

Todd Weiler proposes the following substitute bill:

Metal Purchase and Theft Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor:

LONG TITLE

General Description:

This bill concerns the purchase and theft of metal including catalytic converters.

Highlighted Provisions:

This bill:

- defines terms;
- amends the catalytic converter purchases that are subject to the procedures and requirements of the Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- creates the criminal offense of metal or catalytic converter theft;
- removes penalty provisions concerning metal or catalytic converter theft from certain generally applicable criminal theft statutes due to the creation of the metal or catalytic converter theft offense;
- updates industry definition for metal regulation requirements and offenses;
- adds the new metal or catalytic converter theft offense to the offenses concerning pattern of unlawful activity; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-32a-102, as last amended by Laws of Utah 2024, Chapter 507

13-32a-104.7, as enacted by Laws of Utah 2022, Chapter 201

13-32a-118, as enacted by Laws of Utah 2022, Chapter 201

29 **76-6-404**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
30 Coordination Clause, Laws of Utah 2023, Chapter 407

31 **76-6-405**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
32 Coordination Clause, Laws of Utah 2023, Chapter 407

33 **76-6-406**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
34 Coordination Clause, Laws of Utah 2023, Chapter 407

35 **76-6-602**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
36 Coordination Clause, Laws of Utah 2023, Chapter 407

37 **76-6-1402**, as last amended by Laws of Utah 2015, Chapter 108

38 **76-10-1602**, as last amended by Laws of Utah 2024, Chapter 96

39 **78B-3-108**, as last amended by Laws of Utah 2023, Chapter 111

40 ENACTS:

41 **76-6-415**, Utah Code Annotated 1953

43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **13-32a-102** is amended to read:

45 **13-32a-102 . Definitions.**

46 As used in this chapter:

47 (1) "Account" means the Pawnbroker, Secondhand Merchandise, and Catalytic Converter
48 Operations Restricted Account created in Section 13-32a-113.

49 (2) "Antique item" means an item:

50 (a) that is generally older than 25 years;

51 (b) whose value is based on age, rarity, condition, craftsmanship, or collectability;

52 (c) that is furniture or other decorative objects produced in a previous time period, as
53 distinguished from new items of a similar nature; and

54 (d) obtained from auctions, estate sales, other antique shops, and individuals.

55 (3) "Antique shop" means a business operating at an established location that deals
56 primarily in the purchase, exchange, or sale of antique items.

57 (4) "Automated recycling kiosk" means an interactive machine that:

58 (a) is installed inside a commercial site used for the selling of goods and services to
59 consumers;

60 (b) is monitored remotely by a live representative during the hours of operation;

61 (c) only engages in secondhand merchandise transactions involving wireless
62 communication devices; and

(d) has the following technological functions:

- (i) verifies the seller's identity by a live representative using the individual's identification;
- (ii) generates a ticket; and
- (iii) electronically transmits the secondhand merchandise transaction information to the central database.

(5) "Automated recycling kiosk operator" means a person whose sole business activity is the operation of one or more automated recycling kiosks.

(6) "Catalytic converter" means the same as that term is defined in Section 76-6-1402.

(7)(a) "Catalytic converter purchase" means a purchase from an individual of a used catalytic converter that:

- (i) [-]is no longer affixed to a vehicle; and
- (ii) is being purchased for \$100 or more.

(b) "Catalytic converter purchase" does not mean a purchase of a catalytic converter:

- (i) from a business regularly engaged in automobile repair, crushing, dismantling, recycling, or salvage;
- (ii) from a new or used vehicle dealer licensed under Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- (iii) from another catalytic converter purchaser; or
- (iv) that has never been affixed to a vehicle.

(8) "Catalytic converter purchaser" means a person who purchases a used catalytic converter in a catalytic converter purchase.

(9) "Central database" or "database" means the electronic database created and operated under Section 13-32a-105.

(10) "Children's product" means a used item that is for the exclusive use of children, or for the care of children, including clothing and toys.

(11) "Children's product resale business" means a business operating at a commercial location and primarily selling children's products.

(12) "Coin" means a piece of currency, usually metallic and usually in the shape of a disc that is:

- (a) stamped metal, and issued by a government as monetary currency; or
- (b)(i) worth more than its current value as currency; and
- (ii) worth more than its metal content value.

(13) "Coin dealer" means a person whose sole business activity is the selling and

97 purchasing of numismatic items and precious metals.

98 (14) "Collectible paper money" means paper currency that is no longer in circulation and is
99 sold and purchased for the paper currency's collectible value.

100 (15)(a) "Commercial grade precious metals" or "precious metals" means ingots,
101 monetized bullion, art bars, medallions, medals, tokens, and currency that are marked
102 by the refiner or fabricator indicating their fineness and include:

103 (i) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious
104 metals; or

105 (ii) .925 fine sterling silver ingots, art bars, and medallions.

106 (b) "Commercial grade precious metals" or "precious metals" does not include jewelry.

107 (16) "Consignment shop" means a business, operating at an established location:

108 (a) that deals primarily in the offering for sale property owned by a third party; and

109 (b) where the owner of the property only receives consideration upon the sale of the
110 property by the business.

111 (17) "Division" means the Division of Consumer Protection created in Chapter 1,
112 Department of Commerce.

113 (18) "Exonomia" means a privately issued token for trade that is sold and purchased for the
114 token's collectible value.

115 (19) "Gift card" means a record that:

116 (a) is usable at:

117 (i) a single merchant; or

118 (ii) a specified group of merchants;

119 (b) is prefunded before the record is used; and

120 (c) can be used for the purchase of goods or services.

121 (20) "Identification" means any of the following non-expired forms of identification issued
122 by a state government, the United States government, or a federally recognized Indian
123 tribe, if the identification includes a unique number, photograph of the bearer, and date
124 of birth:

125 (a) a United States Passport or United States Passport Card;

126 (b) a state-issued driver license;

127 (c) a state-issued identification card;

128 (d) a state-issued concealed carry permit;

129 (e) a United States military identification;

130 (f) a United States resident alien card;

(g) an identification of a federally recognized Indian tribe; or

(h) notwithstanding Section 53-3-207, a Utah driving privilege card.

(21) "IMEI number" means an International Mobile Equipment Identity number.

(22) "Indicia of being new" means property that:

(a) is represented by the individual pawning or selling the property as new;

(b) is unopened in the original packaging; or

(c) possesses other distinguishing characteristics that indicate the property is new.

(23) "Local law enforcement agency" means the law enforcement agency that has direct responsibility for ensuring compliance with central database reporting requirements for the jurisdiction where the pawn or secondhand business or catalytic converter purchaser is located.

(24) "Numismatic item" means a coin, collectible paper money, or exonomia.

(25) "Original victim" means a victim who is not a party to the pawn or sale transaction or catalytic converter purchase and includes:

(a) an authorized representative designated in writing by the original victim; and

(b) an insurer who has indemnified the original victim for the loss of the described property.

(26) "Pawn or secondhand business" means a business operated by a pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.

(27) "Pawn transaction" means:

(a) an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time;

(b) a loan of money on one or more deposits of personal property;

(c) the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor; or

(d) a loan or advance of money on personal property by the pawnbroker taking chattel mortgage security on the personal property, taking or receiving the personal property into the pawnbroker's possession, and selling the unredeemed pledges.

(28) "Pawnbroker" means a person whose business:

(a) engages in a pawn transaction; or

(b) holds itself out as being in the business of a pawnbroker or pawnshop, regardless of whether the person or business enters into pawn transactions or secondhand merchandise transactions.

- 165 (29) "Pawnshop" means the physical location or premises where a pawnbroker conducts
166 business.
- 167 (30) "Pledgor" means an individual who conducts a pawn transaction with a pawnshop.
- 168 (31) "Property" means an article of tangible personal property, numismatic item, precious
169 metal, gift card, transaction card, or other physical or digital card or certificate
170 evidencing store credit, and includes a wireless communication device.
- 171 (32) "Retail media item" means recorded music, a movie, or a video game that is produced
172 and distributed in hard copy format for retail sale.
- 173 (33) "Scrap jewelry" means an item purchased solely:
174 (a) for its gold, silver, or platinum content; and
175 (b) for the purpose of reuse of the metal content.
- 176 (34)(a) "Secondhand merchandise dealer" means a person whose business:
177 (i) engages in a secondhand merchandise transaction; and
178 (ii) does not engage in a pawn transaction.
- 179 (b) "Secondhand merchandise dealer" includes a coin dealer and an automated recycling
180 kiosk operator.
- 181 (c) "Secondhand merchandise dealer" does not include:
182 (i) an antique shop when dealing in antique items;
183 (ii) a person who operates an auction house, flea market, or vehicle, vessel, and
184 outboard motor dealers as defined in Section 41-1a-102;
185 (iii) the sale of secondhand goods at events commonly known as "garage sales,"
186 "yard sales," "estate sales," "storage unit sales," or "storage unit auctions";
187 (iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:
188 (A) card games;
189 (B) table-top games; or
190 (C) magic tricks;
191 (v) the sale or receipt of used merchandise donated to recognized nonprofit, religious,
192 or charitable organizations or any school-sponsored association, and for which no
193 compensation is paid;
194 (vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;
195 (vii) a person offering the person's own personal property for sale, purchase,
196 consignment, or trade via the Internet;
197 (viii) a person offering the personal property of others for sale, purchase,
198 consignment, or trade via the Internet, when that person does not have, and is not

- 199 required to have, a local business or occupational license or other authorization for
200 this activity;
- 201 (ix) an owner or operator of a retail business that:
- 202 (A) receives used merchandise as a trade-in for similar new merchandise[-]; or
- 203 (B) receives used retail media items as a trade-in for similar new or used retail
204 media items;
- 205 (x) an owner or operator of a business that contracts with other persons to offer those
206 persons' secondhand goods for sale, purchase, consignment, or trade via the
207 Internet;
- 208 (xi) any dealer as defined in Section 76-6-1402, that concerns scrap metal and
209 secondary metals;
- 210 (xii) the purchase of items in bulk that are:
- 211 (A) sold at wholesale in bulk packaging;
- 212 (B) sold by a person licensed to conduct business in Utah; and
- 213 (C) regularly sold in bulk quantities as a recognized form of sale;
- 214 (xiii) the owner or operator of a children's product resale business;
- 215 (xiv) a consignment shop when dealing in consigned property; or
- 216 (xv) a catalytic converter purchaser.
- 217 (35) "Secondhand merchandise transaction" means the purchase or exchange of used or
218 secondhand property.
- 219 (36) "Ticket" means a document upon which information is entered when a pawn
220 transaction or secondhand merchandise transaction is made.
- 221 (37) "Transaction card" means a card, code, or other means of access to a value with the
222 retail business issued to a person that allows the person to obtain, purchase, or receive
223 any of the following:
- 224 (a) goods;
- 225 (b) services;
- 226 (c) money; or
- 227 (d) anything else of value.
- 228 (38) "Wireless communication device" means a cellular telephone or a portable electronic
229 device designed to receive and transmit a text message, email, video, or voice
230 communication.

231 Section 2. Section **13-32a-104.7** is amended to read:

232 **13-32a-104.7 . Database information from catalytic converter purchasers --**

Penalties.

- (1) As soon as practicable, but no later than January 1, 2023, a catalytic converter purchaser shall document information for each catalytic converter purchase as required under this section and upload the information to the central database under Section 13-32a-106.
- (2) A catalytic converter purchaser shall document the following information regarding a catalytic converter purchase:
- (a) the date and time of the catalytic converter purchase;
 - (b) the following information regarding the individual selling the catalytic converter:
 - (i) the individual's:
 - (A) full name and date of birth as they appear on the individual's identification;
 - (B) residence address;
 - (C) telephone number; and
 - (D) signature on a certificate stating that the individual has the legal right to sell the catalytic converter;
 - (ii) the type of identification the individual presents under Subsection (2)(b)(i)(A) and the unique number on the identification;
 - (iii) a color digital photograph or still video of the individual taken at the time of the sale, or a clearly legible photocopy of the individual's identification; and
 - (iv) except as provided in Subsection (3), an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the finger fingerprinted and the reason why the right index fingerprint is unavailable;
 - (c) the amount paid for the catalytic converter;
 - (d) the full name of the individual conducting the purchase on behalf of the catalytic converter purchaser or the initials or unique identifying employee number, if the catalytic converter purchaser maintains a record of the initials or unique identifying employee number of the individual;
 - (e) an accurate description of the catalytic converter, with available identifying marks, including:
 - (i) if available, the name, brand name, number, serial number, model number, manufacturer information, and size of the catalytic converter;
 - (ii) any marks of identification or indicia of ownership on the catalytic converter;
 - (iii) the weight of the catalytic converter, if the payment is based on weight; and
 - (iv) other unique identifying characteristics of the catalytic converter; and

(f) a color, digital photograph of the catalytic converter.

(3) If the individual selling a catalytic converter to the catalytic converter purchaser in a catalytic converter purchase previously has sold one or more catalytic converters to the catalytic converter purchaser, the catalytic converter purchaser is not required to obtain the fingerprint under Subsection (2)(b)(iv).

(4) A catalytic converter purchaser may not accept a catalytic converter if, upon inspection, it is apparent that the serial number or identifying characteristics have been intentionally defaced on the catalytic converter.

(5) The division shall establish standards and criteria for fingerprint legibility under Subsection (2)(b)(iv) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

(7) A dealer, as defined in Section 76-6-1402, that [~~purchases~~] makes a catalytic converter purchase under this section shall comply with Title 76, Chapter 6, Part 14, Regulation of Metal Dealers.

Section 3. Section **13-32a-118** is amended to read:

13-32a-118 . Payment limitation for catalytic converter purchases.

~~[(1)]~~ A catalytic converter purchaser, when making a catalytic converter purchase, may not pay the seller for the catalytic converter with cash or a gift card.

~~[(2) Subsection (1) does not apply to a catalytic converter purchase in which the amount paid to the seller is under \$100.]~~

Section 4. Section **76-6-404** is amended to read:

76-6-404 . Theft -- Elements.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits theft if the actor obtains or exercises unauthorized control over another person's property with a purpose to deprive the person of the person's property.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds \$5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

301 ~~[(ii) the property is:]~~

302 ~~[(A) a catalytic converter as defined under Section 76-6-1402; or]~~

303 ~~[(B) 25 pounds or more of a suspect metal item as defined under Section~~

304 ~~76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or~~

305 ~~contains aluminum or copper and is not a lead battery;]~~

306 ~~[(iii)]~~ (ii) the value of the property is or exceeds \$500 and the actor has been twice

307 before convicted of any of the following offenses, if each prior offense was

308 committed within 10 years before the date of the current conviction or the date of

309 the offense upon which the current conviction is based and at least one of those

310 convictions is for a class A misdemeanor:

311 (A) any theft, any robbery, or any burglary with intent to commit theft;

312 (B) any offense under Part 5, Fraud; or

313 (C) any attempt to commit any offense under Subsection ~~[(3)(b)(iii)(A)]~~ (3)(b)(ii)

314 or (B);

315 ~~[(iv)]~~ (iii)(A) the value of property is or exceeds \$500 but is less than \$1,500;

316 (B) the theft occurs on a property where the offender has committed any theft

317 within the past five years; and

318 (C) the offender has received written notice from the merchant prohibiting the

319 offender from entering the property pursuant to Subsection 78B-3-108(4); or

320 ~~[(v)]~~ (iv) the actor has been previously convicted of a felony violation of any of the

321 offenses listed in Subsections ~~[(3)(b)(iii)(A) through (3)(b)(iii)(C)]~~ (3)(b)(ii)(A)

322 through (3)(b)(ii)(C), if the prior offense was committed within 10 years before

323 the date of the current conviction or the date of the offense upon which the current

324 conviction is based;

325 (c) a class A misdemeanor if:

326 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

327 (ii)(A) the value of property is less than \$500;

328 (B) the theft occurs on a property where the offender has committed any theft

329 within the past five years; and

330 (C) the offender has received written notice from the merchant prohibiting the

331 offender from entering the property pursuant to Subsection 78B-3-108(4); or

332 (iii) the actor has been twice before convicted of any of the offenses listed in

333 Subsections ~~[(3)(b)(iii)(A) through (3)(b)(iii)(C)]~~ (3)(b)(ii)(A) through (3)(b)(ii)(C),

334 if each prior offense was committed within 10 years before the date of the current

conviction or the date of the offense upon which the current conviction is based; or
 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 theft is not an offense under Subsection (3)(c).

Section 5. Section **76-6-405** is amended to read:

76-6-405 . Theft by deception.

(1)(a) As used in this section, "puffing" means an exaggerated commendation of wares
 or worth in a communication addressed to an individual, group, or the public.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) An actor commits theft by deception if the actor obtains or exercises control over
 property of another person:

(i) by deception; and

(ii) with a purpose to deprive the other person of property.

(b) The deception described in Subsection (2)(a)(i) and the deprivation described in
 Subsection (2)(a)(ii) may occur at separate times.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the property is or exceeds \$5,000; or

(ii) property stolen is a firearm or an operable motor vehicle;

(b) a third degree felony if:

(i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

~~[(ii) the property:]~~

~~[(A) is a catalytic converter as defined under Section 76-6-1402; or]~~

~~[(B) 25 pounds or more of a suspect metal item as defined under Section~~

~~76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or~~

~~contains aluminum or copper and is not a lead battery;]~~

~~[(iii)]~~ (ii) the value of the property is or exceeds \$500 and the actor has been twice

before convicted of any of the following offenses, if each prior offense was

committed within 10 years before the date of the current conviction or the date of

the offense upon which the current conviction is based and at least one of those

convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection ~~[(3)(b)(iii)(A) or (B)]~~

(3)(b)(ii)(A) or (B);

369 ~~[(iv)]~~ (iii)(A) the value of property is or exceeds \$500 but is less than \$1,500;
 370 (B) the theft occurs on a property where the offender has committed any theft
 371 within the past five years; and
 372 (C) the offender has received written notice from the merchant prohibiting the
 373 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 374 ~~[(v)]~~ (iv) the actor has been previously convicted of a felony violation of any of the
 375 offenses listed in Subsections ~~[(3)(b)(iii)(A) through (3)(b)(iii)(C)]~~ (3)(b)(ii)(A)
 376 through (3)(b)(ii)(C), if the prior offense was committed within 10 years before
 377 the date of the current conviction or the date of the offense upon which the current
 378 conviction is based;

379 (c) a class A misdemeanor if:

380 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
 381 (ii)(A) the value of property is less than \$500;
 382 (B) the theft occurs on a property where the offender has committed any theft
 383 within the past five years; and
 384 (C) the offender has received written notice from the merchant prohibiting the
 385 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 386 (iii) the actor has been twice before convicted of any of the offenses listed in
 387 Subsections ~~[(3)(b)(iii)(A) through (3)(b)(iii)(C)]~~ (3)(b)(ii)(A) through (3)(b)(ii)(C),
 388 if each prior offense was committed within 10 years before the date of the current
 389 conviction or the date of the offense upon which the current conviction is based; or

390 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 391 theft is not an offense under Subsection (3)(c).

392 (4) Theft by deception does not occur when there is only:

393 (a) falsity as to matters having no pecuniary significance; or
 394 (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

395 Section 6. Section **76-6-406** is amended to read:

396 **76-6-406 . Theft by extortion.**

397 (1)(a) As used in this section, extortion occurs when an actor threatens to:

398 (i) cause physical harm in the future to the person threatened, to any other person, or
 399 to property at any time;
 400 (ii) subject the person threatened or any other person to physical confinement or
 401 restraint;
 402 (iii) engage in other conduct constituting a crime;

- (iv) accuse any person of a crime or expose any person to hatred, contempt, or ridicule;
- (v) reveal any information sought to be concealed by the person threatened;
- (vi) testify, provide information, or withhold testimony or information with respect to a person's legal claim or defense;
- (vii) take action as an official against anyone or anything, or withhold official action, or cause such action or withholding;
- (viii) bring about or continue a strike, boycott, or other similar collective action to obtain property that is not demanded or received for the benefit of the group that the actor purports to represent; or
- (ix) do any other act which would not in itself substantially benefit the actor but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

(b) Terms defined in Section 76-1-101.5 apply to this section.

- (2) An actor commits theft by extortion if the actor obtains or exercises control over the property of another person by extortion and with a purpose to deprive the person of the person's property.

- (3) A violation of Subsection (2) is:

(a) a second degree felony if the:

- (i) value of the property is or exceeds \$5,000;
- (ii) property stolen is a firearm or an operable motor vehicle; or
- (iii) property is stolen from the person of another;

(b) a third degree felony if:

- (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

~~[(ii) the property is:]~~

~~[(A) a catalytic converter as defined under Section 76-6-1402; or]~~

~~[(B) 25 pounds or more of a suspect metal item as defined under Section~~

~~76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;]~~

- ~~[(iii)]~~ (ii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those

- convictions is for a class A misdemeanor:
- (A) any theft, any robbery, or any burglary with intent to commit theft;
 - (B) any offense under Part 5, Fraud; or
 - (C) any attempt to commit any offense under Subsection ~~[(3)(b)(iii)(A) or (B)]~~
(3)(b)(ii)(A) or (B);
- ~~[(iv)]~~ (iii)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
 - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- ~~[(v)]~~ (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections ~~[(3)(b)(iii)(A) through (3)(b)(iii)(C)]~~ (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
- (c) a class A misdemeanor if:
- (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
 - (ii)(A) the value of property is less than \$500;
 - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
 - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
 - (iii) the actor has been twice before convicted of any of the offenses listed in Subsections ~~[(3)(b)(iii)(A) through (3)(b)(iii)(C)]~~ (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).
- (4)(a) A person who is adversely impacted by the conduct prohibited in Subsection (2) may bring a civil action for equitable relief and damages.
- (b) In accordance with Section 78B-2-305, a person who brings an action under Subsection (4)(a) shall commence the action within three years after the day on which the cause of action arises.
- Section 7. Section **76-6-415** is enacted to read:

76-6-415 . Metal or catalytic converter theft.

(1)(a) As used in this section:

(i) "Catalytic converter" means the same as that term is defined in Section 76-6-1402.

(ii) "Ferrous metal" means the same as that term is defined in Section 76-6-1402.

(iii)(A) "Metal" means nonferrous metal, ferrous metal, or regulated metal.

(B) "Metal" includes suspect metal items.

(C) "Metal" does not include jewelry.

(iv) "Nonferrous metal" means the same as that term is defined in Section 76-6-1402.

(v) "Regulated metal" means the same as that term is defined in Section 76-6-1402.

(vi) "Suspect metal items" means the same as that term is defined in Section 76-6-1402.

(b) Terms defined in Sections 76-1-101.5 and 76-6-401 apply to this section.

(2) An actor commits metal or catalytic converter theft if the actor obtains or exercises unauthorized control over another person's metal or catalytic converter with a purpose to deprive the person of the person's metal or catalytic converter.

(3) A violation of Subsection (2) is:

(a) a second degree felony if:

(i) the value of the metal is or exceeds \$5,000; or

(ii) the metal is stolen from the person of another;

(b) a third degree felony if:

(i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

(ii) the property is:

(A) a catalytic converter; or

(B) 25 pounds or more of a suspect metal item if the value is less than \$5,000 and the suspect metal item is made of or contains aluminum or copper and is not a lead battery;

(iii) the value of the metal is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

- (iv)(A) the value of the metal is or exceeds \$500 but is less than \$1,500;
(B) the theft occurs on a property where the actor has committed any theft within the past five years; and
(C) the actor has received written notice from the merchant prohibiting the actor from entering the property pursuant to Subsection 78B-3-108(4); or
(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

- (i) the value of the metal stolen is or exceeds \$500 but is less than \$1,500;
(ii)(A) the value of the metal is less than \$500;
(B) the theft occurs on a property where the actor has committed any theft within the past five years; and
(C) the actor has received written notice from the merchant prohibiting the actor from entering the property pursuant to Subsection 78B-3-108(4); or
(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the value of the metal stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

Section 8. Section **76-6-602** is amended to read:

76-6-602 . Retail theft.

- (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
(2) An actor commits retail theft if the actor knowingly:
(a) takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment with the intention of:
(i) retaining the merchandise; or
(ii) depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of the merchandise;
(b)(i) alters, transfers, or removes any label, price tag, marking, indicia of value, or any other markings which aid in determining value of any merchandise displayed,

held, stored, or offered for sale, in a retail mercantile establishment; and

(ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of the merchandise;

(c) transfers any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment from the container in or on which the merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of the merchandise;

(d) under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

(e) removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use, or benefit of the shopping cart.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the:

(i) value of the merchandise or shopping cart is or exceeds \$5,000;

(ii) merchandise stolen is a firearm or an operable motor vehicle; or

(b) a third degree felony if:

(i) the value of the merchandise is or exceeds \$1,500 but is less than \$5,000;

~~[(ii) the merchandise is:]~~

~~[(A) a catalytic converter as defined under Section 76-6-1402; or]~~

~~[(B) 25 pounds or more of a suspect metal item as defined under Section~~

~~76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;]~~

~~[(iii)]~~ (ii) the value of the merchandise or shopping cart is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection ~~[(3)(b)(iii)(A) or (B)]~~

(3)(b)(ii)(A) or (B);

~~[(iv)]~~ (iii)(A) the value of merchandise or shopping cart is or exceeds \$500 but is

- 573 less than \$1,500;
- 574 (B) the theft occurs in a retail mercantile establishment or on the premises of a
- 575 retail mercantile establishment where the offender has committed any theft
- 576 within the past five years; and
- 577 (C) the offender has received written notice from the merchant prohibiting the
- 578 offender from entering the retail mercantile establishment or premises of a
- 579 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 580 ~~[(v)]~~ (iv) the actor has been previously convicted of a felony violation of any of the
- 581 offenses listed in Subsections ~~[(3)(b)(iii)(A) through (3)(b)(iii)(C)]~~ (3)(b)(ii)(A)
- 582 through (3)(b)(ii)(C), if the prior offense was committed within 10 years before
- 583 the date of the current conviction or the date of the offense upon which the current
- 584 conviction is based;
- 585 (c) a class A misdemeanor if:
- 586 (i) the value of the merchandise or shopping cart stolen is or exceeds \$500 but is less
- 587 than \$1,500;
- 588 (ii)(A) the value of merchandise or shopping cart is less than \$500;
- 589 (B) the theft occurs in a retail mercantile establishment or premises of a retail
- 590 mercantile establishment where the offender has committed any theft within
- 591 the past five years; and
- 592 (C) the offender has received written notice from the merchant prohibiting the
- 593 offender from entering the retail mercantile establishment or premises of a
- 594 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 595 (iii) the actor has been twice before convicted of any of the offenses listed in
- 596 Subsections ~~[(3)(b)(iii)(A) through (3)(b)(iii)(C)]~~ (3)(b)(ii)(A) through (3)(b)(ii)(C),
- 597 if each prior offense was committed within 10 years before the date of the current
- 598 conviction or the date of the offense upon which the current conviction is based; or
- 599 (d) a class B misdemeanor if the value of the merchandise or shopping cart stolen is less
- 600 than \$500 and the theft is not an offense under Subsection (3)(c).

601 Section 9. Section **76-6-1402** is amended to read:

602 **76-6-1402 . Definitions.**

603 As used in this part:

- 604 (1) "Catalytic converter" means a motor vehicle exhaust system component that reduces
- 605 vehicle emissions by breaking down harmful exhaust emissions.
- 606 (2) "Dealer" means:

(a) a scrap metal processor or secondary metals dealer or recycler, but does not include:

(i) junk dealers as defined in Section 76-6-1402;

(ii) solid waste management facilities as defined in Section 19-6-502; or

(iii) the following businesses that are authorized to accept delivery of used lead batteries for recycling under Sections 19-6-603, 19-6-604, and 19-6-605:

(A) retailers;

(B) wholesalers;

(C) battery manufacturers; and

(D) secondary lead smelters.

(b) a metals refiner.

(3) "Ferrous metal" means a metal that contains significant quantities of iron or steel.

(4) "Identification" means a form of positive identification issued by a state of the United States or the United States federal government that:

(a) contains a numerical identifier and a photograph of the person identified;

(b) provides the date of birth of the person identified; and

(c) includes a state identification card, a state driver license, a United States military identification card, or a United States passport.

(5) "Junk dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand or castoff material, including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not including regulated metal.

(6) "Local law enforcement agency" means the law enforcement agency that has jurisdiction over the area where the dealer's business is located.

(7) "Metals refiner" means an individual or business that refines or melts any regulated metal, but does not include an individual or business that primarily uses ore, concentrate, or other primary materials in refining, melting, or producing any regulated metal.

(8) "Nonferrous metal":

(a) means a metal that does not contain significant quantities of iron or steel; and

(b) includes copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

(9)(a) "Regulated metal" means any item composed primarily of nonferrous metal, except as provided in Subsection (9)(c).

(b) "Regulated metal" includes:

(i) aluminum, brass, copper, lead, chromium, tin, nickel, or alloys of these metals, except under Subsection (9)(c), and lead that is a part of an automotive or industrial lead battery;

- 641 (ii) property that is a regulated metal and that is owned by, and also identified by
642 marking or other means as the property of:
643 (A) a telephone, cable, electric, water, or other utility; or
644 (B) a railroad company;
645 (iii) unused and undamaged building construction materials made of metal or alloy,
646 including:
647 (A) copper pipe, tubing, or wiring; and
648 (B) aluminum wire, siding, downspouts, or gutters;
649 (iv) oil well rigs, including any part of the rig;
650 (v) nonferrous materials, stainless steel, and nickel; and
651 (vi) irrigation pipe.
- 652 (c) "Regulated metal" does not include:
653 (i) ferrous metal, except as provided in Subsection (9)(b)(ii) or (iv);
654 (ii) household-generated recyclable materials;
655 (iii) items composed wholly of light iron or sheet steel;
656 (iv) aluminum beverage containers; or
657 (v) containers used solely for containing food.
- 658 (10) "Scrap metal processor" means any person:
659 (a) who, from a fixed location, utilizes machinery and equipment for processing and
660 manufacturing iron, steel, or nonferrous scrap into prepared grades; and
661 (b) whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not
662 including precious metals, for sale for remelting purposes.
- 663 (11) "Secondary metals dealer or recycler" means any person who:
664 (a) is engaged in the business of purchasing, collecting, or soliciting regulated metal; or
665 (b) operates or maintains a facility where regulated metal is purchased or kept for
666 shipment, sale, transfer, or salvage.
- 667 (12) "Suspect metal items" are the following items made of regulated metal:
668 (a) manhole covers and sewer grates;
669 (b) gas meters and water meters;
670 (c) traffic signs, street signs, aluminum street light poles, communications transmission
671 towers, and guard rails;
672 (d) grave site monument vases and monument plaques;
673 (e) any monument plaque;
674 (f) brass or bronze bar stock and bar ends;

- 675 (g) ingots;
- 676 (h) nickel and nickel alloys containing greater than 50% nickel;
- 677 (i) #1 and #2 copper as defined by the most recent [~~institute of Scrap Recycling~~
678 ~~Industries, Inc., Scrap Specifications Circular~~] materials specifications circular issued
679 by the Recycled Materials Association;
- 680 (j) unused and undamaged building materials, including:
- 681 (i) greenline copper;
- 682 (ii) copper pipe, tubing, or wiring; and
- 683 (iii) aluminum wire, siding, downspouts, or gutters;
- 684 (k) catalytic converters;
- 685 (l) automotive and industrial lead batteries; [-]and
- 686 (m) wire that has been burned or that has the appearance of having been burned.

687 Section 10. Section **76-10-1602** is amended to read:

688 **76-10-1602 . Definitions.**

689 As used in this part:

- 690 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
691 business trust, association, or other legal entity, and any union or group of individuals
692 associated in fact although not a legal entity, and includes illicit as well as licit entities.
- 693 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
694 commission of at least three episodes of unlawful activity, which episodes are not
695 isolated, but have the same or similar purposes, results, participants, victims, or methods
696 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
697 together, the episodes shall demonstrate continuing unlawful conduct and be related
698 either to each other or to the enterprise. At least one of the episodes comprising a
699 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
700 constituting part of a pattern of unlawful activity as defined by this part shall have
701 occurred within five years of the commission of the next preceding act alleged as part of
702 the pattern.
- 703 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
704 interest in property, including state, county, and local governmental entities.
- 705 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,
706 encourage, or intentionally aid another person to engage in conduct which would
707 constitute any offense described by the following crimes or categories of crimes, or to
708 attempt or conspire to engage in an act which would constitute any of those offenses,

- 709 regardless of whether the act is in fact charged or indicted by any authority or is
710 classified as a misdemeanor or a felony:
- 711 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
712 Recording Practices Act;
 - 713 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
714 Code, Sections 19-1-101 through 19-7-109;
 - 715 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
716 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
717 Section 23A-5-311;
 - 718 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
719 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
 - 720 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
721 Offenses and Procedure Act;
 - 722 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
723 Uniform Land Sales Practices Act;
 - 724 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
725 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
726 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
727 Chapter 37d, Clandestine Drug Lab Act;
 - 728 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
729 Securities Act;
 - 730 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
731 Procurement Code;
 - 732 (j) assault under Section 76-5-102;
 - 733 (k) aggravated assault under Section 76-5-103;
 - 734 (l) a threat of terrorism under Section 76-5-107.3;
 - 735 (m) a criminal homicide offense under Section 76-5-201;
 - 736 (n) kidnapping under Section 76-5-301;
 - 737 (o) aggravated kidnapping under Section 76-5-302;
 - 738 (p) human trafficking for labor under Section 76-5-308;
 - 739 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
 - 740 (r) human smuggling under Section 76-5-308.3;
 - 741 (s) human trafficking of a child under Section 76-5-308.5;
 - 742 (t) benefiting from trafficking and human smuggling under Section 76-5-309;

743 (u) aggravated human trafficking under Section 76-5-310;
 744 (v) sexual exploitation of a minor under Section 76-5b-201;
 745 (w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
 746 (x) arson under Section 76-6-102;
 747 (y) aggravated arson under Section 76-6-103;
 748 (z) causing a catastrophe under Section 76-6-105;
 749 (aa) burglary under Section 76-6-202;
 750 (bb) aggravated burglary under Section 76-6-203;
 751 (cc) burglary of a vehicle under Section 76-6-204;
 752 (dd) manufacture or possession of an instrument for burglary or theft under Section
 753 76-6-205;
 754 (ee) robbery under Section 76-6-301;
 755 (ff) aggravated robbery under Section 76-6-302;
 756 (gg) theft under Section 76-6-404;
 757 (hh) theft by deception under Section 76-6-405;
 758 (ii) theft by extortion under Section 76-6-406;
 759 (jj) receiving stolen property under Section 76-6-408;
 760 (kk) theft of services under Section 76-6-409;
 761 (ll) metal or catalytic converter theft under Section 76-6-415;
 762 ~~[(H)]~~ (mm) forgery under Section 76-6-501;
 763 ~~[(mm)]~~ (nn) unlawful use of financial transaction card under Section 76-6-506.2;
 764 ~~[(nn)]~~ (oo) unlawful acquisition, possession, or transfer of financial transaction card
 765 under Section 76-6-506.3;
 766 ~~[(oo)]~~ (pp) financial transaction card offenses under Section 76-6-506.6;
 767 ~~[(pp)]~~ (qq) deceptive business practices under Section 76-6-507;
 768 ~~[(qq)]~~ (rr) bribery or receiving bribe by person in the business of selection, appraisal, or
 769 criticism of goods under Section 76-6-508;
 770 ~~[(rr)]~~ (ss) bribery of a labor official under Section 76-6-509;
 771 ~~[(ss)]~~ (tt) defrauding creditors under Section 76-6-511;
 772 ~~[(tt)]~~ (uu) acceptance of deposit by insolvent financial institution under Section 76-6-512;
 773 ~~[(uu)]~~ (vv) unlawful dealing with property by fiduciary under Section 76-6-513;
 774 ~~[(vv)]~~ (ww) bribery or threat to influence contest under Section 76-6-514;
 775 ~~[(ww)]~~ (xx) making a false credit report under Section 76-6-517;
 776 ~~[(xx)]~~ (yy) criminal simulation under Section 76-6-518;

777 [~~(yy)~~] (zz) criminal usury under Section 76-6-520;
 778 [~~(zz)~~] (aaa) insurance fraud under Section 76-6-521;
 779 [~~(aaa)~~] (bbb) retail theft under Section 76-6-602;
 780 [~~(bbb)~~] (ccc) computer crimes under Section 76-6-703;
 781 [~~(eee)~~] (ddd) identity fraud under Section 76-6-1102;
 782 [~~(ddd)~~] (eee) mortgage fraud under Section 76-6-1203;
 783 [~~(eee)~~] (fff) sale of a child under Section 76-7-203;
 784 [~~(fff)~~] (ggg) bribery to influence official or political actions under Section 76-8-103;
 785 [~~(ggg)~~] (hhh) threat to influence official or political action under Section 76-8-104;
 786 [~~(hhh)~~] (iii) receiving bribe or bribery by public servant under Section 76-8-105;
 787 [~~(iii)~~] (jjj) receiving bribe for endorsement of person as a public servant under Section
 788 76-8-106;
 789 [~~(jjj)~~] (kkk) bribery for endorsement of person as public servant under Section 76-8-106.1;
 790 [~~(kkk)~~] (lll) official misconduct based on unauthorized act or failure of duty under Section
 791 76-8-201;
 792 [~~(lll)~~] (mmm) official misconduct concerning inside information under Section 76-8-202;
 793 [~~(mmm)~~] (nnn) obstruction of justice in a criminal investigation or proceeding under
 794 Section 76-8-306;
 795 [~~(nnn)~~] (ooo) acceptance of bribe or bribery to prevent criminal prosecution under
 796 Section 76-8-308;
 797 [~~(ooo)~~] (ppp) harboring or concealing offender who has escaped from official custody
 798 under Section 76-8-309.2;
 799 [~~(ppp)~~] (qqq) making a false or inconsistent material statement under Section 76-8-502;
 800 [~~(qqq)~~] (rrr) making a false or inconsistent statement under Section 76-8-503;
 801 [~~(rrr)~~] (sss) making a written false statement under Section 76-8-504;
 802 [~~(sss)~~] (ttt) tampering with a witness under Section 76-8-508;
 803 [~~(ttt)~~] (uuu) retaliation against a witness, victim, or informant under Section 76-8-508.3;
 804 [~~(uuu)~~] (vvv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
 805 [~~(vvv)~~] (www) extortion or bribery to dismiss a criminal proceeding under Section
 806 76-8-509;
 807 [~~(www)~~] (xxx) tampering with evidence under Section 76-8-510.5;
 808 [~~(xxx)~~] (yyy) falsification or alteration of a government record under Section 76-8-511, if
 809 the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
 810 Lobbyist Disclosure and Regulation Act;

811 [~~(yyy)~~] (zzz) public assistance fraud by an applicant for public assistance under Section
 812 76-8-1203.1;
 813 [~~(zzz)~~] (aaaa) public assistance fraud by a recipient of public assistance under Section
 814 76-8-1203.3;
 815 [~~(aaaa)~~] (bbbb) public assistance fraud by a provider under Section 76-8-1203.5;
 816 [~~(bbbb)~~] (cccc) fraudulently misappropriating public assistance funds under Section
 817 76-8-1203.7;
 818 [~~(eeee)~~] (dddd) false statement to obtain or increase unemployment compensation under
 819 Section 76-8-1301;
 820 [~~(dddd)~~] (eeee) false statement to prevent or reduce unemployment compensation or
 821 liability under Section 76-8-1302;
 822 [~~(eeee)~~] (ffff) unlawful failure to comply with Employment Security Act requirements
 823 under Section 76-8-1303;
 824 [~~(ffff)~~] (gggg) unlawful use or disclosure of employment information under Section
 825 76-8-1304;
 826 [~~(gggg)~~] (hhhh) intentionally or knowingly causing one animal to fight with another
 827 under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;
 828 [~~(hhhh)~~] (iiii) possession, use, or removal of explosives, chemical, or incendiary devices
 829 or parts under Section 76-10-306;
 830 [~~(iiii)~~] (jjjj) delivery to common carrier, mailing, or placement on premises of an
 831 incendiary device under Section 76-10-307;
 832 [~~(jjjj)~~] (kkkk) possession of a deadly weapon with intent to assault under Section
 833 76-10-507;
 834 [~~(kkkk)~~] (llll) unlawful marking of pistol or revolver under Section 76-10-521;
 835 [~~(llll)~~] (mmmm) alteration of number or mark on pistol or revolver under Section
 836 76-10-522;
 837 [~~(mmmm)~~] (nnnn) forging or counterfeiting trademarks, trade name, or trade device
 838 under Section 76-10-1002;
 839 [~~(nnnn)~~] (oooo) selling goods under counterfeited trademark, trade name, or trade
 840 devices under Section 76-10-1003;
 841 [~~(oooo)~~] (pppp) sales in containers bearing registered trademark of substituted articles
 842 under Section 76-10-1004;
 843 [~~(pppp)~~] (qqqq) selling or dealing with article bearing registered trademark or service
 844 mark with intent to defraud under Section 76-10-1006;

[(qqqq)] (rrrr) gambling under Section 76-10-1102;
 [(rrrr)] (ssss) gambling fraud under Section 76-10-1103;
 [(ssss)] (tttt) gambling promotion under Section 76-10-1104;
 [(tttt)] (uuuu) possessing a gambling device or record under Section 76-10-1105;
 [(uuuu)] (vvvv) confidence game under Section 76-10-1109;
 [(vvvv)] (wwww) distributing pornographic material under Section 76-10-1204;
 [(wwww)] (xxxx) inducing acceptance of pornographic material under Section
 76-10-1205;
 [(xxxx)] (yyyy) dealing in harmful material to a minor under Section 76-10-1206;
 [(yyyy)] (zzzz) distribution of pornographic films under Section 76-10-1222;
 [(zzzz)] (aaaa) indecent public displays under Section 76-10-1228;
 [(aaaa)] (bbbb) prostitution under Section 76-10-1302;
 [(bbbb)] (cccc) aiding prostitution under Section 76-10-1304;
 [(eeee)] (dddd) exploiting prostitution under Section 76-10-1305;
 [(dddd)] (eeee) aggravated exploitation of prostitution under Section 76-10-1306;
 [(eeee)] (ffff) communications fraud under Section 76-10-1801;
 [(ffff)] (ggggg) an act prohibited by the criminal provisions of Part 19, Money
 Laundering and Currency Transaction Reporting Act;
 [(ggggg)] (hhhhh) vehicle compartment for contraband under Section 76-10-2801;
 [(hhhhh)] (iiii) an act prohibited by the criminal provisions of the laws governing
 taxation in this state; or
 [(iiii)] (jjjj) an act illegal under the laws of the United States and enumerated in 18
 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 11. Section **78B-3-108** is amended to read:

78B-3-108 . Shoplifting -- Merchant's rights -- Civil liability for shoplifting by adult or minor -- Criminal conviction not a prerequisite for civil liability -- Written notice required for penalty demand.

(1) As used in this section:

- (a) "Merchandise" has the same meaning as provided in Section 76-6-601.
- (b) "Merchant" has the same meaning as provided in Section 76-6-601.
- (c) "Minor" has the same meaning as provided in Section 76-6-601.
- (d) "Premises" has the same meaning as "retail mercantile establishment" found in Section 76-6-601.

(2)(a) A merchant may request an individual on the merchant's premises to place or keep

in full view any merchandise the individual may have removed, or which the merchant has reason to believe the individual may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other reasonable purpose.

(b) The merchant may not be criminally or civilly liable for having made the request.

(3)(a) A merchant who has reason to believe that an individual has committed any of the offenses listed in Subsection [~~76-6-404(3)(b)(iii)(A), (B), or (C)~~] 76-6-404(3)(b)(ii)(A), (B), or (C) and that the merchant can recover the merchandise by taking the individual into custody and detaining the individual may, for the purpose of attempting to recover the merchandise or for the purpose of informing a peace officer of the circumstances of the detention, take the individual into custody and detain the individual in a reasonable manner and for a reasonable length of time.

(b) Neither the merchant nor the merchant's employee may be criminally or civilly liable for false arrest, false imprisonment, slander, or unlawful detention or for any other type of claim or action unless the custody and detention are unreasonable under all the circumstances.

(4)(a) A merchant may prohibit an individual who has committed any of the offenses listed in Subsection [~~76-6-404(3)(b)(iii)~~] 76-6-404(3)(b)(ii) from reentering the premises on which the individual has committed the offense.

(b) The merchant shall give written notice of this prohibition to the individual under Subsection (4)(a). The notice may be served by:

(i) delivering a copy to the individual personally;

(ii) sending a copy through registered or certified mail addressed to the individual at the individual's residence or usual place of business;

(iii) leaving a copy with an individual of suitable age and discretion at either location under Subsection (4)(b)(ii) and mailing a copy to the individual at the individual's residence or place of business if the individual is absent from the residence or usual place of business; or

(iv) affixing a copy in a conspicuous place at the individual's residence or place of business.

(c) The individual serving the notice may authenticate service with the individual's signature, the method of service, and legibly documenting the date and time of service.

(5) An adult who commits any of the offenses listed in Subsection [~~76-6-404(3)(b)(iii)(A),~~

- 913 ~~(B), or (C)]~~ 76-6-404(3)(b)(ii)(A), (B), or (C) is also liable in a civil action for:
- 914 (a) actual damages;
- 915 (b) a penalty to the merchant in the amount of the retail price of the merchandise not to
- 916 exceed \$1,000; and
- 917 (c) an additional penalty as determined by the court of not less than \$100 nor more than
- 918 \$500, plus court costs and reasonable attorney fees.
- 919 (6) A minor who commits any of the offenses listed in Subsection ~~[76-6-404(3)(b)(iii)(A),~~
- 920 ~~(B), or (C)]~~ 76-6-404(3)(b)(ii)(A), (B), or (C) and the minor's parents or legal guardian
- 921 are jointly and severally liable in a civil action to the merchant for:
- 922 (a) actual damages;
- 923 (b) a penalty to be remitted to the merchant in the amount of the retail price of the
- 924 merchandise not to exceed \$500 plus an additional penalty as determined by the court
- 925 of not less than \$50 nor more than \$500; and
- 926 (c) court costs and reasonable attorney fees.
- 927 (7) A parent or guardian is not liable for damages under this section if the parent or
- 928 guardian made a reasonable effort to restrain the wrongful taking and reported it to the
- 929 merchant involved or to the law enforcement agency having primary jurisdiction once
- 930 the parent or guardian knew of the minor's unlawful act. A report is not required under
- 931 this section if the minor was arrested or apprehended by a peace officer or by anyone
- 932 acting on behalf of the merchant involved.
- 933 (8) A conviction in a criminal action for any of the offenses listed in Subsection [~~76-6-404(3)(b)(iii)(A), (B), or (C)]~~ 76-6-404(3)(b)(ii)(A), (B), or (C) is not a condition
- 934 precedent to a civil action authorized under Subsection (5) or (6).
- 935
- 936 (9)(a) A merchant demanding payment of a penalty under Subsection (5) or (6) shall give
- 937 written notice to the individual or individuals from whom the penalty is sought. The notice
- 938 shall state:
- 939 "IMPORTANT NOTICE: The payment of any penalty demanded of you does not
- 940 prevent criminal prosecution under a related criminal provision."
- 941 (b) This notice shall be boldly and conspicuously displayed, in at least the same size
- 942 type as is used in the demand, and shall be sent with the demand for payment of the
- 943 penalty described in Subsection (5) or (6).
- 944 (10) The provision of Section 78B-8-201 requiring that compensatory or general damages
- 945 be awarded in order to award punitive damages does not prohibit an award of a penalty
- 946 under Subsection (5) or (6) whether or not restitution has been paid to the merchant

947 either prior to or as part of a civil action.

948 Section 12. **Effective Date.**

949 This bill takes effect on July 1, 2025.