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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 328  
135<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 328's Bill Analysis](#)

**Version:** As Introduced

**Primary Sponsors:** Reps. Roemer and Plummer

**Local Impact Statement Procedure Required:** No

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### Highlights

#### Department of Public Safety

- The Ohio Department of Public Safety (ODPS) will likely incur additional costs to implement the bill's provisions, including to: (1) develop, administer, and enforce the bill's Bulk Used Catalytic Converter Sales License provisions, (2) modify the existing Scrap Metal and Bulk Merchandise Container Dealers website and the Communication and Information Management System (CIMS), and (3) perform additional duties, including investigations.
- The Infrastructure Protection Fund (Fund 5ML0) used by the Department of Public Safety may gain an indeterminate amount of annual revenue from civil penalties imposed for violations of the law pertaining to scrap metal and bulk merchandise container dealers.

#### Attorney General

- The bill appropriates \$1.5 million in FY 2024 and \$1.0 million in FY 2025 to newly created GRF line item 055451, Catalytic Converter Theft Task Force, to support the operations of any catalytic converter theft task forces established by the Attorney General's Organized Crime Investigations Commission (OCIC).

#### State and local criminal justice systems

- The bill may increase the number of cases for local criminal justice systems to adjudicate and may shift adjudication costs for certain misdemeanor cases from a county or municipal court to a court of common pleas related to the bill's penalty enhancements. In the event of a conviction, the bill would also shift sanctioning costs from a local authority to the Department of Rehabilitation and Correction, thus impacting fines, fees,

and court costs retained by counties and municipalities, as well as the amount of court costs forwarded to the state.

- There may be some increase in fine revenue generated and credited to the county treasury when an offender is a business entity. The magnitude of any increase depends on how many business entities are convicted of specified offenses.

## **Detailed Analysis**

The bill makes several changes to the Secondhand Dealer Law and creates the Bulk Used Catalytic Converter Sales License, including broadening the definition of a catalytic converter for this purpose to also include diesel particulate filters and diesel oxidation catalysts. Generally, these changes are expected to increase oversight over the sale of catalytic converters to scrap metal dealers, enact additional licensing requirements for persons engaged in bulk catalytic converter sales, and increase penalties for offenses related to stolen catalytic converters.

### **Department of Public Safety**

#### **Bulk Used Catalytic Converter Sales License**

The Ohio Department of Public Safety (ODPS), which administers Ohio's scrap metal laws, will incur additional costs to develop, administer, and enforce the Bulk Used Catalytic Converter Sales Law that would be enacted by the bill. The bill prohibits a person from selling more than one catalytic converter per day unless the person obtains a Bulk Used Catalytic Converter Sales License to be issued by ODPS. According to ODPS, additional staff may be needed to process applications, issue licenses, investigate complaints, and conduct violation hearings. While the number of potential applicants for such a license is unknown, the bill does exempt certain individuals from having to obtain a separate Bulk Used Catalytic Converter Sales License, including the state's approximately 7,500 licensed motor vehicle dealers and 350 scrap metal dealers, who already hold certain registration licenses. The bill sets the initial application and annual renewal fee for the Bulk Used Catalytic Converter Sales License at \$200, which would be credited to the Infrastructure Protection Fund (Fund 5ML0).

The bill gives ODPS certain investigative powers related to scrap metal dealers, bulk merchandise container dealers, persons (other than a licensed motor vehicle dealer) who receive a used catalytic converter in the ordinary course of business, and persons selling used catalytic converters in bulk. If a violation is suspected, ODPS must seek an injunction from a court of common pleas and impose a civil penalty of \$10,000, and \$1,000 for each subsequent day the violation occurred. ODPS must certify unpaid fines to the Attorney General for collection. Under the bill, the collected fines would be deposited to the credit of Fund 5ML0. If the Attorney General collects the debt on behalf of ODPS, a portion would be retained by the Attorney General and deposited to the credit of their Claims Fund (Fund 4190). A person who knowingly engages in fraud or fails to provide relevant information when applying for a license is subject to a \$500 fine.

#### **Recordkeeping requirements**

The bill's recordkeeping requirements will likely result in one-time costs for ODPS to modify its existing Scrap Metal and Bulk Merchandise Container Dealers website, which is used by registered scrap metal dealers to register their business and upload transactions to ODPS, and the Communication and Information Management System (CIMS), which ODPS uses to access

that information, to accommodate transaction data related to the purchase and sale of catalytic converters, as well as “do-not-buy” lists submitted by law enforcement.

Ongoing costs related to CIMS may also occur due to the bill’s requirement that ODPS create and maintain a do-not-buy-from list of unlicensed bulk catalytic converter sellers that is searchable by law enforcement and other businesses. According to ODPS, the modifications necessary to comply with the bill’s provisions are likely to be done in house and may require significant information technology (IT) resources.

### **Scrap Metal Dealer Law**

The bill places additional recordkeeping and transaction data submission requirements on scrap metal dealers and any person who is not a scrap metal dealer who purchases a catalytic converter,<sup>1</sup> and requires ODPS to perform a number of other duties related to enforcement of the Scrap Metal Dealer Law, including: (1) investigating licensees, registrants, and unlicensed or unregistered persons, (2) establishing standardized forms and procedures relating to inspections, (3) recording certain information on noninvestigative visits to be reported to the public via the Department of Commerce’s website on a quarterly basis, and (4) producing annual reports summarizing all inspection reports for the previous year and making them available on the ODPS website. The bill also creates a \$500 civil penalty for specified violations of the Scrap Metal Dealer Law, which is required to be credited to Fund 5ML0. For certain violations the bill specifies that an additional \$500 must be imposed per day that the violation continues.

As a result, ODPS may incur indeterminate additional costs related to administering the Scrap Metal Dealer Law and sanctioning violators. If ODPS is unable to absorb any resulting additional workload that may be experienced utilizing existing resources, particularly with respect to the bill’s investigation provisions, additional staff may need to be hired. To the extent that the civil penalty is collected, ODPS may also experience an indeterminate gain in revenue, which may help to offset any additional costs incurred.

The costs incurred by the Department of Commerce to make information available on their website regarding noninvestigative visits made by ODPS to a scrap metal dealer, bulk merchandise container dealer, or holder of a Bulk Used Catalytic Converter Sales License is uncertain, but likely minimal.

### **Infrastructure Protection Fund**

The amount of revenue generated as a result of the bill’s civil penalties and credited to the existing Infrastructure Protection Fund (Fund 5ML0) will depend on the fines imposed on scrap metal dealers, bulk merchandise container dealers, and sellers of bulk catalytic converters for violations of the bill’s requirements or prohibitions. Under continuing law, Fund 5ML0 is used by Ohio Homeland Security, housed within the Department of Public Safety, for the scrap metal dealer oversight program.

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<sup>1</sup> The bill exempts licensed motor vehicle dealers from the bill’s requirements to comply with the Scrap Metal Dealer Law when receiving catalytic converters if the business sells or receives catalytic converters in ordinary course of business typical for that type of business (R.C. 4737.041(B)).

## **Attorney General**

The bill appropriates \$1.5 million in FY 2024 and \$1.0 million in FY 2025 to newly created GRF line item 055451, Catalytic Converter Theft Task Force, to support the operations of any catalytic converter theft task forces established by the Attorney General's Organized Crime Investigations Commission (OCIC). For FY 2024, \$500,000 is estimated for start-up costs, and the remaining funds will maintain the task force work.

Under continuing law, OCIC is authorized to establish organized crime task forces to investigate organized criminal activity in a county or in two or more adjacent counties. Members of the investigatory staff of a task force include local law enforcement officers. The funding provided by the bill will be used to reimburse political subdivisions for the expenses they incur when their law enforcement officers participate in an organized crime task force, and to provide additional resources to law enforcement for this specific crime.<sup>2</sup>

## **State and local criminal justice systems**

### **Law enforcement reporting requirements**

Existing law requires a law enforcement agency serving a jurisdiction in which a scrap metal or bulk merchandise container dealer is located to provide a searchable electronic list of the names and descriptions of persons known to be thieves or receivers of stolen property to ODPS for inclusion in the existing scrap metal dealer and bulk merchandise container dealer registry. The bill expands this requirement to also include the submission of all records of any investigation into a scrap metal dealer, bulk merchandise container dealer, or holder of a Bulk Used Catalytic Converter Sales License. Any additional costs or workload incurred for a law enforcement agency to comply will depend on the number of investigations that an agency conducted into scrap metal or bulk merchandise container dealers.

### **Criminal penalties**

The bill modifies the penalties for specified offenses involving catalytic converters by: (1) elevating the offenses of theft and receiving stolen property (RSP) from a first degree misdemeanor generally to a fifth degree felony generally if the property involved is a catalytic converter or a fourth degree felony if the offender has specified prior convictions, (2) specifies that a person can be charged with complicity under certain circumstances if they sell a catalytic converter to another person who violates any of the bill's provisions, and (3) applying the first degree misdemeanor penalty that applies to a scrap metal dealer for failure to comply with reporting requirements to a person who purchases a catalytic converter. Table 1 below lists the sentences and fines for catalytic converter-related offenses under H.B. 328.

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<sup>2</sup> Unchanged by the bill, law enforcement agencies can request an OCIC task force investigation by submitting a written proposal outlining the scope and specifics of the investigation, which would result in savings effect for those agencies. OCIC provides funding to cover costs such as payment of confidential informants, purchase of contraband for evidence, electronic surveillance equipment, technical support, vehicles, office space, or other equipment not available from local sources.

<b>Table 1. Sentences and Fines Generally for Catalytic Converter-Related Offenses</b>		
<b>Offense Level</b>	<b>Fine</b>	<b>Term of Incarceration</b>
Felony, 4 <sup>th</sup> degree	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison term
Felony, 5 <sup>th</sup> degree	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term
Misdemeanor, 1 <sup>st</sup> degree	Up to \$1,000	Jail, not more than 180 days

As a result of these modifications, the bill may increase the number of cases for local criminal justice systems to adjudicate and may, in certain theft and RSP cases, shift adjudication costs from a county or municipal court to a court of common pleas. In the event of a theft or RSP conviction, the bill may also shift sanctioning costs for certain offenders whose sentence involves a period of incarceration from a local jail to the Ohio Department of Rehabilitation and Correction (ODRC). Any potential savings experienced by local authorities to adjudicate and house certain theft and RSP offenders is likely to be minimal at most. Similarly, any additional costs incurred by ODRC are likely to be marginal.<sup>3</sup> The magnitude of any increased costs incurred by criminal justice systems as a result of any new cases generated by the bill will depend on the number of individuals who are ultimately charged, convicted, and subsequently sentenced to a period of incarceration.

### **Business entities as violators**

Under the bill, a business entity convicted of enterprise theft of a catalytic converter (theft) or enterprise receipt of a stolen catalytic converter (RSP), or who is found to have violated any of the bill's reporting provisions is required to pay an organizational fine of not less than \$10,000 but not more than \$50,000 per violation. The default organizational penalty is up to \$5,000 for a first degree misdemeanor, up to \$7,500 for a fifth degree felony, and up to \$10,000 for a fourth degree felony.<sup>4</sup> Thus, under the bill, more organizational fine revenue may be collected than otherwise may have been under current law.

The magnitude of any increase in fine revenue that may be generated annually will depend upon the number of business entities convicted of enterprise theft of a catalytic converter or enterprise receipt of a stolen catalytic converter, or found to be in violation of the bill's recordkeeping requirements. Under current law's general distribution rules, organizational fines would be paid to the treasury of the county in which the court is located.

### **Fines, fees, and court costs**

To the extent that additional cases are generated or certain cases are shifted from a municipal or county court to a court of common pleas, the bill may also impact the amount of

<sup>3</sup> Marginal costs are those that increase or decrease directly on a per-person basis with changes in prison population (i.e., clothing, food, medical services, etc.). For FY 2023, ODRC's reported marginal daily cost per offender was \$11.98, or \$4,373 per year.

<sup>4</sup> R.C. 2929.31.

fine, fee, and court cost revenue, including the amount of court costs forwarded to the state. Table 2 below shows the fines, fees, and court costs for H.B. 328 offenses.

Table 2. Fines, Fees, and Court Costs for H.B. 328 Offenses		
Financial Penalty Component	Amount Paid by Violator	Recipient of Amount
Fine	Varies by offense	<ul style="list-style-type: none"> <li>Retained by the county, township, municipal corporation, park district, or state law enforcement agencies that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender</li> </ul>
Local court costs and fees	Varies by local jurisdiction	<ul style="list-style-type: none"> <li>Generally retained by the county or municipality</li> </ul>
State court costs	\$29	<p style="text-align: center;"><b>Misdemeanor</b></p> <p>Deposited in the state treasury as follows:</p> <ul style="list-style-type: none"> <li>\$20 to the Indigent Defense Support Fund (Fund 5DY0)</li> <li>\$9 to the Victims of Crime/Reparations Fund (Fund 4020)</li> </ul>
	\$60	<p style="text-align: center;"><b>Felony</b></p> <p>Deposited in the state treasury as follows:</p> <ul style="list-style-type: none"> <li>\$30 to the Indigent Defense Support Fund (Fund 5DY0)</li> <li>\$30 to the Victims of Crime/Reparations Fund (Fund 4020)</li> </ul>