
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 2682 **Hearing Date:** June 28, 2022
Author: Gray
Version: June 15, 2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Vehicles: catalytic converters*

HISTORY

Source: Author

Prior Legislation: SB 366 (Umberg), Ch. 601, Stats. 2021
SB 627 (Calderon), Ch. 603, Stats. 2009
SB 691 (Calderon), Ch. 739, Stats. 2008
SB 844 (Berryhill), Ch. 731, Stats. 2008

Support: California District Attorneys Association; California New Car Dealers Association; Personal Insurance Federation of California; Valley Clean Air Now

Opposition: Alliance for Automotive Innovation (oppose unless amended)

Assembly Floor Vote: 69 - 0

This Analysis Reflects the Bill as Proposed to Be Amended

PURPOSE

The purpose of this bill is to: 1) require any automotive repair dealer that installs or replaces a catalytic converter on a motor vehicle to ensure that the catalytic converter is permanently marked with the vehicle identification number (VIN) of the vehicle on which it is being installed, as specified; 2) require a smog check station to notify a customer whether the catalytic converter is permanently marked with the VIN of the vehicle; and 3) prohibits a person from removing, altering, or obfuscating any VIN or other unique marking that has been added to a catalytic converter, or knowingly possessing a catalytic converter where the VIN has been removed, altered, or obfuscated, punishable as a misdemeanor.

Existing law creates the Automotive Repair Act and the Bureau for Automotive Repair (“Bureau”), which defines relevant terms, creates requirements, exempts certain persons from its requirements, and makes the protection of the public its highest priority. (Bus. and Prof. Code § 9880 et seq.)

Existing law defines “automotive repair dealer” to mean “a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.” (Bus. § Prof. Code, § 9880.1, subd. (a).)

This bill requires any automotive repair dealer that installs or replaces a catalytic converter on a motor vehicle to ensure that the catalytic converter has been permanently marked with the vehicle identification number (VIN), or by engraving, etching, or marking the VIN on the exterior casing of the catalytic converter lettered in block capitals and numerals not less than one-half inch in height.

This bill states that an automotive repair dealer may charge a reasonable fee to offset the cost of compliance with this section when permanently marking a catalytic converter as required by this bill.

This bill punishes a violation of the requirement of an automotive repair dealer to ensure that the catalytic converter is permanently marked with the VIN of the vehicle on which it is being installed as follows:

- For a first violation, by a fine of not less than \$250;
- For a separate second violation, by a fine of not less than \$500;
- For a separate third or subsequent violation, by a fine of not less than \$1,000.

Existing law requires the Bureau to implement tests and perform necessary service adjustments on various vehicles. (Health & Saf. Code, § 44020 et seq.)

Existing law requires the motor vehicle inspection program to provide for privately operated stations which shall be referred to as smog check stations and are authorized to issue certificates of compliance or noncompliance to vehicles which meet specified requirements. (Health & Saf. Code, § 44010.)

This bill requires a smog check station, as part of any test conducted as required under existing law, to inspect the exterior of the catalytic converter, if any, and notify the customer whether or not the catalytic converter is permanently marked with the VIN of the vehicle being tested.

This bill specifies that in order to comply with this section, a smog check station shall only perform a visual inspection without any responsibility to remove or disassemble any part of the vehicle if the catalytic converter is not otherwise visible.

Existing law states that it is a misdemeanor for any person to willfully injure or tamper with any vehicle or the contents thereof or break or remove any part of a vehicle without the consent of the owner. (Veh. Code, §§ 10852, 40000.9.)

Existing law states that it is a misdemeanor for a person to intentionally deface, destroy, or alter the motor number, other distinguishing number, or identification mark of a vehicle required or employed for registration purposes without written authorization from the department, nor shall any person place or stamp any serial, motor, or other number or mark upon a vehicle, as specified. (Veh. Code, § 10750, 40000.9.)

This bill states that a person shall not remove, alter, or obfuscate any VIN or other unique marking that has been added to a catalytic converter, except as specified, and punishes this conduct as a misdemeanor.

This bill prohibits a person from knowingly possessing any catalytic converter that has had a VIN or other unique marking removed, altered, or obfuscated and punishes this conduct as a misdemeanor.

This bill provides that the above prohibitions do not apply to the following:

- A person who is removing, altering, or obfuscating a vehicle identification number or other unique marking in order to apply a new vehicle identification number or unique marking because the catalytic converter is being lawfully installed on a different vehicle; or,
- A person that is disassembling, smelting, or otherwise permanently destroying a catalytic converter lawfully in their possession.

COMMENTS

1. Need for this Bill

According to the author of this bill:

AB 2682 requires catalytic converters to be permanently marked with a vehicle's VIN to increase traceability for law enforcement and deter the theft from occurring in the first place. The bill requires new cars to be marked by manufacturers before delivering the vehicle to dealers in California. Manufacturers have been required to mark 18 vehicle parts with the VIN under the Federal Motor Vehicle Theft Prevention Standard since 1984, but catalytic converters are not included under the federal standard.

Used vehicles would need to be marked by dealer service centers and repair shops when repairing or replacing a vehicle's catalytic converter.

AB 2682 both prohibits removal of the marking as well as possession of a catalytic converter that has or is suspected to have had its marking removed.

AB 2682 also requires that a smog check include a simple visual inspection and notification to the driver if their catalytic converter has been marked with the vehicle's VIN.

Catalytic converter thefts are crimes of opportunity with thieves targeting vehicles in low-risk environments and where they have the greatest ease of access. Once removed and away from the crime scene, there are few opportunities available to law enforcement to recover and trace a stolen catalytic converter.

Under AB 2682, a detached catalytic converter can be easily traced back to its original vehicle and legal ownership can be established. If the mark on the catalytic converter is removed then possession of that catalytic converter is a crime which will serve as a significant deterrent for any black market repair shop or recycler to take possession of the stolen part.

Further, many drivers are unaware of the risk of catalytic converter theft until it happens. AB 2682 requires smog check stations to simply notify drivers if their catalytic converter is marked or not. This notification is intended to prompt drivers who obtained their vehicles either before the passage of AB 2682 or by out-of-state or private party transfers to consider voluntarily having their catalytic converter marked in a traceable manner.

2. Catalytic Converter Theft

Catalytic converters are devices that reduce pollution-causing emissions. Since 1975, all vehicles produced in the United States must have a catalytic converter as part of the exhaust system. Some vehicles may have more than one catalytic converter. The precious metals inside act as catalysts; when hot exhaust enters the converter, a chemical reaction occurs that renders toxic gases, such as carbon monoxide and hydrocarbons, into less harmful emissions.

According to the National Insurance Crime Bureau:

We have seen a significant increase during the pandemic. It's an opportunistic crime. As the value of the precious metals contained within the catalytic converters continues to increase, so do the number of thefts of these devices. There is a clear connection between times of crisis, limited resources, and disruption of the supply chain that drives investors towards these precious metals.”

A catalytic converter is a device that looks like a small muffler along with the exhaust system. It is designed to convert the environmentally hazardous exhaust emitted by an engine into less harmful gasses. To do this, manufacturers use platinum, palladium, or rhodium. In recent years, the values of these precious metals have increased significantly. As of December 2020, rhodium was valued at \$14,500 per ounce, palladium at \$2,336 per ounce, and platinum going for \$1,061 per ounce. Typically, recyclers will pay \$50 to \$250 per catalytic converter.

According to NICB's Operations, Intelligence and Analytics study of reported thefts, there were 108 catalytic converter thefts per month on average in 2018, 282 average monthly thefts in 2019, and 1,203 average thefts per month in 2020. During this time period, the top five states for catalytic converter thefts were California, Texas, Minnesota, North Carolina, and Illinois. In 2020, there was a continual climb in thefts. January had the fewest number of thefts at 652, but it continued to climb markedly throughout the year, with December having 2,347 thefts.

(Catalytic Converter Theft Skyrocketing Nationwide, National Insurance Crime Bureau (March 2021) <https://www.nicb.org/news/news-releases/catalytic-converter-theft-skyrocketing-nationwide> [as of June 21, 2022].)

In 2009, due to reports of increased catalytic thefts, California enacted SB 627 (Calderon), Chapter 603, Statutes of 2009. The law required core recyclers to comply with additional recordkeeping and identification procedures and new payment restrictions when purchasing catalytic converters. Specifically, the law required core recyclers to obtain identifying information about the seller of the catalytic converter including a copy of valid identification, a

photograph or video of the seller, a photograph or video of the catalytic converter and information about the sale including date of the transaction and a written statement from the seller indicating ownership of the catalytic converter. This information must be maintained by the core recycler for a minimum period of two years and to provide this information for inspection by local law enforcement upon demand. There is an exception for keeping information on sales or receipts of a catalytic converter if the core recycler and the seller have a written agreement for the transaction. The law makes a knowing and willful violation of its provisions punishable as a misdemeanor with graduated fines and the ability of the court to order the defendant to cease engaging in the business of a core recycler for a specified period of time. (Bus. & Prof. Code, § 21610.)

This bill would require any automotive repair dealer that installs or replaces a catalytic converter on a motor vehicle to ensure that the catalytic converter is permanently marked with the VIN of the vehicle on which it is being installed. If the automotive repair dealer permanently marks a catalytic converter, this bill specifies that the mark shall be on the exterior casing of the catalytic converter lettered in block capitals and numerals not less than one-half inch in height. Additionally, the bill would authorize an automatic repair dealer to charge a reasonable fee to offset the cost of compliance with this bill's requirements. This bill would punish a violation of this requirement as follows:

- For a first violation, by a fine of not less than \$250;
- For a separate second violation, by a fine of not less than \$500;
- For a separate third or subsequent violation, by a fine of not less than \$1,000.

This bill would also require a smog check station to notify a customer whether the catalytic converter is permanently marked with the VIN of the vehicle. In order to comply, this bill clarifies that a smog check station is only required to perform a visual inspection without any responsibility to remove or disassemble any part of the vehicle if the catalytic converter is not otherwise visible.

This bill would also create new misdemeanors for any person who removes, alters, or obfuscates any VIN or other unique marking that has been added to a catalytic converter, or who knowingly possesses a catalytic converter where the VIN has been removed, altered, or obfuscated.

3. Permanent Marking of Catalytic Converters

With the increased interest in catalytic converter VIN etching services, a variety of etching products and techniques have been developed. One of the most common methods of etching a catalytic converter is to use an engraving hand tool to etch the number into the equipment.

Permanent marking, or etching, of catalytic converters is one method by which one could identify a stolen catalytic converter. With the increased interest in catalytic converter VIN etching services, a variety of etching products and techniques have been developed. One of the most common methods of etching a catalytic converter is to use an engraving hand tool to etch the number into the equipment. Manual engraving tools can be purchased from hardware stores or online from a wide range of retailers for \$25 – \$400+. Chemical etch labels and kits can also be a cost-effective technique (often less than \$30) to ensure that even if the label is removed, identification information is still permanently detectable on the equipment. Automated

industrial-level VIN etching machines can cost thousands, generally over \$1,000 for a small and simple machine and over \$5-10,000 for a larger and more complex machine, but many automotive professionals can still etch catalytic converters rapidly and effectively with manual tools.

While the etching process itself is generally simple and inexpensive, accessing the catalytic converter for etching can be difficult for many newer car models. Catalytic converters are typically located on the underside of the car, but many newer vehicle models incorporate the catalytic converter as a part of the exhaust manifold, essentially making the catalytic converter difficult to access without disassembling a significant portion of the vehicle engine. In these cases, automobile technicians require specialized equipment and additional time to access the catalytic converter for etching.

This bill requires any automotive repair dealer that installs or replaces a catalytic converter on a motor vehicle to ensure that the catalytic converter is permanently marked with the VIN of the vehicle on which it is being installed and authorize the automotive repair dealer to charge a reasonable fee to offset the cost of compliance with this bill's requirements. A violation of this requirement is punishable by graduated mandatory minimum fines. This bill also requires a smog check station to notify a customer whether the catalytic converter is permanently marked, but clarifies that a smog check station is only required to perform a visual inspection without any responsibility to remove or disassemble any part of the vehicle if the catalytic converter is not otherwise visible.

4. Related Legislation

Due to increased reports of catalytic converter thefts, several bills have been introduced this year to address the problem. In the Assembly, 7 bills have been introduced on the issue of catalytic converters. In the Senate, 3 bills have been introduced, SB 919 (Jones), SB 986 (Umberg), SB 1087 (Gonzalez). Many of the bills have overlapping jurisdiction with the committees on Transportation, Business, Professions and Economic Development, and Public Safety. The following is a discussion of the bills that were referred to the Public Safety Committees in either house.

SB 986 (Umberg) would prohibit a car dealer or retailer from selling a new or used vehicle, except those specified, equipped with a catalytic converter unless the catalytic converter has been engraved or etched with VIN of the vehicle to which it is attached and makes a violation of this prohibition punishable as an infraction. SB 986 would also require a core recycler to obtain and keep information regarding any identifying information etched or engraved on the catalytic converter. SB 986 would require payment for a catalytic converter to be made by any traceable method other than cash. Additionally, SB 986 would amend existing law that exempts a core recycler from these recordkeeping requirements when the catalytic converter was purchased pursuant to a written agreement between the core recycler and the seller by requiring the core recycler to maintain a regularly updated log or record describing each catalytic converter received under the agreement. SB 986 is pending hearing by the Assembly Committee on Public Safety.

SB 1087 (Gonzalez) would make it an infraction for any person to purchase a used catalytic converter from sellers other than certain specified sellers, including an automobile dismantler, an automotive repair dealer, or an individual possessing documentation, as specified, that they are

the lawful owner of the catalytic converter. SB 1087 is pending hearing by the Assembly Committee on Public Safety.

SB 919 would, among other things, make it an alternate felony-misdemeanor to purchase, sell, receive, or possess a stolen catalytic converter, as specified. SB 919 would also prohibits a dealer or retail seller of a motor vehicle to sell a new or used motor vehicle unless the catalytic converter has been engraved, etched, or otherwise permanently marked with the VIN of the vehicle to which it is attached. A violation of this requirement would be punishable as a misdemeanor. SB 919 would also prohibit core recyclers from purchasing a catalytic converter unless it has been engraved, etched or otherwise permanently marked with the VIN from the car from which it was removed and the sale is recorded on a regularly updated log, as specified. A violation of these requirements would be a misdemeanor with graduated fines. SB 919 failed passage in this committee.

AB 2398 (Villapudua) would make the possession of a detached catalytic converter a crime, punishable as a misdemeanor or a felony, but would exempt a person who demonstrates authorization to possess the detached catalytic converter by providing a certificate of title or registration showing the person's interest in the vehicle from which the catalytic converter was detached, written authorization from the person holding the certificate of title or registration, or evidence that the catalytic converter was acquired in a lawful transaction, as provided. AB 2398 failed passage in Assembly Public Safety Committee.

AB 2407 (O'Donnell) would require a core recycler to report the information collected to the chief of police or the sheriff, as prescribed, and to request to receive theft alert notifications regarding the theft of catalytic converters from a specified theft alert system; require a core recycler to obtain the thumbprint of a seller of a catalytic converter and to preserve the thumbprint for a period of 2 years; limit the inspection or seizure of a thumbprint to that performed by law enforcement pursuant to a criminal search warrant based upon probable cause; and encourage local law enforcement agencies to report thefts of catalytic converters that have occurred within their jurisdiction to that theft alert system. AB 2407 is scheduled heard in Senate Business, Professions and Economic Development Committee on June 27th and will be heard by this committee on June 28th.

This bill would require any automotive repair dealer that installs or replaces a catalytic converter on a motor vehicle to ensure that the catalytic converter is permanently marked with the vehicle identification number (VIN) of the vehicle on which it is being installed, as specified. A failure to comply with this requirement would be punishable by specified graduated fines. It would also require a smog check station to notify a customer whether the catalytic converter is permanently marked, as specified. It would also prohibit a person from removing, altering, or obfuscating any VIN or other unique marking that has been added to a catalytic converter, or possessing a catalytic converter whether the VIN has been removed, altered, or obfuscated, as specified, and makes these offenses punishable as a misdemeanor.

5. Author Amendments to be Adopted in Committee

The bill as currently written states that no manufacturer shall deliver a new vehicle assembled after January 1, 2024, equipped with a catalytic converter for sale in this state unless the catalytic converter has been permanently marked with the VIN of the vehicle to which it is attached, as specified, and provides penalties, as specified. As discussed in the Senate Committee on Business, Professions, and Economic Development's analysis of this bill:

The Federal Motor Vehicle Theft Prevention Act (FMVTPA) expressly preempts a state from having a “different motor vehicle theft prevention standard for a motor vehicle or major replacement part.” The Act defines a “vehicle theft prevention standard” as a “minimum performance standard for identifying major parts of new motor vehicles and major replacement parts by inscribing or affixing numbers or symbols on those parts.” A “major part” is defined as “(A) the engine; (B) the transmission; (C) each door to the passenger compartment; (D) the hood; (E) the grille; (F) each bumper; (G) each front fender; (H) the deck lid, tailgate, or hatchback; (I) each rear quarter panel; (J) the trunk floor pan; (K) the frame or, for a unitized body, the supporting structure serving as the frame; and (L) any other part of a passenger motor vehicle that the Secretary of Transportation by regulation specifies as comparable in design or function to any of the parts listed in subclauses (A)–(K) of this clause.”

Unlike its sibling catalytic converter bills moving through the Legislature this year, AB 2682 amends a different section of the Business and Professions Code, along with parts of the Vehicle Code and the Health and Safety Code. Amending these sections raises the question if this express preemption clause applies here.

(Sen. Com. on Business, Professions, and Economic Development, Rep. on AB No. 2682 (2021-2022 Reg. Sess., June 15, 2022, p. 6.)

The author of this bill intends to strike the manufacturer mandate provision from the bill.

6. Arguments in Support

According to the Personal Insurance Federation of California (PFIC):

PFIC is pleased to support AB 2682, a measure that will help combat this growing problem and subsequently, promote insurance affordability. AB 2682 prohibits any person, except as exempted, from removing, altering, or obfuscating the vehicle identification number (VIN) on a catalytic converter. It also prohibits a person from knowingly possessing a catalytic converter that has been so altered and requires any automotive repair dealer that installs or replaces a catalytic converter on a motor vehicle to ensure that the catalytic converter is permanently marked with the VIN of the vehicle on which it is being installed. AB 2682 would also require a smog check station to inspect the exterior of the catalytic converter and notify the customer whether or not the catalytic converter is permanently marked with the VIN.

By increasing the identification and tracking ability of these parts, as well as increasing the penalties, AB 2682 will increase the risk to thieves when they take these pieces illegally and reduce the number of California car owners who need to submit claims and face the inconvenience of vehicle repair.

7. Arguments in Opposition

The Alliance for Automotive Innovation is opposed unless amended:

Auto Innovators requests the **elimination of the mandate on manufacturers** because it is preempted by federal law. Specifically, Section 33118 of the federal Antitheft Act (Chapter 331 of Title 49 of the U.S. Code) broadly and expressly preempts any “different motor vehicle theft prevention standard for a motor vehicle or major replacement part,” whenever “a theft prevention standard under section 33102 or 33103 of this title is in effect.” The current federal theft prevention standard in effect (the “Federal Motor Vehicle Theft Prevention Standard”) was adopted by the National Highway Traffic Safety Administration (NHTSA) in 1985 and is still in effect today.

Even if not preempted, the markings the bill presumes exist on current vehicles do not. It has been argued that the bill builds off the federal framework which requires manufacturers to mark many other parts within a vehicle with the VIN number; however, current law provides two options for manufacturers. The first option under 49 CFR Part 541 is to mark the parts with the VIN. The second option is a factory installation of anti-theft devices, described in both 49 CFR Part 541 and Part 543. Manufacturers currently almost exclusively use the second option of installing anti-theft devices during production. Thus, these markings do not exist on current vehicles.

Not only would this bill mandate an ineffective and expensive method that takes a California problem and attempts to apply an international solution, but any benefit this bill could potentially have is extremely limited by the shift away from internal combustion engines towards zero emission vehicles. Under current California Air Resources Board regulations and Executive Orders, by 2026 35% of new vehicles will be zero emission and will therefore not have catalytic converters. This percentage will go up by almost 10% every subsequent year, leading to 100% by 2035.

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