

SENATE BILL NO. 729

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patrons Prior to Substitute--Senators Ruff and Spruill [SB 41])

A BILL to amend and reenact §§ 18.2-23 and 59.1-136.3 of the Code of Virginia, relating to catalytic converters; penalties.

Be it enacted by the General Assembly of Virginia:**1. That §§ 18.2-23 and 59.1-136.3 of the Code of Virginia are amended as follows:****§ 18.2-23. Conspiring to trespass or commit larceny.**

A. If any person shall conspire, confederate₂ or combine with another or others in the Commonwealth to go upon or remain upon the lands, buildings₂ or premises of another, or any part, portion₂ or area thereof, having knowledge that any of them have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian₂ or other person lawfully in charge thereof, or having knowledge that any of them have been forbidden to do so by a sign or signs posted on such lands, buildings, premises₂ or part, portion₂ or area thereof at a place or places where it or they may reasonably be seen, ~~he shall be deemed~~ is guilty of a Class 3 misdemeanor.

B. If any person shall conspire, confederate₂ or combine with another or others in the Commonwealth to commit larceny or counsel, assist, aid₂ or abet another in the performance of a larceny, where the aggregate value of the goods or merchandise involved is \$1,000 or more, he is guilty of a felony punishable by confinement in a state correctional facility for not less than one year nor more than 20 years. If any person assists, aids, or abets another in the performance of a larceny of a catalytic converter from a motor vehicle where the value of such catalytic converter is less than \$1,000, he is guilty of a Class 1 misdemeanor. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and

defraud the owner thereof out of the value of the goods or merchandise. A violation of this subsection constitutes a separate and distinct ~~felony~~ offense.

C. Jurisdiction for the trial of any person charged under this section shall be in the county or city wherein any part of such conspiracy is planned, or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

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

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

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

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

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

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

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

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

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

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

79 special conservator of the peace appointed pursuant to § 19.2-13 in the performance of his duties who
80 presents his credentials at the scrap metal purchaser's normal business location during normal business
81 hours.

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