Code when the person is sentenced pursuant to 951
division (F) of that section. 952

(2) The director of public safety shall revoke the 953
registration of a person who is convicted of or pleads guilty to 954
a violation of section 4737.041 of the Revised Code, a violation 955
of section 2923.03 of the Revised Code when division (G) of 956
section 4737.99 of the Revised Code applies, a violation of 957
section 2913.02 of the Revised Code when the person is sentenced 958
pursuant to division (B) (10) of that section, or a violation of 959
section 2913.51 of the Revised Code when the person is sentenced 960
pursuant to division (F) of that section. 961

Sec. 4737.046. (A) The director of public safety may 962
investigate a scrap metal dealer, bulk merchandise container 963
dealer, a person described in division (B) of section 4737.041 964
of the Revised Code, and any employee, officer, or agent of any 965
of the foregoing. The director shall commence an investigation 966
only after consulting with local law enforcement. As part of the 967
investigation, the director may search the person's premises 968
during the person's regular work hours or between the hours of 969
eight a.m. and five p.m., Monday through Friday. 970

(B) (1) The director may compel witnesses by subpoena to 971
appear and testify in relation to an investigation under this 972
section, and may compel by subpoena duces tecum the production 973
of any books, papers, documents, or other records pertaining to 974
such an investigation. 975

(2) If a person does not comply with a subpoena or 976
subpoena duces tecum issued under division (B) (1) of this 977

section, the director may apply to the court of common pleas of 978
Franklin county or of the county in which the person conducts 979
business for an order compelling the person to comply with the 980
subpoena or subpoena duces tecum or, for failure to do so, be 981
held in contempt of court. 982

(C) If as a result of an investigation the director finds 983
that a person violated any provision of sections 4737.04 to 984
4737.046 of the Revised Code, the director shall suspend the 985
person's registration or license and shall reinstate the 986
registration or license upon evidence that the person has 987
remedied the violation. The director shall revoke a registration 988
or license if the director finds a subsequent violation of any 989
provision of this chapter in any subsequent investigation. 990

(D) (1) No person shall undertake any activities that 991
require registration under section 4737.045 of the Revised Code 992
following a suspension or revocation. 993

(2) Following a suspension or revocation, the director 994
shall conduct a follow-up investigation to determine whether the 995
person violated division (D) (1) of this section. If the director 996
determines the person violated division (D) (1) of this section, 997
the director shall seek an injunction from the court of common 998
pleas of Franklin county or of the county in which the person 999
conducts business ordering the person to cease the violation. 1000

(E) (1) The director may investigate, on the director's own 1001
initiative, the actions or proposed actions of a person who is 1002
not registered under section 4737.045 of the Revised Code and 1003
who appears to be acting as a scrap metal dealer or bulk 1004
merchandise container dealer in the same manner as described in 1005
divisions (A) and (B) of this section. 1006

(2) If, following an investigation, the director finds 1007
that a person acted as a scrap metal dealer or bulk merchandise 1008
container dealer without a registration or license, the director 1009
shall do both of the following: 1010

(a) Seek an injunction from the court of common pleas of 1011
Franklin county or of the county in which the person conducts 1012
business ordering the person to cease the violation; 1013

(b) Impose a civil penalty of ten thousand dollars in 1014
accordance with Chapter 119. of the Revised Code. Each day the 1015
violation occurred or continues to occur constitutes a separate 1016
violation and is subject to a separate penalty, except that the 1017
penalty for each consecutive day after the first day shall be 1018
one thousand dollars. 1019

(3) The director shall deposit all penalties collected 1020
pursuant to division (E) (2) of this section into the state 1021
treasury to the credit of the infrastructure protection fund 1022
created under section 4737.045 of the Revised Code. 1023
Notwithstanding any contrary provision of that section, all such 1024
penalties shall be expended only to conduct investigations 1025
authorized under this section. 1026

(4) If a person fails to pay a civil penalty imposed under 1027
division (E) (2) of this section within the time prescribed by 1028
the director, the director shall submit to the attorney general 1029
the person's name and the amount of the penalty. In that case, 1030
the attorney general shall collect the penalty. In addition to 1031
the penalty, the attorney general may assess, and the person 1032
shall pay, a fee covering the costs of collecting the penalty. 1033

(F) (1) A person shall not do any of the following when 1034
applying for a registration, licensure, or renewal under section 1035

<u>4737.045 of the Revised Code:</u>	1036
<u>(a) Engage in fraud;</u>	1037
<u>(b) Knowingly provide false information;</u>	1038
<u>(c) Knowingly fail to disclose relevant information that</u> <u>would result in a denial of or nonrenewal of a registration or</u> <u>license.</u>	1039 1040 1041
<u>(2) The director shall impose a civil penalty of five</u> <u>hundred dollars on any person who violates division (F) (1) of</u> <u>this section in accordance with Chapter 119. of the Revised</u> <u>Code. The director shall deposit all such penalties into the</u> <u>state treasury to the credit of the infrastructure protection</u> <u>fund created under section 4737.045 of the Revised Code.</u>	1042 1043 1044 1045 1046 1047
<u>(G) Any refusal to renew and any denial, suspension, or</u> <u>revocation of any registration or license required under section</u> <u>4737.045 of the Revised Code is subject to Chapter 119. of the</u> <u>Revised Code.</u>	1048 1049 1050 1051
<u>(H) The director shall record information on all</u> <u>noninvestigative visits made by the director to a scrap metal</u> <u>dealer or bulk merchandise container dealer. Such information</u> <u>shall be reported to the public on a quarterly basis via the</u> <u>department of commerce's web site.</u>	1052 1053 1054 1055 1056
<u>Sec. 4737.98. Notwithstanding any provision of section</u> <u>121.95 of the Revised Code to the contrary, a regulatory</u> <u>restriction contained in a rule adopted under this chapter is</u> <u>not subject to sections 121.95 to 121.953 of the Revised Code.</u>	1057 1058 1059 1060
<u>Sec. 4737.99. (A) Except as specified in divisions (B),</u> <u>(C), (D), (E), and (F) of this section, whoever violates</u> <u>sections 4737.01 to 4737.11 of the Revised Code, shall be fined</u>	1061 1062 1063

not less than twenty-five nor more than one thousand dollars and 1064
the costs of prosecution. 1065

(B) Whoever violates division (F) (2) of section 4737.10 of 1066
the Revised Code is guilty of a misdemeanor of the fourth 1067
degree. 1068

~~(C) Whoever~~ (C) (1) Except as provided in division (C) (2) 1069
of this section, whoever fails to comply with or violates 1070
section 4737.01, 4737.012, or 4737.041, division (C), (D), (E), 1071
(F), (G), or (I) of section 4737.04, or division (D) of section 1072
4737.045 of the Revised Code is guilty of a misdemeanor of the 1073
first degree. If the offender one time previously has violated 1074
or failed to comply with section 4737.01, 4737.012, or 4737.041, 1075
division (C), (D), (E), (F), (G), or (I) of section 4737.04, or 1076
division (D) of section 4737.045 of the Revised Code, the 1077
violation or failure is a felony of the fifth degree. If the 1078
offender two or more times previously has violated or failed to 1079
comply with section 4737.01, 4737.012, or 4737.041, division 1080
(C), (D), (E), (F), (G), or (I) of section 4737.04, or division 1081
(D) of section 4737.045 of the Revised Code, the violation or 1082
failure is a felony of the fourth degree. For any second or 1083
subsequent violation of or failure to comply with section 1084
4737.01, 4737.012, or 4737.041, or division (C), (D), (E), (F), 1085
(G), or (I) of section 4737.04, or division (D) of section 1086
4737.045 of the Revised Code, a court may suspend the 1087
registration issued to the scrap metal dealer or bulk 1088
merchandise container dealer under section 4737.045 of the 1089
Revised Code for a period of ninety days, during which time 1090
period the person shall not engage in the business of a scrap 1091
metal dealer or a bulk merchandise container dealer, as 1092
applicable. 1093

(2) Notwithstanding section 2929.31 of the Revised Code, a 1094
business entity that, with respect to the sale, purchase, or 1095
receipt of a catalytic converter, violates division (C), (E) (1), 1096
(F) (2), (F) (5), or (I) of section 4737.04 or division (B) of 1097
section 4737.041 of the Revised Code shall be fined not less 1098
than ten thousand dollars and not more than fifty thousand 1099
dollars per violation. 1100

(D) Whoever violates division (B) (1) of section 4737.04 of 1101
the Revised Code is guilty of a felony of the fifth degree. The 1102
court also shall enjoin the person from engaging in the business 1103
of a scrap metal dealer or a bulk merchandise dealer. 1104

(E) Whoever violates division (B) (2) of section 4737.04 of 1105
the Revised Code is guilty of a felony of the fifth degree for 1106
the first offense and a felony of the third degree for any 1107
subsequent offense. 1108

(F) Any motor vehicle used in the theft or illegal 1109
transportation of metal shall be impounded for at least thirty 1110
days and not more than sixty days. If the same motor vehicle is 1111
used in connection with a second or subsequent theft or illegal 1112
transportation of metal, the motor vehicle shall be impounded 1113
for at least sixty days and not more than one hundred eighty 1114
days. Any motor vehicle used in the theft or illegal 1115
transportation of a special purchase article or bulk merchandise 1116
container shall be impounded for at least ninety days and not 1117
more than three hundred sixty days. A motor vehicle impounded 1118
pursuant to this division shall be stored at a municipal 1119
corporation impound lot, if available, or at a lot owned by a 1120
private entity or another governmental unit that the municipal 1121
corporation utilizes for the purpose of impounding a motor 1122
vehicle. An impounded motor vehicle may be recovered from the 1123

impound lot at the end of the impound term upon payment of fees. 1124

(G) A person is complicit under section 2923.03 of the 1125
Revised Code if the person sells a catalytic converter to 1126
another person who, in the purchase or receipt of the catalytic 1127
converter, violates either of the following: 1128

(1) Division (F) (1) of section 4737.04 of the Revised 1129
Code; 1130

(2) Division (B) of section 4737.041 of the Revised Code 1131
when the violation involves a failure to obtain identifying 1132
information of the seller of a catalytic converter or proof of 1133
ownership of a catalytic converter. 1134

(H) If a transaction involving the purchase or sale of a 1135
used catalytic converter formed the basis of an offense under 1136
division (C) or (E) of this section, the clerk of the court 1137
shall pay any fine imposed to the county, township, municipal 1138
corporation, park district, as created pursuant to section 1139
511.18 or 1545.04 of the Revised Code, or state law enforcement 1140
agencies in this state that primarily were responsible for, or 1141
involved in, arresting and prosecuting, the offender. 1142

Sec. 4738.03. (A) No person licensed as a motor vehicle 1143
salvage dealer under this chapter shall ~~engage~~ do either of the 1144
following: 1145

(1) Engage in the business of selling at retail salvage 1146
motor vehicle parts or salvage motor vehicles, unless the 1147
business is operated primarily for the purpose of selling at 1148
retail salvage motor vehicle parts. Any person operating such a 1149
business primarily for the purpose of selling at retail salvage 1150
motor vehicle parts may secondarily sell at retail salvage motor 1151
vehicles or manufacture a product of gradable scrap metal for 1152

sale to scrap metal processors or any other consumer.	1153
<u>(2) Purchase or accept a catalytic converter as defined in</u>	1154
<u>section 4737.04 of the Revised Code.</u>	1155
(B) No person licensed as a salvage motor vehicle auction	1156
under this chapter shall:	1157
(1) Knowingly sell a salvage motor vehicle to anyone other	1158
than an authorized purchaser;	1159
(2) Sell a salvage motor vehicle when having reasonable	1160
cause to believe it is not offered by the legal owner thereof;	1161
(3) Fail to make an Ohio salvage certificate of title	1162
available to the purchaser of a salvage motor vehicle sold by	1163
the salvage motor vehicle auction, before payment for the	1164
salvage motor vehicle is completed;	1165
(4) Operate as a motor vehicle salvage dealer at the same	1166
location where any salvage motor vehicle auction is operated.	1167
(C) No person licensed as a salvage motor vehicle pool	1168
under this chapter shall:	1169
(1) Knowingly sell a salvage motor vehicle to anyone other	1170
than an authorized purchaser;	1171
(2) Sell a salvage motor vehicle when having reasonable	1172
cause to believe it is not offered by the legal owner thereof;	1173
(3) Fail to make an Ohio salvage certificate of title	1174
available to the purchaser of a salvage motor vehicle sold by	1175
the salvage motor vehicle pool, before payment for the salvage	1176
motor vehicle is completed;	1177
(4) Operate as a motor vehicle salvage dealer at the same	1178
location where any salvage motor vehicle pool is operated.	1179

Sec. 4738.07. (A) Except as otherwise provided in division 1180
(B) of this section, the registrar of motor vehicles shall deny 1181
the application of any person for a license under this chapter 1182
and refuse to issue the person a license if the registrar finds 1183
that the applicant: 1184

(1) Has made false statement of a material fact in the 1185
individual's application; 1186

(2) Has not complied with sections 4738.01 to 4738.15 of 1187
the Revised Code: 1188

(3) Has habitually defaulted on financial obligations; 1189

(4) Has been convicted of or pleaded guilty to a 1190
disqualifying offense, provided the registrar complies with 1191
section 9.79 of the Revised Code; 1192

(5) Has been guilty of a fraudulent act in connection with 1193
dealing in salvage motor vehicles or when operating as a motor 1194
vehicle salvage dealer, salvage motor vehicle auction, or 1195
salvage motor vehicle pool; 1196

(6) Is insolvent; 1197

(7) Is of insufficient responsibility to assure the prompt 1198
payment of any final judgments which might reasonably be entered 1199
against the individual because of the transaction of the 1200
individual's business during the period of the license applied 1201
for; 1202

(8) Has no established place of business; ~~or~~ 1203

(9) Has less than twelve months prior to said application, 1204
been denied a license under this chapter; or 1205

(10) Was convicted of or pleaded guilty to a violation of 1206

division (B) of section 4737.041 of the Revised Code, a 1207
violation of section 2923.03 of the Revised Code when division 1208
(G) of section 4737.99 of the Revised Code applies, a violation 1209
of section 2913.02 of the Revised Code when the person is 1210
sentenced pursuant to division (B)(10) of that section, or a 1211
violation of section 2913.51 of the Revised Code when the person 1212
is sentenced pursuant to division (F) of that section. 1213

~~(B) In~~ (B)(1) Except as provided in division (B)(2) of 1214
this section, in considering a renewal of an individual's 1215
license, the registrar shall not consider any conviction or plea 1216
of guilty prior to the initial licensing. However, the registrar 1217
may consider a conviction or plea of guilty if it occurred after 1218
the individual was initially licensed, or after the most recent 1219
license renewal. 1220

(2) The registrar shall not renew an individual's license 1221
if the individual was convicted of or pleaded guilty to a 1222
violation of division (B) of section 4737.041 of the Revised 1223
Code, a violation of section 2923.03 of the Revised Code when 1224
division (G) of section 4737.99 of the Revised Code applies, a 1225
violation of section 2913.02 of the Revised Code when the person 1226
is sentenced pursuant to division (B)(10) of that section, or a 1227
violation of section 2913.51 of the Revised Code when the person 1228
is sentenced pursuant to division (F) of that section. 1229

(C) The registrar may grant a person a conditional license 1230
that lasts for one year. After the one-year period has expired, 1231
the license is no longer considered conditional, and the person 1232
shall be considered fully licensed. 1233

(D) If the applicant is a corporation or partnership, the 1234
registrar may refuse to issue a license if any officer, 1235
director, or partner of the applicant has been guilty of any 1236

disqualifying offense and the refusal is in accordance with 1237
section 9.79 of the Revised Code. The registrar's finding may be 1238
based upon facts contained in the application or upon any other 1239
information which the registrar may have. Immediately upon 1240
denying an application for any of the reasons in this section, 1241
the registrar shall enter a final order together with the 1242
registrar's findings and certify the same to the motor vehicle 1243
salvage dealer's licensing board. 1244

(E) If the registrar refuses an application for a license, 1245
the reasons for such refusal shall be put in writing. An 1246
applicant who has been refused a license may appeal from the 1247
action of the registrar to the motor vehicle salvage dealer's 1248
licensing board in the manner prescribed in section 4738.12 of 1249
the Revised Code. 1250

(F) The registrar of motor vehicles shall not adopt, 1251
maintain, renew, or enforce any rule, or otherwise preclude in 1252
any way, an individual from renewing a license under this 1253
chapter due to any past criminal activity or interpretation of 1254
moral character, except as pursuant to division (B) of this 1255
section. If the registrar denies an individual a license or 1256
license renewal, the reasons for such denial shall be put in 1257
writing. 1258

Sec. 4738.12. The motor vehicle salvage dealer's licensing 1259
board shall hear appeals which may be taken from an order of the 1260
registrar of motor vehicles, refusing to issue a license. All 1261
appeals from any order of the registrar refusing to issue any 1262
license upon proper application made must be taken within thirty 1263
days from the date of the order, or the order is final and 1264
conclusive. All appeals from orders of the registrar must be by 1265
petition in writing and verified under oath by the applicant 1266

whose application for license has been denied, and must set 1267
forth the reason why, in the petitioner's opinion, the order of 1268
the registrar is not correct. In appeals the board may make 1269
investigation to determine the correctness and legality of the 1270
order of the registrar. 1271

The board may make rules governing its actions relative to 1272
the suspension and revocation of licenses and may, upon its own 1273
motion, and shall, upon the verified complaint in writing of any 1274
person, investigate the conduct of any licensee under this 1275
chapter. The board shall suspend or revoke or notify the 1276
registrar to refuse to renew any license if any ground existed 1277
upon which the license would have been refused, or if a ground 1278
exists which would be cause for refusal to issue a license. 1279

The board may suspend or revoke any license if the 1280
licensee has in any manner violated the rules issued pursuant to 1281
sections 4738.01 to 4738.16 of the Revised Code, or has been 1282
convicted of committing a felony or violating any law which in 1283
any way relates to the theft of motor vehicles. 1284

The board shall revoke any license if the licensee is 1285
convicted of or pleads guilty to a violation of division (B) of 1286
section 4737.041 of the Revised Code, a violation of section 1287
2923.03 of the Revised Code when division (G) of section 4737.99 1288
of the Revised Code applies, a violation of section 2913.02 of 1289
the Revised Code when the licensee is sentenced pursuant to 1290
division (B)(10) of that section, or a violation of section 1291
2913.51 of the Revised Code when the licensee is sentenced 1292
pursuant to division (F) of that section. 1293

Sec. 4775.09. (A) (1) In accordance with Chapter 119. of 1294
the Revised Code, the motor vehicle repair board may refuse to 1295
issue or renew a registration certificate or may determine 1296

whether to waive a suspension of a registration certificate as 1297
provided in division (D) of section 4775.07 of the Revised Code. 1298

(2) Within ten days after receipt of an abstract from a 1299
county court judge, mayor of a mayor's court, or clerk of a 1300
court of record indicating a violation of division (D) of 1301
section 4513.241 of the Revised Code, the board shall determine 1302
whether the person named in the abstract is registered with the 1303
board and, if the person is so registered, shall further 1304
determine whether the person previously has been convicted of or 1305
pleaded guilty to a violation of that section. If the person 1306
previously has been convicted of or pleaded guilty to a 1307
violation of that section, the board, in accordance with Chapter 1308
119. of the Revised Code but without a prior hearing, shall 1309
suspend the person's registration for a period of not more than 1310
one hundred eighty days. 1311

(B) The court of common pleas of Franklin county has 1312
exclusive jurisdiction over any person who conducts, or attempts 1313
to conduct, business as a motor vehicle repair operator in 1314
violation of this chapter or any rule adopted under this 1315
chapter. The court, on application of the board, may issue an 1316
injunction, a cease and desist order, or other appropriate order 1317
restraining the person from continuing the violation. This 1318
section shall operate in addition to and shall not prohibit the 1319
enforcement of any other law. 1320

(C) Upon the request of the executive director or as a 1321
result of complaints, the board shall investigate the alleged 1322
violation. 1323

(D) No person required to be registered under this chapter 1324
shall have the benefit of any lien for labor or materials unless 1325
the person is registered under this chapter. 1326

(E) No person whose application for registration under 1327
this chapter is denied shall open or operate a facility for 1328
business as a motor vehicle collision repair facility or motor 1329
vehicle window tint installation facility under the name of the 1330
person designated in the application for a registration 1331
certificate or under any other name prior to registering as a 1332
motor vehicle repair operator in accordance with this chapter. 1333

(F) (1) The board shall not issue a registration to or 1334
renew the registration of a person who was convicted of or 1335
pleaded guilty to a violation of division (B) of section 1336
4737.041 of the Revised Code, a violation of section 2923.03 of 1337
the Revised Code when division (G) of section 4737.99 of the 1338
Revised Code applies, a violation of section 2913.02 of the 1339
Revised Code when the person is sentenced pursuant to division 1340
(B) (10) of that section, or a violation of section 2913.51 of 1341
the Revised Code when the person is sentenced pursuant to 1342
division (F) of that section. 1343

(2) The board shall revoke the registration of a person 1344
who is convicted of or pleads guilty to a violation of division 1345
(B) of section 4737.041 of the Revised Code, a violation of 1346
section 2923.03 of the Revised Code when division (G) of section 1347
4737.99 of the Revised Code applies, a violation of section 1348
2913.02 of the Revised Code when the person is sentenced 1349
pursuant to division (B) (10) of that section, or a violation of 1350
section 2913.51 of the Revised Code when the person is sentenced 1351
pursuant to division (F) of that section. 1352

Section 2. That existing sections 2913.02, 2913.51, 1353
4737.012, 4737.04, 4737.041, 4737.043, 4737.045, 4737.99, 1354
4738.03, 4738.07, 4738.12, and 4775.09 of the Revised Code are 1355
hereby repealed. 1356