

MAINE STATE LEGISLATURE

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SAR
ROS

L.D. 796

Date: 4/11/22

(Filing No. S-539)

TRANSPORTATION

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STATE OF MAINE

SENATE

130TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 61, L.D. 796, "An Act To Restrict Sales of Catalytic Converters Removed from Motor Vehicles"

Amend the bill by striking out the title and substituting the following:

'An Act Governing the Sale, Purchase, Removal, Transport and Disposal of Catalytic Converters Removed from Motor Vehicles, Governing Scrap Metal Processors and Creating the Motor Vehicle Services Fund'

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 29-A MRSA §101, sub-§13-A is enacted to read:

13-A. Catalytic converter. "Catalytic converter" means a device installed in the exhaust system of a motor vehicle that uses a catalyst to convert pollutant gases into less harmful gases.

Sec. 2. 29-A MRSA §159 is enacted to read:

§159. Motor Vehicle Services Fund

1. Fund created. The Motor Vehicle Services Fund, referred to in this section as "the fund," is established as a nonlapsing fund in the bureau.

2. Use of funds. Money deposited into the fund may be used by the bureau for motor vehicle-related projects and services.

3. Source of funds. Money deposited in the fund includes, but is not limited to, revenue transferred into the fund pursuant to the sale of catalytic converters forfeited to the State under section 1113, subsection 15. The fund may accept funds from other sources.

Sec. 3. 29-A MRSA §952, sub-§1-B, as enacted by PL 2021, c. 216, §28, is amended to read:

1-B. Vehicles. A dealer shall:

1 A. On all used motor vehicles offered for sale, ensure that the written vehicle history
2 statement is conspicuously affixed to the vehicle pursuant to Title 10, section 1475;
3 and

4 B. For all vehicles sold, comply with the provisions of Title 10, chapter 217-; and

5 C. For a motor vehicle sold at retail to the end consumer, engrave the vehicle
6 identification number on the catalytic converter in a location that is visible from the
7 underside of the motor vehicle. The vehicle identification number engraved on the
8 catalytic converter must be legible. This paragraph does not require a dealer to engrave
9 the vehicle identification number on the catalytic converter if:

10 (1) The motor vehicle is sold at wholesale; or

11 (2) The catalytic converter is not in a location where it is clearly visible from the
12 underside of the motor vehicle.

13 **Sec. 4. 29-A MRS §1113** is enacted to read:

14 **§1113. Catalytic converters**

15 This section governs the sale, purchase, removal, transport and disposal of catalytic
16 converters that have been removed from motor vehicles. The exemptions provided in
17 section 1102 do not apply to the provisions of this section.

18 **1. Removal from a motor vehicle.** This subsection governs the removal of a catalytic
19 converter from a motor vehicle.

20 A. Except as provided in subsections 2, 3 and 4, a recycler may not remove a catalytic
21 converter from a motor vehicle if the catalytic converter does not have the vehicle
22 identification number of the vehicle engraved on the catalytic converter in accordance
23 with section 952, subsection 1-B, paragraph C unless the recycler, immediately upon
24 removal, engraves or marks the catalytic converter in a location that is clearly visible,
25 and in a manner that is permanent and legible, with:

26 (1) The vehicle identification number of the motor vehicle; or

27 (2) The recycler's license number and a stock number from a stock number system
28 used by the recycler.

29 A person who violates this paragraph commits a Class E crime.

30 B. Except as provided in subsections 2 and 3, a person who is not a recycler may not
31 remove a catalytic converter from a motor vehicle if the catalytic converter does not
32 have the vehicle identification number of the motor vehicle engraved on the catalytic
33 converter in accordance with section 952, subsection 1-B, paragraph C unless the
34 person, immediately upon removal, marks the catalytic converter in a location that is
35 clearly visible, and in a manner that is permanent and legible, with the vehicle
36 identification number of the motor vehicle.

37 A person who violates this paragraph commits a Class E crime.

38 **2. Damage or missing vehicle identification number upon removal.** If a person is
39 not able to identify the vehicle identification number of the motor vehicle the catalytic
40 converter is attached to or the catalytic converter is too damaged to mark in a manner that
41 is permanent and legible, the person may remove the catalytic converter from the motor

1 vehicle only if the person follows the process established by the Secretary of State under
2 subsection 14.

3 **3. Motor vehicle repair and maintenance.** If a person engaged in the repair or
4 maintenance of a motor vehicle must temporarily remove the catalytic converter from the
5 motor vehicle in order to complete the repair or maintenance, that person is not required to
6 mark the catalytic converter in accordance with subsection 1. This subsection does not
7 exempt a person from the marking requirements in subsection 1 if the person attaches the
8 catalytic converter to a different motor vehicle than the motor vehicle undergoing repair or
9 maintenance or sells, trades or transfers the catalytic converter to another person.

10 **4. Marking or recording in the event of final disposal or deconstruction.** If a
11 recycler is removing a catalytic converter from a motor vehicle for the purpose of final
12 disposal or deconstruction under subsection 8, the recycler is not required to mark the
13 catalytic converter in accordance with subsection 1. A recycler removing a catalytic
14 converter from a motor vehicle for the purpose of final disposal shall:

15 A. Mark the catalytic converter with the recycler's license number in a location that is
16 clearly visible and in a manner that is permanent and legible; and

17 B. Maintain a record of the catalytic converter the recycler removed from a motor
18 vehicle and the manner in which it was disposed.

19 **5. Prohibition on purchase or sale.** This subsection governs the purchase and sale of
20 a catalytic converter that has been removed from a motor vehicle.

21 A. A person who is not a recycler may not operate a business that deals in the purchase
22 of catalytic converters that have been removed from motor vehicles or the
23 deconstruction or disposal of catalytic converters that have been removed from motor
24 vehicles.

25 A person who violates this paragraph commits a Class E crime.

26 B. A person who is not a recycler may not purchase a catalytic converter that has been
27 removed from a motor vehicle.

28 A person who violates this paragraph commits a Class E crime.

29 C. A person who is not a recycler may sell a catalytic converter only if the catalytic
30 converter has been properly marked in accordance with subsection 1 or 14 or section
31 952, subsection 1-B, paragraph C.

32 A person who violates this paragraph commits a Class E crime.

33 **6. Purchase or sale by recyclers.** The following provisions govern the purchase, sale
34 or acquisition by a recycler of a catalytic converter that has been removed from a motor
35 vehicle.

36 A. A recycler may not purchase, sell or acquire a catalytic converter unless it has been
37 engraved or marked in accordance with subsection 1 or 14 or section 952, subsection
38 1-B, paragraph C.

39 A person who violates this paragraph commits a Class D crime.

40 B. A recycler may not sell a catalytic converter to a person other than a recycler.

41 A person who violates this paragraph commits a Class E crime.

1 C. A recycler may not purchase or acquire a catalytic converter unless the recycler,
2 within 10 days of the purchase or acquisition, submits a report of the transaction to a
3 property and recovery tracking system administered by a regional law enforcement
4 support organization designated by the Secretary of State that includes:

5 (1) The name and address of the recycler who purchased or acquired the catalytic
6 converter;

7 (2) The date and time of the purchase or acquisition;

8 (3) The name, address, date of birth, telephone number and unique identifying
9 number from a valid form of identification of the person who conveyed the
10 catalytic converter to the recycler;

11 (4) The vehicle identification number or recycler's license number and stock
12 number from a stock number system used by the recycler marked on the catalytic
13 converter at the time of the purchase or acquisition; and

14 (5) The purchase price, if any, of the catalytic converter.

15 A person who violates this paragraph commits a Class E crime.

16 **7. Records of purchases made by recyclers.** This subsection governs the record-
17 keeping requirements for a recycler that purchases a catalytic converter that has been
18 removed from a motor vehicle.

19 A. Except as provided in paragraph C, a recycler shall maintain an accurate and legible
20 record of each catalytic converter purchase transaction.

21 A person who violates this paragraph commits a Class E crime.

22 B. A recycler shall provide payment to a seller only in the form of a credit card, as
23 defined in Title 9-A, section 1-301, subsection 16, a debit card, as defined in Title 10,
24 section 1271, subsection 3, or a check. If payment is made by check, the recycler shall
25 maintain a record of the payee, check number and name of the financial institution
26 upon which the check is drawn.

27 A person who violates this paragraph commits a Class E crime.

28 C. A recycler is not required to maintain individual records for a series of catalytic
29 converter purchase transactions made pursuant to a written contract or bill of sale.

30 D. The record of each catalytic converter purchase transaction required under
31 paragraph A must be on a form prescribed by the Commissioner of Public Safety and
32 contain the following information:

33 (1) The name and address of the seller. The recycler shall require the seller to
34 provide proof of identification with a driver's license, military identification card,
35 passport or other form of government-issued photographic identification. The
36 recycler shall photocopy the form of photographic identification presented and
37 record the distinct identifying number of that photographic identification. If the
38 proof of identification contains a photograph that is faded, out of date or otherwise
39 indiscernible, the recycler shall photograph the seller. A recycler shall keep these
40 proof of identification records in a secure, nonpublic location and, unless otherwise
41 permitted by law, may not publish, reproduce, distribute or disclose these records
42 for any other purpose than that described in paragraph E, subparagraph (2).

COMMITTEE AMENDMENT

- 1 Information required under this subparagraph may be maintained for repeat sellers
- 2 in a relational database that allows the recycler to record the information one time
- 3 and relate future purchase records to that information;
- 4 (2) The date of the catalytic converter purchase transaction;
- 5 (3) A general description of the catalytic converter purchased, which must be made
- 6 in accordance with the custom of the trade;
- 7 (4) The weight, quantity or volume of the catalytic converters purchased, which
- 8 must be recorded in accordance with the custom of the trade;
- 9 (5) The consideration paid;
- 10 (6) A signed statement that the seller is the owner or is otherwise authorized to sell
- 11 the catalytic converter on a form provided by the buyer that conspicuously bears
- 12 the warning that making a false statement is a Class D crime under Title 17-A,
- 13 section 453; and
- 14 (7) The make, model number and state of issue of the license plate of the vehicle
- 15 being used to deliver the catalytic converter.

16 A person who violates this paragraph commits a Class E crime.

17 E. A recycler shall maintain records under this subsection, which must be:

- 18 (1) Retained for a period of 5 years; and
- 19 (2) Made available to any law enforcement officer of the State or of any
- 20 municipality or county.

21 A person who violates this paragraph commits a Class E crime.

22 **8. Final disposal and deconstruction.** This subsection governs the final disposal or
 23 deconstruction of a catalytic converter.

24 A. A person other than a recycler may not finally dispose of or deconstruct a catalytic
 25 converter that has been removed from a motor vehicle or remove the contents of a
 26 catalytic converter that has been removed from a motor vehicle.

27 A person who violates this paragraph commits a Class E crime.

28 B. A recycler may not finally dispose of or deconstruct a catalytic converter that has
 29 been removed from a motor vehicle or remove the contents of a catalytic converter that
 30 has been removed from a motor vehicle unless:

- 31 (1) The recycler has complied with the requirements of subsection 6, paragraph C;
- 32 and
- 33 (2) The catalytic converter has been engraved or marked in accordance with
- 34 subsection 1 or 14 or section 952, subsection 1-B, paragraph C.

35 A person who violates this paragraph commits a Class E crime.

36 For the purposes of this section, "final disposal" or "finally dispose of" means the disposal
 37 or deconstruction of a catalytic converter in a manner that ensures the catalytic converter
 38 will not be sold or reused as a catalytic converter following the disposal or deconstruction.

39 **9. Transportation.** The following provisions govern the transportation of a catalytic
 40 converter that has been removed from a motor vehicle.

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A. A person may not transport a catalytic converter that has been removed from a motor vehicle that the person has reason to know has not been engraved or marked in accordance with subsection 1 or 14 or section 952, subsection 1-B, paragraph C.

A person who violates this paragraph commits a Class E crime.

B. A recycler may not transport a catalytic converter that has been removed from a motor vehicle if the recycler has reason to know that the catalytic converter is not properly identified on a manifest required under this paragraph.

(1) For any catalytic converter that is not engraved or marked with a vehicle identification number and is being transported by a recycler, the recycler shall possess a manifest that includes the relevant stock number, the name of the recycler that marked the catalytic converter with the stock number from a stock number system used by the recycler, the vehicle identification number of the motor vehicle from which the catalytic converter was removed and the license number of the recycler transporting the catalytic converter.

(2) For any catalytic converter marked for final disposal under subsection 4 and being transported by a recycler, the recycler shall possess a manifest that includes the name of the recycler that marked the catalytic converter, the license number of the recycler transporting the catalytic converter, the total number of catalytic converters being transported for final disposal and the name and address of the person receiving the catalytic converters marked for final disposal.

A person who violates this paragraph commits a Class E crime.

10. Misrepresentation. A person may not mark a catalytic converter with a vehicle identification number that the person has reason to know is not the vehicle identification number of the motor vehicle from which the catalytic converter was removed.

A person who violates this subsection commits a Class E crime.

11. Unlawful possession. A person may not knowingly possess a catalytic converter that has been removed from a motor vehicle unless:

A. The catalytic converter has been properly marked in accordance with subsection 1 or 14 or section 952, subsection 1-B, paragraph C; or

B. The person has requested a new identification number and is awaiting a determination from the Secretary of State under subsection 14.

A person who violates this subsection commits a Class D crime.

12. Defacing of markings. A person may not deface or remove from a catalytic converter the markings required under subsection 1 or 14 or section 952, subsection 1-B, paragraph C.

A person who violates this subsection commits a Class D crime.

13. Aggravated possession or defacing of markings. A person who violates subsection 11 or 12 and at the time of the violation has a prior conviction for violating subsection 11 or 12 that is less than 5 years old commits a Class C crime.

14. State-issued identification number. If a person is in possession of a catalytic converter that has been removed from a motor vehicle and the person has determined that the vehicle identification number of the motor vehicle from which the catalytic converter

1 is removed cannot be identified or that the catalytic converter is too damaged to mark in a
2 manner that is permanent and legible, the person shall, as soon as possible, submit a request
3 for the Secretary of State to assign an identification number to the catalytic converter. A
4 person submitting a request for the Secretary of State to assign an identification number to
5 a catalytic converter must provide appropriate documentation of that person's ownership of
6 the catalytic converter and any other appropriate information required by the Secretary of
7 State by rule.

8 Upon receipt of a request that fulfills the requirements of this subsection, the Secretary of
9 State shall assign a temporary request identification number and issue documentation to
10 the requestor that certifies the person has complied with this subsection for a temporary
11 period of up to 30 days. The person shall keep the documentation with the catalytic
12 converter about which the request was made at all times. Prior to the expiration of the
13 temporary request certification, the Secretary of State shall make a determination as to
14 whether the requestor is the lawful owner of the catalytic converter and, if the Secretary of
15 State determines the person is the lawful owner, shall issue an identification number to the
16 catalytic converter. Upon issuing an identification number the Secretary of State shall mark
17 or label the catalytic converter or record the identification number in a manner specified by
18 the Secretary of State. The Secretary of State may not require the requestor to transport the
19 catalytic converter in order for the Secretary of State to mark the catalytic converter.

20 No later than January 1, 2023 the Secretary of State shall adopt rules necessary to
21 implement this subsection. Rules adopted under this subsection are routine technical rules
22 as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted by the Secretary of State
23 under this subsection must include but are not limited to:

24 A. The manner by which a person may submit a request under this subsection;

25 B. A list of the appropriate forms of documentation sufficient to prove ownership of a
26 catalytic converter under this subsection;

27 C. Any other information or documentation the Secretary of State determines
28 appropriate for a requestor to provide under this subsection; and

29 D. The manner in which the Secretary of State must mark, label or record a new
30 identification number issued to a catalytic converter under this subsection.

31 **15. Seizure and forfeiture.** Any catalytic converter possessed in violation of this
32 section is contraband and is subject to forfeiture to the State in accordance with this
33 subsection.

34 A. Whenever a law enforcement officer seizes a catalytic converter for violation of this
35 section, the law enforcement officer shall within a reasonable time frame file a libel
36 with a judge that includes the following:

37 (1) A description sufficient to identify the catalytic converter;

38 (2) A description sufficient to identify the location from which the catalytic
39 converter was seized;

40 (3) The identity, if available, of the person in possession of the catalytic converter
41 at the time of seizure;

42 (4) A statement of the violation that caused the seizure; and

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(5) A request for a decree of forfeiture of the catalytic converter.

B. Upon receipt of a libel filed under this subsection the judge shall fix a time and place for a hearing and shall issue notice to all relevant parties to appear at the time and place indicated in the notice and to show cause for why the catalytic converter should not be declared forfeited. The judge shall provide a true and attested copy of the libel to the person from whom the catalytic converter was seized and to the lawful owner of the catalytic converter, if different from the person from whom the catalytic converter was seized and if that person can be reasonably located and identified. At least 10 days prior to the hearing, the judge shall also ensure that notice is posted in at least 2 public and conspicuous places determined by the judge to be adequate to provide notice to any additional interested parties.

C. In lieu of forfeiture proceedings, a catalytic converter seized under this subsection may be transferred in writing to the State by the owner. If ownership of the catalytic converter is transferred to the State, a receipt for the catalytic converter must be given to the former owner by the law enforcement officer who seized the catalytic converter.

D. The Secretary of State shall mark a catalytic converter forfeited to the State under this subsection in a manner determined appropriate by the Secretary of State. After marking a catalytic converter forfeited under this subsection, the Secretary of State may dispose of the catalytic converter in a manner considered appropriate by the Secretary of State, including, but not limited to, selling the catalytic converter to a recycler. Any proceeds from the sale of a catalytic converter under this subsection must be placed in the Motor Vehicle Services Fund established under section 159.

Sec. 5. 30-A MRSA §3775, first ¶, as enacted by PL 2007, c. 549, §1, is amended to read:

A scrap metal processor may not engage in the sale, purchase or acquisition of motor vehicles or motor vehicle parts unless that person is a recycler under Title 29-A, chapter 9, subchapter 6. A seller may not sell and a scrap metal processor may not purchase the following scrap metal unless the seller provides to the scrap metal processor, in addition to the requirements of section 3772, subsection 3, a signed statement at the time of sale that the property subject to this transaction is not stolen property to the best of the seller's knowledge, and that the seller is the owner or is otherwise authorized to sell the scrap metal:

Sec. 6. Public awareness of catalytic converter regulation. The Secretary of State shall provide information for posting at the Department of the Secretary of State, Bureau of Motor Vehicles branch locations and on the bureau's publicly accessible website that promotes public awareness of the requirements related to catalytic converters under the Maine Revised Statutes, Title 29-A, section 1113. The Secretary of State may solicit and accept assistance from municipalities or other relevant entities to develop and distribute the information it is required to provide under this section. The Secretary of State may advertise on radio, television or other media in order to provide information it is required to provide under this section. Information provided under this section must include but is not limited to information to:

1. Raise public awareness about the requirement to mark catalytic converters under Title 29-A, section 1113;

- 1 2. Assist persons in identifying a catalytic converter that is required to be marked under
- 2 Title 29-A, section 1113, and how that marking must be made;
- 3 3. Inform persons of the process for when and how to request an identification number
- 4 for a catalytic converter under Title 29-A, section 1113, subsection 14; and
- 5 4. Raise public awareness of the potential criminal violations for those who violate the
- 6 requirements of Title 29-A, section 1113.

7 **Sec. 7. Transition.** A recycler in possession of a catalytic converter who does not
 8 submit a report as required by the Maine Revised Statutes, Title 29-A, section 1113,
 9 subsection 6 is not in violation of that subsection until the Secretary of State has designated
 10 a system described in that subsection.

11 A person in possession of a catalytic converter for which an identification number may
 12 be requested under Title 29-A, section 1113, subsection 14 does not violate that subsection
 13 or subsection 11 by failing to request an identification number until the Secretary of State
 14 has adopted rules necessary to implement Title 29-A, section 1113, subsection 14.

15 This section is repealed January 1, 2023.

16 **Sec. 8. Appropriations and allocations.** The following appropriations and
 17 allocations are made.

18 **SECRETARY OF STATE, DEPARTMENT OF**
 19 **Administration - Motor Vehicles 0077**

20 Initiative: Provides funding for one Senior Motor Vehicle Detective position, 3 Motor
 21 Vehicle Detective positions and one Customer Representative Associate II position and
 22 related costs to support the catalytic converter project.

23 HIGHWAY FUND	2021-22	2022-23
24 POSITIONS - LEGISLATIVE COUNT	0.000	5.000
25 Personal Services	\$0	\$504,029
26 All Other	\$0	\$263,579
27		
28 HIGHWAY FUND TOTAL	\$0	\$767,608

29 **Administration - Motor Vehicles 0077**

30 Initiative: Establishes the Motor Vehicle Services Fund to accept funds from the sale of
 31 forfeited catalytic converters.

32 OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
33 All Other	\$0	\$500
34		
35 OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

37 **SECRETARY OF STATE, DEPARTMENT OF**
 38 **DEPARTMENT TOTALS**

39	2021-22	2022-23
40 HIGHWAY FUND	\$0	\$767,608
41 OTHER SPECIAL REVENUE FUNDS	\$0	\$500

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DEPARTMENT TOTAL - ALL FUNDS \$0 \$768,108

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill and does the following.

1. It defines the term "catalytic converter" as a device installed in the exhaust system of a motor vehicle that uses a catalyst to convert pollutant gases into less harmful gases.

2. It requires all vehicle dealers in the State to, for all motor vehicles sold at retail to the end consumer, engrave the vehicle identification number on the catalytic converter in a location that is visible from the underside of the motor vehicle, unless the catalytic converter is not in a location that is clearly visible from the underside of the motor vehicle.

3. It creates a legal framework governing the sale, purchase, removal, transport and disposal of catalytic converters that have been removed from motor vehicles and establishes criminal penalties for violations of that legal framework.

4. It requires that a person who is a licensed scrap metal processor must also be licensed as a recycler if, as part of that person's scrap metal processing business, that person engages in the purchase or sale of motor vehicles or motor vehicle parts.

5. It directs the Secretary of State to provide information for posting at the Department of the Secretary of State, Bureau of Motor Vehicles branch locations and on the bureau's publicly accessible website to promote public awareness of the requirements related to catalytic converters.

6. It establishes the Motor Vehicle Services Fund for revenue from the sale of catalytic converters forfeited to the State which may be used by the bureau for motor vehicle-related projects and services.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 796

LR 180(02)

An Act To Restrict Sales of Catalytic Converters Removed from Motor Vehicles

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-539)
 Committee: Transportation
 Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund

Minor revenue increase - General Fund

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
Highway Fund	\$0	\$767,608	\$697,843	\$718,945
Appropriations/Allocations				
Highway Fund	\$0	\$767,608	\$697,843	\$718,945
Other Special Revenue Funds	\$0	\$500	\$500	\$500

Correctional and Judicial Impact Statements

Establishes new Class C, Class D and Class E crimes.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional fines may increase General Fund or other dedicated revenue by minor amounts.

The bill creates a Class C crime for unlawful possession of a catalytic converter or defacing of markings of a catalytic converter if the individual has a prior conviction of these provisions that is less than 5 years old. It is unclear how many additional individuals will be convicted of a Class C crime who otherwise would not have been. The current average cost of incarcerating one individual for a single year is \$55,203.

Fiscal Detail and Notes

The bill includes a Highway Fund allocation to the Department of Secretary of State of \$767,608 in fiscal year 2022-23 for one Senior Motor Vehicle Detective position, 3 Motor Vehicle Detective positions and one Customer Representative Associate II position and related costs to support the catalytic converter project. The bill also establishes the Motor Vehicle Services Fund within the Department of Secretary of State with an Other Special Revenue Funds allocation of \$500 beginning in fiscal year 2022-23 to accept funds from the sale of forfeited catalytic converters.