

As Reported by the House Criminal Justice Committee

135th General Assembly

Regular Session

2023-2024

Sub. H. B. No. 328

Representatives Roemer, Plummer

Cosponsors: Representatives Abrams, LaRe, Miller, K.

A BILL

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, 4745.01, and 4775.09 3
and to enact sections 4737.046 and 4737.98 of 4
the 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, 4745.01, and 4775.09 be amended and sections 9
4737.046 and 4737.98 of the Revised Code be enacted to read as 10
follows: 11

Sec. 2913.02. (A) No person, with purpose to deprive the 12
owner of property or services, shall knowingly obtain or exert 13
control over either the property or services in any of the 14
following ways: 15

(1) Without the consent of the owner or person authorized 16
to give consent; 17

(2) Beyond the scope of the express or implied consent of 18

the owner or person authorized to give consent;	19
(3) By deception;	20
(4) By threat;	21
(5) By intimidation.	22
(B) (1) Whoever violates this section is guilty of theft.	23
(2) Except as otherwise provided in this division or	24
division (B) (3), (4), (5), (6), (7), (8), or (9) , <u>or (10)</u> of	25
this section, a violation of this section is misdemeanor theft,	26
a misdemeanor of the first degree. If the value of the property	27
or services stolen is one thousand dollars or more and is less	28
than seven thousand five hundred dollars or if the property	29
stolen is any of the property listed in section 2913.71 of the	30
Revised Code, a violation of this section is theft, a felony of	31
the fifth degree. If the value of the property or services	32
stolen is seven thousand five hundred dollars or more and is	33
less than one hundred fifty thousand dollars, a violation of	34
this section is grand theft, a felony of the fourth degree. If	35
the value of the property or services stolen is one hundred	36
fifty thousand dollars or more and is less than seven hundred	37
fifty thousand dollars, a violation of this section is	38
aggravated theft, a felony of the third degree. If the value of	39
the property or services is seven hundred fifty thousand dollars	40
or more and is less than one million five hundred thousand	41
dollars, a violation of this section is aggravated theft, a	42
felony of the second degree. If the value of the property or	43
services stolen is one million five hundred thousand dollars or	44
more, a violation of this section is aggravated theft of one	45
million five hundred thousand dollars or more, a felony of the	46
first degree.	47

(3) Except as otherwise provided in division (B) (4), (5), 48
(6), (7), (8), ~~or (9)~~, or (10) of this section, if the victim of 49
the offense is an elderly person, disabled adult, active duty 50
service member, or spouse of an active duty service member, a 51
violation of this section is theft from a person in a protected 52
class, and division (B) (3) of this section applies. Except as 53
otherwise provided in this division, theft from a person in a 54
protected class is a felony of the fifth degree. If the value of 55
the property or services stolen is one thousand dollars or more 56
and is less than seven thousand five hundred dollars, theft from 57
a person in a protected class is a felony of the fourth degree. 58
If the value of the property or services stolen is seven 59
thousand five hundred dollars or more and is less than thirty- 60
seven thousand five hundred dollars, theft from a person in a 61
protected class is a felony of the third degree. If the value of 62
the property or services stolen is thirty-seven thousand five 63
hundred dollars or more and is less than one hundred fifty 64
thousand dollars, theft from a person in a protected class is a 65
felony of the second degree. If the value of the property or 66
services stolen is one hundred fifty thousand dollars or more, 67
theft from a person in a protected class is a felony of the 68
first degree. If the victim of the offense is an elderly person, 69
in addition to any other penalty imposed for the offense, the 70
offender shall be required to pay full restitution to the victim 71
and to pay a fine of up to fifty thousand dollars. The clerk of 72
court shall forward all fines collected under division (B) (3) of 73
this section to the county department of job and family services 74
to be used for the reporting and investigation of elder abuse, 75
neglect, and exploitation or for the provision or arrangement of 76
protective services under sections 5101.61 to 5101.71 of the 77
Revised Code. 78

- (4) If the property stolen is a firearm or dangerous ordnance, a violation of this section is grand theft. Except as otherwise provided in this division, grand theft when the property stolen is a firearm or dangerous ordnance is a felony of the third degree, and there is a presumption in favor of the court imposing a prison term for the offense. If the firearm or dangerous ordnance was stolen from a federally licensed firearms dealer, grand theft when the property stolen is a firearm or dangerous ordnance is a felony of the first degree. The offender shall serve a prison term imposed for grand theft when the property stolen is a firearm or dangerous ordnance consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender. 79
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- (5) If the property stolen is a motor vehicle, a violation of this section is grand theft of a motor vehicle, a felony of the fourth degree. 92
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- (6) If the property stolen is any dangerous drug, a violation of this section is theft of drugs, a felony of the fourth degree, or, if the offender previously has been convicted of a felony drug abuse offense, a felony of the third degree. 95
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- (7) If the property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, a violation of this section is theft of a police dog or horse or an assistance dog, a felony of the third degree. 99
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- (8) If the property stolen is anhydrous ammonia, a violation of this section is theft of anhydrous ammonia, a felony of the third degree. 104
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- (9) Except as provided in division (B) (2) of this section 107

with respect to property with a value of seven thousand five 108
hundred dollars or more and division (B) (3) of this section with 109
respect to property with a value of one thousand dollars or 110
more, if the property stolen is a special purpose article as 111
defined in section 4737.04 of the Revised Code or is a bulk 112
merchandise container as defined in section 4737.012 of the 113
Revised Code, a violation of this section is theft of a special 114
purpose article or articles or theft of a bulk merchandise 115
container or containers, a felony of the fifth degree. 116

~~(10)~~(10) (a) If the property stolen is a catalytic 117
converter, a violation of this section is theft of a catalytic 118
converter, a felony of the fifth degree. 119

(b) If the offender has previously been convicted of or 120
pleaded guilty to a violation of Chapter 2911. or 2913. of the 121
Revised Code, theft of a catalytic converter is a felony of the 122
fourth degree. 123

(c) If the property stolen is a catalytic converter and 124
the offender is a business entity, a violation of this section 125
is enterprise theft of a catalytic converter and, 126
notwithstanding section 2929.31 of the Revised Code, is 127
punishable by a fine of not less than ten thousand dollars and 128
not more than fifty thousand dollars per violation. 129

(d) The clerk of the court shall pay any fine imposed 130
pursuant to division (B) (10) of this section to the county, 131
township, municipal corporation, park district as created 132
pursuant to section 511.18 or 1545.04 of the Revised Code, or 133
state law enforcement agencies in this state that primarily were 134
responsible for, or involved in, arresting and prosecuting the 135
offender. 136

(e) As used in division (B) (10) of this section, 137
"catalytic converter" has the same meaning as in section 4737.04 138
of the Revised Code. 139

(11) In addition to the penalties described in division 140
(B) (2) of this section, if the offender committed the violation 141
by causing a motor vehicle to leave the premises of an 142
establishment at which gasoline is offered for retail sale 143
without the offender making full payment for gasoline that was 144
dispensed into the fuel tank of the motor vehicle or into 145
another container, the court may do one of the following: 146

(a) Unless division ~~(B) (10) (b)~~ (B) (11) (b) of this section 147
applies, suspend for not more than six months the offender's 148
driver's license, probationary driver's license, commercial 149
driver's license, temporary instruction permit, or nonresident 150
operating privilege; 151

(b) If the offender's driver's license, probationary 152
driver's license, commercial driver's license, temporary 153
instruction permit, or nonresident operating privilege has 154
previously been suspended pursuant to division ~~(B) (10) (a)~~ (B) 155
(11) (a) of this section, impose a class seven suspension of the 156
offender's license, permit, or privilege from the range 157
specified in division (A) (7) of section 4510.02 of the Revised 158
Code, provided that the suspension shall be for at least six 159
months. 160

(c) The court, in lieu of suspending the offender's 161
driver's or commercial driver's license, probationary driver's 162
license, temporary instruction permit, or nonresident operating 163
privilege pursuant to division ~~(B) (10) (a)~~ (B) (11) (a) or (b) of 164
this section, instead may require the offender to perform 165
community service for a number of hours determined by the court. 166

~~(11)~~-(12) In addition to the penalties described in 167
division (B)(2) of this section, if the offender committed the 168
violation by stealing rented property or rental services, the 169
court may order that the offender make restitution pursuant to 170
section 2929.18 or 2929.28 of the Revised Code. Restitution may 171
include, but is not limited to, the cost of repairing or 172
replacing the stolen property, or the cost of repairing the 173
stolen property and any loss of revenue resulting from 174
deprivation of the property due to theft of rental services that 175
is less than or equal to the actual value of the property at the 176
time it was rented. Evidence of intent to commit theft of rented 177
property or rental services shall be determined pursuant to the 178
provisions of section 2913.72 of the Revised Code. 179

(C) The sentencing court that suspends an offender's 180
license, permit, or nonresident operating privilege under 181
division ~~(B)(10)~~-(B)(11) of this section may grant the offender 182
limited driving privileges during the period of the suspension 183
in accordance with Chapter 4510. of the Revised Code. 184

Sec. 2913.51. (A) As used in this section: 185

(1) "Bulk merchandise container" has the same meaning as 186
in section 4737.012 of the Revised Code. 187

(2) "Catalytic converter" and "special purchase article" 188
have the same meanings as in section 4737.04 of the Revised 189
Code. 190

(3) "Dangerous drug" has the same meaning as in section 191
4729.01 of the Revised Code. 192

(4) "Dangerous ordnance" and "firearm" have the same 193
meanings as in section 2923.11 of the Revised Code. 194

(5) "Motor vehicle" has the same meaning as in section 195

<u>4501.01 of the Revised Code.</u>	196
<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.	197 198 199 200
(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.	201 202 203 204 205 206
(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 Code, or if the value of the property involved is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, or if the property involved is a firearm or dangerous ordnance, as defined in section 2923.11 of the Revised Code, receiving stolen property is a felony of the fourth degree. If the value of the property involved is one hundred fifty thousand dollars or more, receiving stolen property is a	207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225

felony of the third degree. 226

~~(D)~~ (E) Except as provided in division ~~(C)~~ (D) of this 227
section with respect to property involved in a violation of this 228
section with a value of seven thousand five hundred dollars or 229
more, if the property involved in violation of this section is a 230
special purchase article ~~as defined in section 4737.04 of the~~ 231
~~Revised Code~~ or a bulk merchandise container ~~as defined in~~ 232
~~section 4737.012 of the Revised Code~~, a violation of this 233
section is receiving a stolen special purchase article or 234
articles or receiving a stolen bulk merchandise container or 235
containers, a felony of the fifth degree. 236

(F) (1) Except as otherwise provided in this division, if 237
the property involved is a catalytic converter, a violation of 238
this section is receiving a stolen catalytic converter, a felony 239
of the fifth degree. 240

(2) If the offender has previously been convicted of or 241
pleaded guilty to a violation of Chapter 2911. or 2913. of the 242
Revised Code, receiving a stolen catalytic converter is a felony 243
of the fourth degree. 244

(3) If the property involved is a catalytic converter and 245
the offender is a business entity, a violation of this section 246
is enterprise receipt of a stolen catalytic converter and, 247
notwithstanding section 2929.31 of the Revised Code, is 248
punishable by a fine of not less than ten thousand dollars and 249
not more than fifty thousand dollars per violation. 250

(4) The clerk of the court shall pay any fine imposed 251
pursuant to division (F) of this section to the county, 252
township, municipal corporation, park district, as created 253
pursuant to section 511.18 or 1545.04 of the Revised Code, or 254

state law enforcement agencies in this state that primarily were 255
responsible for or involved in arresting and prosecuting the 256
offender. 257

Sec. 4737.012. (A) Notwithstanding ~~division (A) of~~ section 258
4737.01 of the Revised Code, a dealer who is in the business of 259
purchasing, reselling, exchanging, recycling, shredding, or 260
receiving bulk merchandise containers shall not purchase or 261
receive plastic bulk merchandise containers that are marked with 262
a company name or logo, or more than nine wooden bulk 263
merchandise containers, from any other person at one time, 264
unless the dealer maintains a record book or electronic file in 265
which the dealer keeps an accurate and complete record of all 266
containers purchased or received by the dealer. Every entry in 267
the record book or electronic file shall be numbered 268
consecutively. Until the registry developed by the director of 269
public safety pursuant to section 4737.045 of the Revised Code 270
is operational, a dealer shall maintain the record for each 271
container purchased or received for a minimum period of one year 272
after the date the dealer purchased or received the container. 273
Beginning on the date the registry is operational, a dealer 274
shall maintain the record for each container purchased or 275
received only for a period of sixty days after the date the 276
dealer purchased or received the container. The director shall 277
adopt rules for the format and maintenance of the records 278
required under this division. 279

The records shall contain all of the following: 280

(1) The name and residence of the person from whom the 281
containers were purchased or received, a copy of that person's 282
personal identification card, and, if required, a photograph of 283
the person taken pursuant to division (B) (2) of this section; 284

(2) A description of the containers, including the number 285
purchased or received and, if required, a photograph of the 286
containers taken pursuant to division (B)(1) of this section; 287

(3) The date and time the dealer purchased or received the 288
containers; 289

(4) If the seller or provider of the containers arrives at 290
the dealer's place of business in a motor vehicle, the license 291
plate number of that motor vehicle along with the state that 292
issued the license plate. 293

(B) Every dealer who is in the business of reselling bulk 294
merchandise containers shall take a photograph, in accordance 295
with rules adopted by the director, of both of the following: 296

(1) Each container for which the dealer must make a record 297
under division (A) of this section; 298

(2) Each person who sells or otherwise gives the dealer 299
the containers. 300

The dealer shall take the required photographs at the time 301
the dealer purchases or receives the containers and shall keep 302
the photographs as part of the record in accordance with 303
division (A) of this section. 304

(C) A dealer who is in the business of purchasing, 305
reselling, exchanging, recycling, shredding, or receiving bulk 306
merchandise containers shall fulfill the requirements of section 307
4737.041 of the Revised Code with respect to the containers 308
purchased or received by the dealer for which the dealer must 309
make a record under division (A) of this section. No dealer 310
shall purchase or receive any bulk merchandise container for 311
which the dealer must make a record under division (A) of this 312
section without complying with ~~division (B), (C), or (D)~~ 313

<u>divisions (A) (2) to (4)</u> of section 4737.041 of the Revised Code.	314
(D) As used in this section, "bulk merchandise container"	315
means a plastic or wooden carrier or holder used by a	316
manufacturer or distributor to transport merchandise to	317
wholesale and retail outlets.	318
Sec. 4737.04. (A) As used in this section and sections	319
4737.041, 4737.042, 4737.043, 4737.044, 4737.045, <u>4737.046</u> , and	320
4737.99 of the Revised Code:	321
(1) "Scrap metal dealer" means the owner or operator of a	322
business that purchases or receives scrap metal for the purpose	323
of sorting, grading, and shipping metals to third parties for	324
direct or indirect melting into new products.	325
(2) "Special purchase article" means all of the following:	326
(a) Beer kegs;	327
(b) Cable, wire, electrical components, and other	328
equipment used in providing cable service or any utility	329
service, including, but not limited to, copper or aluminum	330
coverings, housings, or enclosures related thereto;	331
(c) Grave markers, sculptures, plaques, and vases made out	332
of metal, the appearance of which suggests that the articles	333
have been obtained from a cemetery;	334
(d) Guard rails for bridges, highways, and roads; highway	335
and street signs; street light poles and fixtures; worker access	336
hole covers, water meter covers, and other similar types of	337
utility access covers; traffic directional and control signs and	338
light signals, metal marked with the name of a political	339
subdivision of the state, and other metal articles that are	340
purchased and installed for use upon authorization of the state	341

or any political subdivision of the state;	342
(e) Historical, commemorative, and memorial markers and plaques made out of metal;	343 344
(f) Four-wheel metal carts, commonly referred to as "grocery carts," that are generally used by individuals to collect and transport consumer goods while shopping;	345 346 347
(g) Four-wheel metal carts, commonly referred to as "metal bossies," that are used to transport or merchandise food products that are stored in crates, shells, or trays;	348 349 350
(h) Railroad material, including journal brasses, rail spikes, rails, tie plates, frogs, and communication wire;	351 352
(i) Metal trays, merchandise containers, or similar transport containers used by a product producer, distributor, retailer, or an 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;	353 354 355 356 357 358
(j) "Burnt wire," which is any coated metal wire that has been smelted, burned, or melted thereby removing the manufacturer's or owner's identifying marks.	359 360 361
(3) "Bulk merchandise container" has the same meaning as in section 4737.012 of the Revised Code.	362 363
(4) "Bulk merchandise container dealer" means a dealer who is subject to section 4737.012 of the Revised Code.	364 365
(5) <u>"Catalytic converter" includes a catalytic converter core, diesel particulate filter, and diesel oxidation catalyst.</u>	366 367
<u>(6)</u> "Common recycled matter" means bottles and other	368

containers made out of steel, tin, or aluminum and other 369
consumer goods that are metal that are recycled by individual 370
consumers and not in the bulk or quantity that could be supplied 371
or recycled by large business establishments. "Common recycled 372
matter" does not include a metal tray used by a product 373
producer, distributor, retailer, or agent of a product producer, 374
distributor, or retailer as a means for the bulk transportation, 375
storage, or carrying of retail containers of milk, baked goods, 376
eggs, or bottled beverage products. 377

~~(6)~~(7) "Consumer goods" has the same meaning as in 378
section 1309.102 of the Revised Code. 379

~~(7)~~(8) "Recyclable materials" means the metal materials 380
described in division (C) (5) of this section, on the condition 381
that those metal materials are not special purchase articles. 382

~~(8)~~(9) "Motor vehicle" has the same meaning as in section 383
4501.01 of the Revised Code. 384

(B) (1) No person shall engage in the business of scrap 385
metal dealing or act as a bulk merchandise container dealer 386
without first registering with the director of public safety in 387
accordance with section 4737.045 of the Revised Code. 388

(2) No person shall receive, purchase, or sell a special 389
purchase article or a bulk merchandise container except as in 390
accordance with sections 4737.012 and 4737.04 to ~~4737.045~~ 391
4737.046 of the Revised Code. 392

(C) Every scrap metal dealer shall maintain a record book 393
or electronic file, in which the dealer shall keep an accurate 394
and complete record of all articles purchased or received by the 395
dealer in the course of the dealer's daily business. The record 396
shall include a copy of any check issued pursuant to division 397

(A) (4) of section 4737.041 of the Revised Code. On and after 398
September 11, 2008, every entry in the record book or electronic 399
file shall be numbered consecutively and, on or after September 400
28, 2012, shall be maintained for inspection in numerical order. 401
Until the registry developed by the director pursuant to section 402
4737.045 of the Revised Code is operational, a dealer shall 403
maintain the record for each article purchased or received for a 404
minimum period of one year after the date the dealer purchased 405
or received the article, except that the dealer shall maintain 406
the photograph required under division (I) of this section only 407
for a period of sixty days after the dealer purchased or 408
received the article. Beginning on the date the registry is 409
operational, a dealer shall maintain the record for each article 410
purchased or received only for a period of sixty days after the 411
date the dealer purchased or received the article. The director 412
shall adopt rules for the format and maintenance of the records 413
required under this division. 414

The records shall contain all of the following: 415

(1) The name and residence of the person from whom the 416
articles were purchased or received, a copy of that person's 417
personal identification card, and a photograph of the person 418
taken pursuant to division (I) of this section; 419

(2) The date and time the scrap metal dealer purchased or 420
received the articles and the weight of the articles as 421
determined by a licensed commercial scale; 422

(3) If the seller or provider of the articles arrives at 423
the dealer's place of business in a motor vehicle, the license 424
plate number of that motor vehicle along with the state that 425
issued the license plate; 426

(4) For metal articles that are not recyclable materials,	427
a full and accurate description of each article purchased or	428
received by the dealer that includes identifying letters or	429
marks written, inscribed, or otherwise included on the article	430
and the name and maker of the article if known;	431
(5) For recyclable materials that are not special purchase	432
articles, the following category codes to identify the	433
recyclable materials that the dealer receives:	434
(a) "Number one copper," which includes clean copper pipe,	435
clean copper wire, or other number one copper that does not have	436
solder, paint, or coating;	437
(b) "Number two copper," which includes unclean copper	438
pipe, unclean copper wire, or other number two copper;	439
(c) "Sheet copper," which includes copper roofing, copper	440
gutters, copper downspouts, and other sheet copper;	441
(d) "Insulated copper wire";	442
(e) "Aluminum or copper radiators," which includes	443
aluminum radiators, aluminum copper radiators, and copper	444
radiators;	445
(f) "Red brass," which includes red brass valves and other	446
red brass;	447
(g) "Yellow brass," which includes yellow brass fixtures,	448
yellow brass valve and fitting, ornamental brass, and other	449
yellow brass;	450
(h) "Aluminum sheet";	451
(i) "Aluminum extrusions," which includes aluminum	452
bleachers, aluminum benches, aluminum frames, aluminum pipe, and	453

other aluminum extrusions;	454
(j) "Cast aluminum," which includes aluminum grills,	455
lawnmower decks made of aluminum, aluminum motor vehicle parts	456
and rims, and other cast aluminum;	457
(k) "Clean aluminum wire";	458
(l) "Unclean aluminum wire";	459
(m) "Aluminum exteriors," which includes aluminum siding,	460
aluminum gutters and downspouts, aluminum shutters, aluminum	461
trim, and other aluminum exterior items;	462
(n) "Contaminated aluminum";	463
(o) "Stainless steel," which includes, sinks, appliance	464
housing, dishes, pots, pans, pipe, and other items made out of	465
stainless steel;	466
(p) "Large appliances," which includes consumer and other	467
appliances;	468
(q) "Steel structural," which includes all structural	469
steel such as I-beams, trusses, channel iron, and similar steel	470
from buildings;	471
(r) "Miscellaneous steel," which includes steel grates,	472
steel farm machinery, steel industrial machinery, steel motor	473
vehicle frames, and other items made out of steel;	474
(s) "Sheet irons," which includes bicycles, motor vehicle	475
body parts made of iron, and other items made using sheet iron;	476
(t) "Motor vehicle nonbody parts," which includes motor	477
vehicle batteries, radiators, and other nonbody motor vehicle	478
parts;	479
(u) "Catalytic converters";	480

(v) "Lead";	481
(w) "Electric motors";	482
(x) "Electronic scrap," which includes any consumer or commercial electronic equipment such as computers, servers, routers, video displays, and similar products.	483 484 485
(6) For recyclable materials that are special purchase articles, the relevant category provided in division (A)(2) of this section.	486 487 488
(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.	489 490 491 492 493
(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:	494 495 496 497 498 499 500
(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;	501 502 503
(b) Prepare a daily electronic report, the content and format of which shall be established in rules adopted by the director, listing all retail transactions that occurred during the preceding day and containing the information described in division (C) of this section or division (A) of section 4737.012 of the Revised Code, as applicable. The dealer shall	504 505 506 507 508 509

electronically transfer, by twelve noon eastern standard time, 510
the report to the director of public safety for inclusion in the 511
registry created pursuant to division (E) of section 4737.045 of 512
the Revised Code. 513

(2) A law enforcement agency may inspect any photographic 514
records collected and maintained by a scrap metal dealer of 515
either yard operations or individual transactions. Records 516
submitted to any law enforcement agency pursuant to this section 517
are not public records for purposes of section 149.43 of the 518
Revised Code. 519

(3) Records submitted to any law enforcement agency, 520
railroad police officer, or the director of public safety or the 521
director's designated representative as required by section 522
4737.012 of the Revised Code and sections 4737.04 to ~~4737.045~~ 523
4737.046 of the Revised Code shall not be public records for the 524
purposes of section 149.43 of the Revised Code. 525

(4) Notwithstanding division (E)(3) of this section, the 526
names and addresses of scrap metal dealers and bulk merchandise 527
container dealers shall be made available to the public by the 528
director upon request. 529

(5) A person who claims to own a stolen article that may 530
be identified in those records, or an agent of that person, who 531
provides proof of having filed a stolen property report with the 532
appropriate law enforcement agency, may request those records. 533
The law enforcement agency shall provide those records upon a 534
request made by such a person or that person's agent, but the 535
law enforcement agency shall redact information that reveals the 536
name of the seller of any article and the price the dealer paid 537
for any article the dealer purchased or the estimated value of 538
any article the dealer received. The law enforcement agency 539

shall determine which records to provide, based upon the time 540
period that the alleged theft is reported to have taken place. A 541
law enforcement agency may charge or collect a fee for providing 542
records as required by this section. 543

(6) The director of public safety shall impose a civil 544
penalty of five hundred dollars on a person who violates 545
division (E) (1) (b) of this section, including any person who 546
concurrently violates division (E) (2) of section 4737.046 of the 547
Revised Code. The director shall impose an additional fine of 548
five hundred dollars for each day the violation continues. The 549
director shall deposit the fine into the state treasury to the 550
credit of the infrastructure protection fund created under 551
section 4737.045 of the Revised Code. 552

(7) The director of public safety shall suspend, in 553
accordance with Chapter 119. of the Revised Code, the 554
registration of a person that violates division (E) (1) (b) of 555
this section until such time as the director determines that the 556
person has taken necessary steps to comply with that division. A 557
person whose registration is suspended under this division may 558
petition the director for reinstatement not more than once every 559
ninety days. The director's determination as to whether to grant 560
such a petition and reinstate the person's registration is 561
subject to appeal under section 119.12 of the Revised Code. 562

(F) (1) No scrap metal dealer shall purchase or receive any 563
metal articles, and no bulk merchandise container dealer shall 564
purchase or receive any bulk merchandise containers, from a 565
person who refuses to show the dealer the person's personal 566
identification card, or who refuses to allow the dealer to take 567
a photograph of the person as required under division (I) of 568
this section or of the person or container as required under 569

division (B) of section 4737.012 of the Revised Code. 570

(2) The law enforcement agency that serves the 571
jurisdiction in which a scrap metal dealer or a bulk merchandise 572
container dealer is located shall provide to the scrap metal 573
dealer or bulk merchandise container dealer a searchable, 574
electronic list prepared in accordance with rules adopted by the 575
director, as that agency determines appropriate, of the names 576
and descriptions of persons known to be thieves or receivers of 577
stolen property. The law enforcement agency may request the 578
appropriate clerk of courts to provide the list. No scrap metal 579
dealer or bulk merchandise container dealer shall purchase or 580
receive articles from any person who is either identified on the 581
list the dealer receives from the law enforcement agency, or who 582
appears on the lists made available by the director pursuant to 583
division (E) of section 4737.045 of the Revised Code. The law 584
enforcement agency also shall provide the list, in an electronic 585
format, ~~to the department of public safety, in an electronic~~ 586
~~format in accordance with rules adopted by the director,~~ for 587
inclusion in the registry created in under division (E) of 588
section 4737.045 of the Revised Code. 589

(3) A law enforcement agency shall submit all records of 590
any investigation into a scrap metal dealer or bulk merchandise 591
container dealer to the registry created pursuant to division 592
(E) of section 4737.045 of the Revised Code. 593

(4) No scrap metal dealer or bulk merchandise container 594
dealer shall purchase or receive any special purchase articles 595
or bulk merchandise containers from any person who is under 596
eighteen years of age. 597

~~(4)~~ (5) No scrap metal dealer shall purchase or receive 598
any special purchase article without complying with division (C) 599

and (I) of this section and ~~division (B), (C), or (D) divisions~~ 600
(A) (2) to (4) of section 4737.041 of the Revised Code. 601

~~(5)~~ (6) No scrap metal dealer shall purchase or receive 602
more than one catalytic converter per day from the same person 603
except from a motor vehicle dealer as defined in section 4517.01 604
of the Revised Code. 605

~~(6)~~ (7) No scrap metal dealer shall purchase or receive a 606
beer keg that is marked with a company name or logo except from 607
a manufacturer of beer as described in section 4303.02 of the 608
Revised Code or an agent authorized by the manufacturer to 609
dispose of damaged kegs. 610

~~(7)~~ (8) No scrap metal dealer shall treat a transaction as 611
exempt from section 4737.04 or 4737.041 of the Revised Code 612
unless the seller provides evidence of satisfying division ~~(D)~~ 613
~~(3)~~ (A) (4) (c) of section 4737.043 of the Revised Code. 614

~~(G)~~ (G) (1) Every scrap metal dealer and bulk merchandise 615
container dealer shall post a notice in a conspicuous place on 616
the dealer's premises notifying persons who may wish to transact 617
business with the dealer of the penalties applicable to any 618
person who does any of the following: 619

~~(1)~~ (a) Provides a false personal identification card to 620
the dealer; 621

~~(2)~~ (b) With purpose to defraud, provides any other false 622
information to the dealer in connection with the dealer's duty 623
to maintain the records required under division (C) of this 624
section or under section 4737.012 of the Revised Code; 625

~~(3)~~ (c) Violates section 2913.02 of the Revised Code. 626

(2) (a) Every scrap metal dealer and bulk merchandise 627

container dealer shall post a copy of its registration in a 628
conspicuous place on the dealer's premises. 629

(b) The director of public safety shall impose a civil 630
penalty of five hundred dollars on any person who violates 631
division (G) (2) (a) of this section and shall deposit that 632
penalty into the state treasury to the credit of the 633
infrastructure protection fund created under section 4737.045 of 634
the Revised Code. 635

(H) (1) Except as otherwise provided in division (F) (2) of 636
this section, a clerk of courts or an employee of a clerk of 637
courts; a chief of police, marshal, or other chief law 638
enforcement officer; a sheriff, constable, or chief of police of 639
a township police department or police district police force; a 640
deputy, officer, or employee of the law enforcement agency 641
served by the marshal or the municipal or township chief, the 642
office of the sheriff, or the constable; and an employee of the 643
department of public safety is immune from liability in a civil 644
action, including an action for defamation, libel, or slander, 645
to recover damages for injury, death, or loss to persons or 646
property or reputation allegedly caused by an act or omission in 647
connection with compiling and providing the list required by 648
division (F) (2) of this section. 649

(2) The immunity described in division (H) (1) of this 650
section does not apply to a person described in that division 651
if, in relation to the act or omission in question, any of the 652
following applies: 653

(a) The act or omission was manifestly outside the scope 654
of the person's employment or official responsibilities. 655

(b) The act or omission was with malicious purpose, in bad 656

faith, or in a wanton or reckless manner. 657

(c) Liability for the act or omission is expressly imposed 658
by a section of the Revised Code. 659

(I) Every scrap metal dealer shall take a photograph, in 660
accordance with rules adopted by the director, of each person 661
who sells or otherwise gives the dealer an article for which the 662
dealer must make record under division (C) of this section. 663

The dealer shall take the required photograph at the time 664
the dealer purchases or receives the article and shall keep the 665
photograph as part of the record in accordance with division (C) 666
of this section. 667

(J) (1) An individual listed as a known thief or receiver 668
of stolen property on a list prepared pursuant to division (F) 669
(2) of this section may request that the individual's name be 670
removed from the list by filing an application with the law 671
enforcement agency responsible for preparing the list. 672

(2) A law enforcement agency receiving an application in 673
accordance with division (J) (1) of this section shall remove the 674
applicant's name from the list of known thieves and receivers of 675
stolen property if the individual has not been convicted of or 676
pleaded guilty to either a misdemeanor that is a theft offense, 677
as defined in section 2913.01 of the Revised Code, within three 678
years immediately prior to the date of the application or a 679
felony that is a theft offense within six years immediately 680
prior to the date of the application. 681

(K) A scrap metal dealer that sells or otherwise transfers 682
a catalytic converter to any person other than an individual 683
shall provide the director with all of the following: 684

(1) A copy of the scrap metal dealer's primary owner's 685

driver's license or state identification card; 686

(2) The scrap metal dealer's federal employer 687
identification number; 688

(3) The scrap metal dealer's permanent physical address, 689
which shall not be a post office box; 690

(4) Any additional information required by the director. 691

Sec. 4737.041. (A) A scrap metal dealer or bulk 692
merchandise container dealer shall do all of the following with 693
respect to each special purchase article or catalytic converter 694
the scrap metal dealer purchases or receives or with respect to 695
each bulk merchandise container a bulk merchandise container 696
dealer purchases or receives that is subject to division (A) of 697
section 4737.012 of the Revised Code: 698

~~(A)~~ (1) Comply with the requirements of this section in 699
addition to complying with the applicable requirements of 700
section 4737.012 or 4737.04 of the Revised Code; 701

~~(B)~~ (2) Take a photograph of each special purchase 702
article, catalytic converter, or bulk merchandise container; 703

~~(C)~~ (3) Obtain from the seller or provider of the special 704
purchase article, catalytic converter, or bulk merchandise 705
container proof that the seller or provider owns the special 706
purchase article, catalytic converter, or bulk merchandise 707
container~~;~~ Subject to division (C) of this section, if the item 708
is a catalytic converter, only the following items constitute 709
proof of ownership: 710

(a) If the seller or provider is the owner of the motor 711
vehicle from which the catalytic converter was removed, either 712
of the following: 713

<u>(i) Title to or registration of the vehicle from which the catalytic converter was removed;</u>	714 715
<u>(ii) A bill, invoice, or receipt from a motor vehicle collision repair operator as defined in section 4775.01 of the Revised Code or a motor vehicle dealer as defined in section 4517.01 of the Revised Code that clearly indicates both of the following:</u>	716 717 718 719 720
<u>(I) The removal and replacement of the catalytic converter;</u>	721 722
<u>(II) The make, model, year, and vehicle identification number of the motor vehicle that was repaired.</u>	723 724
<u>(b) If the seller or provider is the motor vehicle collision repair operator or motor vehicle dealer that repaired the motor vehicle from which the catalytic converter was removed, both of the following:</u>	725 726 727 728
<u>(i) The motor vehicle collision repair operator's registration certificate or motor vehicle dealer's license number;</u>	729 730 731
<u>(ii) A bill, invoice, or receipt that clearly indicates both of the following:</u>	732 733
<u>(I) The removal and replacement of the catalytic converter;</u>	734 735
<u>(II) The make, model, year, and vehicle identification number of the motor vehicle that was repaired.</u>	736 737
(D) <u>(4) If payment is rendered for the special purchase articles, catalytic converters, or bulk merchandise containers, issue a check for the purchase of the special purchase articles, catalytic converters, or bulk merchandise containers;</u>	738 739 740 741

~~(E)~~ (5) Withhold payment for the purchase of the special 742
purchase articles, catalytic converters, or bulk merchandise 743
containers for a period of two days after the day the special 744
purchase articles, catalytic converters, or bulk merchandise 745
containers are purchased; 746

~~(F)~~ (6) If an asserted owner of stolen special purchase 747
articles, catalytic converters, or bulk merchandise containers 748
or that owner's agent provides proof of having filed a stolen 749
property report with the appropriate law enforcement agency, 750
make records describing special purchase articles, catalytic 751
converters, or bulk merchandise containers the dealer purchased 752
or received after the alleged date of theft available for 753
inspection to the asserted owner or owner's agent for a period 754
of six months after the alleged date of theft of the articles, 755
except that the dealer shall withhold the name of the person 756
from whom the special purchase articles, catalytic converters, 757
or bulk merchandise containers were purchased or received and 758
the amount paid for the special purchase articles, catalytic 759
converters, or bulk merchandise containers. 760

(B) A person, other than a scrap metal dealer or a motor 761
vehicle dealer licensed under Chapter 4517. of the Revised Code, 762
when receiving a used catalytic converter in the ordinary course 763
of business, including a person licensed or registered under 764
Chapter 4737., 4738., or 4775. of the Revised Code, shall meet 765
the requirements of division (A) of this section with respect to 766
each used catalytic converter the person purchases or receives 767
as if the person were a scrap metal dealer, including the 768
requirements of divisions (C), (E), (F), and (K) of section 769
4737.04 of the Revised Code. No person described in this 770
division shall recklessly fail to comply with this division. 771

(C) (1) Not later than ninety days after the effective date 772
of this amendment, the director of public safety shall create an 773
affidavit form and publish the form on a publicly available web 774
site maintained by the department of public safety. 775

(2) The affidavit form shall include the name and contact 776
information of the seller or provider, a statement of the 777
reasons the seller or provider is unable to produce the items 778
described in division (A) (3) of this section, and any other 779
information and documents required by the director. 780

(3) A scrap metal dealer, bulk merchandise container 781
dealer, or person described in division (B) of this section may 782
accept an affidavit form that is completed and signed by a 783
seller or provider who is a natural person in lieu of the items 784
otherwise required to establish ownership of a catalytic 785
converter under division (A) (3) of this section. 786

(4) Whoever knowingly makes a false statement on an 787
affidavit described in division (C) of this section is guilty of 788
the offense of falsification under section 2921.13 of the 789
Revised Code. 790

Sec. 4737.043. ~~Sections~~ (A) Subject to division (B) of 791
this section, sections 4737.04 and 4737.041 of the Revised Code 792
do not apply with respect to any of the following: 793

~~(A)~~ (1) The donation of articles to nonprofit 794
organizations or to any other person, on the condition that the 795
person donating the articles receives no payment or any other 796
valuable consideration in exchange for or due to donating the 797
articles; 798

~~(B)~~ (2) The sale or donation of common recycled matter; 799

~~(C)~~ (3) Sales transacted between a scrap metal dealer and 800

an organization that is exempt from federal taxation under 801
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 802
Stat. 285, 26 U.S.C. 501(c)(3), as amended, and that collects, 803
for its own fundraising purposes, scrap ferrous and nonferrous 804
metals for recycling rather than disposal; 805

~~(D)~~ (4) Sales transacted between a scrap metal dealer and 806
a government unit or another business, including a demolition 807
company, public utility company, or another scrap metal dealer, 808
on the condition that the government unit or business satisfies 809
the following criteria: 810

~~(1)~~ (a) In the course of providing the government unit's 811
or business's services to others or maintaining the government 812
unit's or business's property, whether onsite or offsite, the 813
government unit or business generates scrap ferrous and 814
nonferrous metals for recycling rather than disposal. 815

~~(2)~~ (b) If the sales transaction involves a government 816
unit, reference to the government unit as a bona fide unit of 817
government can be readily found by the public. 818

~~(3)~~ (c) If the sales transaction involves a business, the 819
business satisfies one of the following criteria: 820

~~(a)~~ (i) The business is registered with the secretary of 821
state. 822

~~(b)~~ (ii) The business has been issued a license under 823
section 5739.17 of the Revised Code. 824

~~(e)~~ (iii) The business advertises its services in a 825
newspaper of general circulation once a week for not less than 826
six consecutive months or provides a receipt showing payment for 827
such advertising, a telephone book, electronic media that is 828
available to the public, or some other type of media that is 829

owned and operated by a person other than the business and, if 830
an individual operates the business, the individual advertising 831
the business has a specific place of business that is not the 832
individual's permanent home residence. 833

~~(4)~~ (d) The government unit provides proof of compliance 834
with division ~~(D) (2)~~ (A) (4) (b) of this section or the business 835
provides proof of compliance with division ~~(D) (3)~~ (A) (4) (c) of 836
this section to the scrap metal dealer with whom the government 837
unit or business transacts business. 838

~~(E)~~ (5) Sales transacted between a scrap metal dealer and 839
a person whose primary business is to create products that 840
result in bulk quantities of ferrous and nonferrous metal used 841
for recycling rather than disposal. 842

~~(F) Sales of catalytic converters transacted between a~~ 843
~~scrap metal dealer and a motor vehicle dealer as defined in~~ 844
~~section 4517.01 of the Revised Code.~~ 845

(B) The exceptions described in division (A) of this 846
section do not apply to sales or donations of catalytic 847
converters. 848

Sec. 4737.045. (A) To register as a scrap metal dealer or 849
a bulk merchandise container dealer with the director of public 850
safety as required by division (B) of section 4737.04 of the 851
Revised Code, a person shall do all of the following: 852

(1) Provide the name and street address of the dealer's 853
place of business; 854

(2) Provide the name of the primary owner of the business, 855
and of the manager of the business, if the manager is not the 856
primary owner; 857

(3) Provide the electronic mail address of the business;	858
(4) Provide confirmation that the dealer has the capabilities to electronically connect with the department of public safety for the purpose of sending and receiving information;	859 860 861 862
(5) Provide any other information required by the director in rules the director adopts pursuant to sections 4737.01 to 4737.045 <u>4737.046</u> of the Revised Code;	863 864 865
(6) Pay an initial registration fee of two hundred dollars.	866 867
(B) A person engaging in the business of a scrap metal dealer or a bulk merchandise container dealer in this state on or before September 28, 2012, shall register with the director not later than January 1, 2013. With respect to a person who commences engaging in the business of a scrap metal dealer or a bulk merchandise container dealer after September 28, 2012, the person shall register with the director pursuant to this section prior to commencing business as a scrap metal dealer or a bulk merchandise container dealer.	868 869 870 871 872 873 874 875 876
(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.	877 878 879 880 881 882 883
(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	884 885 886

director pursuant to division (E) (2) of this section. 887

(E) The director shall do all of the following: 888

(1) Develop and implement, by January 1, 2014, and 889
maintain as a registry a secure database for use by law 890
enforcement agencies that is capable of all of the following: 891

(a) Receiving and securely storing all of the information 892
required by division (A) of this section and the daily 893
transaction data that scrap metal dealers and bulk merchandise 894
dealers are required to send pursuant to division (E) (1) of 895
section 4737.04 of the Revised Code; 896

(b) Providing secure search capabilities to law 897
enforcement agencies for enforcement purposes; 898

(c) Creating a link and retransmission capability for 899
receipt of routine scrap theft alerts published by the institute 900
of scrap recycling industries for transmission to dealers and 901
law enforcement agencies in the state; 902

(d) Making the electronic lists prepared pursuant to 903
division (F) (2) of section 4737.04 of the Revised Code available 904
through an electronic searchable format for individual law 905
enforcement agencies and for dealers in the state; 906

(e) Providing, without charge, interlink programming 907
enabling the transfer of information to dealers. 908

(2) Issue, reissue, or deny registration to dealers; 909

(3) Adopt rules to enforce sections 4737.01 to 4737.045 of 910
the Revised Code, rules establishing procedures to renew a 911
registration issued under this section, rules for the format and 912
maintenance for the records required under division (A) of 913
section 4737.012 of the Revised Code or division (C) of section 914

4737.04 of the Revised Code, and rules regarding the delivery of 915
the report required by division (E) (1) of section 4737.04 of the 916
Revised Code to the registry, which shall be used exclusively by 917
law enforcement agencies. 918

(F) A scrap metal dealer or bulk merchandise container 919
dealer may search, modify, or update only the dealer's own 920
business data contained within the registry established in 921
division (E) of this section. 922

(G) All fees received by the director pursuant to this 923
section and division (F) of section 4737.99 of the Revised Code 924
shall be used to develop and maintain the registry required 925
under this section and for the department of public safety's 926
operating expenses. The fees shall be deposited into the 927
infrastructure protection fund which is hereby created in the 928
state treasury. 929

(H) (1) The director of public safety shall not issue a 930
registration to, or renew the registration of, a person who was 931
convicted of, or pleaded guilty to, a violation of section 932
4737.041 of the Revised Code, a violation of section 2923.03 of 933
the Revised Code when division (G) of section 4737.99 of the 934
Revised Code applies, a violation of section 2913.02 of the 935
Revised Code when the person is sentenced pursuant to division 936
(B) (10) of that section, or a violation of section 2913.51 of 937
the Revised Code when the person is sentenced pursuant to 938
division (F) of that section. 939

(2) The director of public safety shall revoke the 940
registration of a person who is convicted of or pleads guilty to 941
a violation of section 4737.041 of the Revised Code, a violation 942
of section 2923.03 of the Revised Code when division (G) of 943
section 4737.99 of the Revised Code applies, a violation of 944

section 2913.02 of the Revised Code when the person is sentenced 945
pursuant to division (B) (10) of that section, or a violation of 946
section 2913.51 of the Revised Code when the person is sentenced 947
pursuant to division (F) of that section. 948

Sec. 4737.046. (A) The director of public safety may 949
investigate a scrap metal dealer, bulk merchandise container 950
dealer, a person described in division (B) of section 4737.041 951
of the Revised Code, and any employee, officer, or agent of any 952
of the foregoing. The director shall commence an investigation 953
only after consulting with local law enforcement. As part of the 954
investigation, the director may search the person's premises 955
during the person's regular work hours or between the hours of 956
eight a.m. and five p.m., Monday through Friday. 957

(B) (1) The director may compel witnesses by subpoena to 958
appear and testify in relation to an investigation under this 959
section, and may compel by subpoena duces tecum the production 960
of any books, papers, documents, or other records pertaining to 961
such an investigation. 962

(2) If a person does not comply with a subpoena or 963
subpoena duces tecum issued under division (B) (1) of this 964
section, the director may apply to the court of common pleas of 965
Franklin county or of the county in which the person conducts 966
business for an order compelling the person to comply with the 967
subpoena or subpoena duces tecum or, for failure to do so, be 968
held in contempt of court. 969

(C) If as a result of an investigation the director finds 970
that a person violated any provision of sections 4737.04 to 971
4737.046 of the Revised Code, the director shall suspend the 972
person's registration or license and shall reinstate the 973
registration or license upon evidence that the person has 974

remedied the violation. The director shall revoke a registration 975
or license if the director finds a subsequent violation of any 976
provision of this chapter in any subsequent investigation. 977

(D) (1) No person shall undertake any activities that 978
require registration under section 4737.045 of the Revised Code 979
following a suspension or revocation. 980

(2) Following a suspension or revocation, the director 981
shall conduct a follow-up investigation to determine whether the 982
person violated division (D) (1) of this section. If the director 983
determines the person violated division (D) (1) of this section, 984
the director shall seek an injunction from the court of common 985
pleas of Franklin county or of the county in which the person 986
conducts business ordering the person to cease the violation. 987

(E) (1) The director may investigate, on the director's own 988
initiative, the actions or proposed actions of a person who is 989
not registered under section 4737.045 of the Revised Code and 990
who appears to be acting as a scrap metal dealer or bulk 991
merchandise container dealer in the same manner as described in 992
divisions (A) and (B) of this section. 993

(2) If, following an investigation, the director finds 994
that a person acted as a scrap metal dealer or bulk merchandise 995
container dealer without a registration or license, the director 996
shall do both of the following: 997

(a) Seek an injunction from the court of common pleas of 998
Franklin county or of the county in which the person conducts 999
business ordering the person to cease the violation; 1000

(b) Impose a civil penalty of ten thousand dollars in 1001
accordance with Chapter 119. of the Revised Code. Each day the 1002
violation occurred or continues to occur constitutes a separate 1003

violation and is subject to a separate penalty, except that the 1004
penalty for each consecutive day after the first day shall be 1005
one thousand dollars. 1006

(3) The director shall deposit all penalties collected 1007
pursuant to division (E) (2) of this section into the state 1008
treasury to the credit of the infrastructure protection fund 1009
created under section 4737.045 of the Revised Code. 1010
Notwithstanding any contrary provision of that section, all such 1011
penalties shall be expended only to conduct investigations 1012
authorized under this section. 1013

(4) If a person fails to pay a civil penalty imposed under 1014
division (E) (2) of this section within the time prescribed by 1015
the director, the director shall submit to the attorney general 1016
the person's name and the amount of the penalty. In that case, 1017
the attorney general shall collect the penalty. In addition to 1018
the penalty, the attorney general may assess, and the person 1019
shall pay, a fee covering the costs of collecting the penalty. 1020

(F) (1) A person shall not do any of the following when 1021
applying for a registration, licensure, or renewal under section 1022
4737.045 of the Revised Code: 1023

(a) Engage in fraud; 1024

(b) Knowingly provide false information; 1025

(c) Knowingly fail to disclose relevant information that 1026
would result in a denial of or nonrenewal of a registration or 1027
license. 1028

(2) The director shall impose a civil penalty of five 1029
hundred dollars on any person who violates division (F) (1) of 1030
this section in accordance with Chapter 119. of the Revised 1031
Code. The director shall deposit all such penalties into the 1032

state treasury to the credit of the infrastructure protection 1033
fund created under section 4737.045 of the Revised Code. 1034

(G) Any refusal to renew and any denial, suspension, or 1035
revocation of any registration or license required under section 1036
4737.045 of the Revised Code is subject to Chapter 119. of the 1037
Revised Code. 1038

(H) The director shall record information on all 1039
noninvestigative visits made by the director to a scrap metal 1040
dealer or bulk merchandise container dealer. Such information 1041
shall be reported to the public on a quarterly basis via the 1042
department of commerce's web site. 1043

Sec. 4737.98. Notwithstanding any provision of section 1044
121.95 of the Revised Code to the contrary, a regulatory 1045
restriction contained in a rule adopted under this chapter is 1046
not subject to sections 121.95 to 121.953 of the Revised Code. 1047

Sec. 4737.99. (A) Except as specified in divisions (B), 1048
(C), (D), (E), and (F) of this section, whoever violates 1049
sections 4737.01 to 4737.11 of the Revised Code, shall be fined 1050
not less than twenty-five nor more than one thousand dollars and 1051
the costs of prosecution. 1052

(B) Whoever violates division (F) (2) of section 4737.10 of 1053
the Revised Code is guilty of a misdemeanor of the fourth 1054
degree. 1055

~~(C) Whoever~~ (C) (1) Except as provided in division (C) (2) 1056
of this section, whoever fails to comply with or violates 1057
section 4737.01, 4737.012, or 4737.041, division (C), (D), (E), 1058
(F), (G), or (I) of section 4737.04, or division (D) of section 1059
4737.045 of the Revised Code is guilty of a misdemeanor of the 1060
first degree. If the offender one time previously has violated 1061

or failed to comply with section 4737.01, 4737.012, or 4737.041, 1062
division (C), (D), (E), (F), (G), or (I) of section 4737.04, or 1063
division (D) of section 4737.045 of the Revised Code, the 1064
violation or failure is a felony of the fifth degree. If the 1065
offender two or more times previously has violated or failed to 1066
comply with section 4737.01, 4737.012, or 4737.041, division 1067
(C), (D), (E), (F), (G), or (I) of section 4737.04, or division 1068
(D) of section 4737.045 of the Revised Code, the violation or 1069
failure is a felony of the fourth degree. For any second or 1070
subsequent violation of or failure to comply with section 1071
4737.01, 4737.012, or 4737.041, or division (C), (D), (E), (F), 1072
(G), or (I) of section 4737.04, or division (D) of section 1073
4737.045 of the Revised Code, a court may suspend the 1074
registration issued to the scrap metal dealer or bulk 1075
merchandise container dealer under section 4737.045 of the 1076
Revised Code for a period of ninety days, during which time 1077
period the person shall not engage in the business of a scrap 1078
metal dealer or a bulk merchandise container dealer, as 1079
applicable. 1080

(2) Notwithstanding section 2929.31 of the Revised Code, a 1081
business entity that, with respect to the sale, purchase, or 1082
receipt of a catalytic converter, violates division (C), (E)(1), 1083
(F)(2), (F)(5), or (I) of section 4737.04 or division (B) of 1084
section 4737.041 of the Revised Code shall be fined not less 1085
than ten thousand dollars and not more than fifty thousand 1086
dollars per violation. 1087

(D) Whoever violates division (B)(1) of section 4737.04 of 1088
the Revised Code is guilty of a felony of the fifth degree. The 1089
court also shall enjoin the person from engaging in the business 1090
of a scrap metal dealer or a bulk merchandise dealer. 1091

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

(F) Any motor vehicle used in the theft or illegal transportation of metal shall be impounded for at least thirty days and not more than sixty days. If the same motor vehicle is used in connection with a second or subsequent theft or illegal transportation of metal, the motor vehicle shall be impounded for at least sixty days and not more than one hundred eighty days. Any motor vehicle used in the theft or illegal transportation of a special purchase article or bulk merchandise container shall be impounded for at least ninety days and not more than three hundred sixty days. A motor vehicle impounded pursuant to this division shall be stored at a municipal corporation impound lot, if available, or at a lot owned by a private entity or another governmental unit that the municipal corporation utilizes for the purpose of impounding a motor vehicle. An impounded motor vehicle may be recovered from the impound lot at the end of the impound term upon payment of fees.

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

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

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

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

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

(1) Engage in the business of selling at retail salvage motor vehicle parts or salvage motor vehicles, unless the business is operated primarily for the purpose of selling at retail salvage motor vehicle parts. Any person operating such a business primarily for the purpose of selling at retail salvage motor vehicle parts may secondarily sell at retail salvage motor vehicles or manufacture a product of gradable scrap metal for sale to scrap metal processors or any other consumer.

(2) Purchase or accept a catalytic converter as defined in section 4737.04 of the Revised Code.

(B) No person licensed as a salvage motor vehicle auction under this chapter shall:

(1) Knowingly sell a salvage motor vehicle to anyone other than an authorized purchaser;

(2) Sell a salvage motor vehicle when having reasonable cause to believe it is not offered by the legal owner thereof;

(3) Fail to make an Ohio salvage certificate of title available to the purchaser of a salvage motor vehicle sold by

the salvage motor vehicle auction, before payment for the 1151
salvage motor vehicle is completed; 1152

(4) Operate as a motor vehicle salvage dealer at the same 1153
location where any salvage motor vehicle auction is operated. 1154

(C) No person licensed as a salvage motor vehicle pool 1155
under this chapter shall: 1156

(1) Knowingly sell a salvage motor vehicle to anyone other 1157
than an authorized purchaser; 1158

(2) Sell a salvage motor vehicle when having reasonable 1159
cause to believe it is not offered by the legal owner thereof; 1160

(3) Fail to make an Ohio salvage certificate of title 1161
available to the purchaser of a salvage motor vehicle sold by 1162
the salvage motor vehicle pool, before payment for the salvage 1163
motor vehicle is completed; 1164

(4) Operate as a motor vehicle salvage dealer at the same 1165
location where any salvage motor vehicle pool is operated. 1166

Sec. 4738.07. (A) Except as otherwise provided in division 1167
(B) of this section, the registrar of motor vehicles shall deny 1168
the application of any person for a license under this chapter 1169
and refuse to issue the person a license if the registrar finds 1170
that the applicant: 1171

(1) Has made false statement of a material fact in the 1172
individual's application; 1173

(2) Has not complied with sections 4738.01 to 4738.15 of 1174
the Revised Code: 1175

(3) Has habitually defaulted on financial obligations; 1176

(4) Has been convicted of or pleaded guilty to a 1177

disqualifying offense, provided the registrar complies with 1178
section 9.79 of the Revised Code; 1179

(5) Has been guilty of a fraudulent act in connection with 1180
dealing in salvage motor vehicles or when operating as a motor 1181
vehicle salvage dealer, salvage motor vehicle auction, or 1182
salvage motor vehicle pool; 1183

(6) Is insolvent; 1184

(7) Is of insufficient responsibility to assure the prompt 1185
payment of any final judgments which might reasonably be entered 1186
against the individual because of the transaction of the 1187
individual's business during the period of the license applied 1188
for; 1189

(8) Has no established place of business; ~~or~~ 1190

(9) Has less than twelve months prior to said application, 1191
been denied a license under this chapter; or 1192

(10) Was convicted of or pleaded guilty to a violation of 1193
division (B) of section 4737.041 of the Revised Code, a 1194
violation of section 2923.03 of the Revised Code when division 1195
(G) of section 4737.99 of the Revised Code applies, a violation 1196
of section 2913.02 of the Revised Code when the person is 1197
sentenced pursuant to division (B)(10) of that section, or a 1198
violation of section 2913.51 of the Revised Code when the person 1199
is sentenced pursuant to division (F) of that section. 1200

~~(B)~~ In (B)(1) Except as provided in division (B)(2) of 1201
this section, in considering a renewal of an individual's 1202
license, the registrar shall not consider any conviction or plea 1203
of guilty prior to the initial licensing. However, the registrar 1204
may consider a conviction or plea of guilty if it occurred after 1205
the individual was initially licensed, or after the most recent 1206

license renewal. 1207

(2) The registrar shall not renew an individual's license 1208
if the individual was convicted of or pleaded guilty to a 1209
violation of division (B) of section 4737.041 of the Revised 1210
Code, a violation of section 2923.03 of the Revised Code when 1211
division (G) of section 4737.99 of the Revised Code applies, a 1212
violation of section 2913.02 of the Revised Code when the person 1213
is sentenced pursuant to division (B) (10) of that section, or a 1214
violation of section 2913.51 of the Revised Code when the person 1215
is sentenced pursuant to division (F) of that section. 1216

(C) The registrar may grant a person a conditional license 1217
that lasts for one year. After the one-year period has expired, 1218
the license is no longer considered conditional, and the person 1219
shall be considered fully licensed. 1220

(D) If the applicant is a corporation or partnership, the 1221
registrar may refuse to issue a license if any officer, 1222
director, or partner of the applicant has been guilty of any 1223
disqualifying offense and the refusal is in accordance with 1224
section 9.79 of the Revised Code. The registrar's finding may be 1225
based upon facts contained in the application or upon any other 1226
information which the registrar may have. Immediately upon 1227
denying an application for any of the reasons in this section, 1228
the registrar shall enter a final order together with the 1229
registrar's findings and certify the same to the motor vehicle 1230
salvage dealer's licensing board. 1231

(E) If the registrar refuses an application for a license, 1232
the reasons for such refusal shall be put in writing. An 1233
applicant who has been refused a license may appeal from the 1234
action of the registrar to the motor vehicle salvage dealer's 1235
licensing board in the manner prescribed in section 4738.12 of 1236

the Revised Code. 1237

(F) The registrar of motor vehicles shall not adopt, 1238
maintain, renew, or enforce any rule, or otherwise preclude in 1239
any way, an individual from renewing a license under this 1240
chapter due to any past criminal activity or interpretation of 1241
moral character, except as pursuant to division (B) of this 1242
section. If the registrar denies an individual a license or 1243
license renewal, the reasons for such denial shall be put in 1244
writing. 1245

Sec. 4738.12. The motor vehicle salvage dealer's licensing 1246
board shall hear appeals which may be taken from an order of the 1247
registrar of motor vehicles, refusing to issue a license. All 1248
appeals from any order of the registrar refusing to issue any 1249
license upon proper application made must be taken within thirty 1250
days from the date of the order, or the order is final and 1251
conclusive. All appeals from orders of the registrar must be by 1252
petition in writing and verified under oath by the applicant 1253
whose application for license has been denied, and must set 1254
forth the reason why, in the petitioner's opinion, the order of 1255
the registrar is not correct. In appeals the board may make 1256
investigation to determine the correctness and legality of the 1257
order of the registrar. 1258

The board may make rules governing its actions relative to 1259
the suspension and revocation of licenses and may, upon its own 1260
motion, and shall, upon the verified complaint in writing of any 1261
person, investigate the conduct of any licensee under this 1262
chapter. The board shall suspend or revoke or notify the 1263
registrar to refuse to renew any license if any ground existed 1264
upon which the license would have been refused, or if a ground 1265
exists which would be cause for refusal to issue a license. 1266

The board may suspend or revoke any license if the 1267
licensee has in any manner violated the rules issued pursuant to 1268
sections 4738.01 to 4738.16 of the Revised Code, or has been 1269
convicted of committing a felony or violating any law which in 1270
any way relates to the theft of motor vehicles. 1271

The board shall revoke any license if the licensee is 1272
convicted of or pleads guilty to a violation of division (B) of 1273
section 4737.041 of the Revised Code, a violation of section 1274
2923.03 of the Revised Code when division (G) of section 4737.99 1275
of the Revised Code applies, a violation of section 2913.02 of 1276
the Revised Code when the licensee is sentenced pursuant to 1277
division (B)(10) of that section, or a violation of section 1278
2913.51 of the Revised Code when the licensee is sentenced 1279
pursuant to division (F) of that section. 1280

Sec. 4745.01. (A) "Standard renewal procedure," as used in 1281
Chapters 905., 907., 909., 911., 913., 915., 918., 921., 923., 1282
927., 942., 943., 953., 1321., 3710., 3713., 3719., 3742., 1283
3748., 3769., 3783., 3921., 3951., 4104., 4105., 4169., 4561., 1284
4703., 4707., 4709., 4713., 4715., 4717., 4723., 4725., 4727., 1285
4728., 4729., 4731., 4733., 4734., 4737., 4739., 4741., 4747., 1286
4749., 4752., 4753., 4755., 4757., 4758., 4759., 4761., 4766., 1287
4773., and 4775. of the Revised Code, means the license renewal 1288
procedures specified in this chapter. 1289

(B) "Licensing agency," as used in this chapter, means any 1290
department, division, board, section of a board, or other state 1291
governmental unit subject to the standard renewal procedure, as 1292
defined in this section, and authorized by the Revised Code to 1293
issue a license to engage in a specific profession, occupation, 1294
or occupational activity, or to have charge of and operate 1295
certain specified equipment, machinery, or premises. 1296

(C) "License," as used in this chapter, means a license, 1297
certificate, permit, card, or other authority issued or 1298
conferred by a licensing agency by authority of which the 1299
licensee has or claims the privilege to engage in the 1300
profession, occupation, or occupational activity, or to have 1301
control of and operate certain specific equipment, machinery, or 1302
premises, over which the licensing agency has jurisdiction. 1303

(D) "Licensee," as used in this chapter, means either the 1304
person to whom the license is issued or renewed by a licensing 1305
agency, or the person, partnership, or corporation at whose 1306
request the license is issued or renewed. 1307

(E) "Renewal" and "renewed," as used in this chapter and 1308
in the chapters of the Revised Code specified in division (A) of 1309
this section, includes the continuing licensing procedure 1310
provided in Chapter 3748. of the Revised Code and rules adopted 1311
under it and in sections 1321.05 and 3921.33 of the Revised 1312
Code, and as applied to those continuing licenses any reference 1313
in this chapter to the date of expiration of any license shall 1314
be construed to mean the due date of the annual or other fee for 1315
the continuing license. 1316

Sec. 4775.09. (A) (1) In accordance with Chapter 119. of 1317
the Revised Code, the motor vehicle repair board may refuse to 1318
issue or renew a registration certificate or may determine 1319
whether to waive a suspension of a registration certificate as 1320
provided in division (D) of section 4775.07 of the Revised Code. 1321

(2) Within ten days after receipt of an abstract from a 1322
county court judge, mayor of a mayor's court, or clerk of a 1323
court of record indicating a violation of division (D) of 1324
section 4513.241 of the Revised Code, the board shall determine 1325
whether the person named in the abstract is registered with the 1326

board and, if the person is so registered, shall further 1327
determine whether the person previously has been convicted of or 1328
pleaded guilty to a violation of that section. If the person 1329
previously has been convicted of or pleaded guilty to a 1330
violation of that section, the board, in accordance with Chapter 1331
119. of the Revised Code but without a prior hearing, shall 1332
suspend the person's registration for a period of not more than 1333
one hundred eighty days. 1334

(B) The court of common pleas of Franklin county has 1335
exclusive jurisdiction over any person who conducts, or attempts 1336
to conduct, business as a motor vehicle repair operator in 1337
violation of this chapter or any rule adopted under this 1338
chapter. The court, on application of the board, may issue an 1339
injunction, a cease and desist order, or other appropriate order 1340
restraining the person from continuing the violation. This 1341
section shall operate in addition to and shall not prohibit the 1342
enforcement of any other law. 1343

(C) Upon the request of the executive director or as a 1344
result of complaints, the board shall investigate the alleged 1345
violation. 1346

(D) No person required to be registered under this chapter 1347
shall have the benefit of any lien for labor or materials unless 1348
the person is registered under this chapter. 1349

(E) No person whose application for registration under 1350
this chapter is denied shall open or operate a facility for 1351
business as a motor vehicle collision repair facility or motor 1352
vehicle window tint installation facility under the name of the 1353
person designated in the application for a registration 1354
certificate or under any other name prior to registering as a 1355
motor vehicle repair operator in accordance with this chapter. 1356

(F) (1) The board shall not issue a registration to or 1357
renew the registration of a person who was convicted of or 1358
pleaded guilty to a violation of division (B) of section 1359
4737.041 of the Revised Code, a violation of section 2923.03 of 1360
the Revised Code when division (G) of section 4737.99 of the 1361
Revised Code applies, a violation of section 2913.02 of the 1362
Revised Code when the person is sentenced pursuant to division 1363
(B) (10) of that section, or a violation of section 2913.51 of 1364
the Revised Code when the person is sentenced pursuant to 1365
division (F) of that section. 1366

(2) The board shall revoke the registration of a person 1367
who is convicted of or pleads guilty to a violation of division 1368
(B) of section 4737.041 of the Revised Code, a violation of 1369
section 2923.03 of the Revised Code when division (G) of section 1370
4737.99 of the Revised Code applies, a violation of section 1371
2913.02 of the Revised Code when the person is sentenced 1372
pursuant to division (B) (10) of that section, or a violation of 1373
section 2913.51 of the Revised Code when the person is sentenced 1374
pursuant to division (F) of that section. 1375

Section 2. That existing sections 2913.02, 2913.51, 1376
4737.012, 4737.04, 4737.041, 4737.043, 4737.045, 4737.99, 1377
4738.03, 4738.07, 4738.12, 4745.01, and 4775.09 of the Revised 1378
Code are hereby repealed. 1379