



**MEMORANDUM**

**TO:** The Pennsylvania House Judiciary Committee

**FROM:** Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

**DATE:** May 23, 2022

**RE: OPPOSITION TO HB 2290 P.N. 2696 (ISSACSON)**

**Bill summary:** [HB 2290](#) (PN 2696) would amend [18 Pa. C.S. § 3935.1](#) (theft of secondary metal) to expand the definition of secondary metal to include “catalytic converter.”

**On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose House Bill 2290.**

Stealing a catalytic converter would already be covered under a nearly identical existing offense, [§ 3934. Theft from a motor vehicle](#). In fact, the table below highlights the striking similarities between the two offenses.

Creating [duplicative offenses](#) does nothing other than to expand prosecutorial power to charge multiple offenses for the same action, which results in coercive plea deals, longer periods of incarceration, and needless increases to the ever-expanding \$3 billion+ price tag for Pennsylvania’s corrections budget.

**Please stop duplicating crimes—vote no on HB 2290.**

<a href="#">§ 3935.1. Theft of secondary metal (HB 2290)</a>	<a href="#">§ 3934. Theft from a motor vehicle</a>
<p><b>Offense defined.</b>--A person commits the offense of theft of secondary metal if the person unlawfully takes or attempts to take possession of, carries away or exercises unlawful control over any secondary metal with intent to deprive the rightful owner thereof.</p>	<p><b>Offense defined.</b>--A person commits the offense of theft from a motor vehicle if he unlawfully takes or attempts to take possession of, carries away or exercises unlawful control over any movable property of another from a motor vehicle with the intent to deprive him thereof.</p>
<p><b>Grading.</b>--Except as set forth in subsection (c):</p> <p>(1) An offense under this section constitutes a misdemeanor of the third degree when the value of the secondary metal unlawfully obtained is less than \$50.</p> <p>(2) When the value of the secondary metal unlawfully obtained is \$50 or more but less than \$200, the offense constitutes a misdemeanor of the second degree.</p> <p>(3) When the value of the secondary metal unlawfully obtained is \$200 or more but less than \$1,000, the offense constitutes a misdemeanor of the first degree.</p> <p>(4) When the value of the secondary metal unlawfully obtained is \$1,000 or more, the offense constitutes a felony of the third degree.</p>	<p><b>(b) Grading.</b>--</p> <p>(1) An offense under this section is:</p> <p>(i) a misdemeanor of the third degree if the amount involved was less than \$50; or</p> <p>(ii) a misdemeanor of the second degree if the amount involved was \$50 or more but less than \$200; or</p> <p>(iii) a misdemeanor of the first degree if the amount involved was greater than \$200.</p>
<p><b>(c) Third or subsequent offenses.</b>--An offense under this section constitutes a felony of the third degree when the offense is a third or subsequent offense, regardless of the value of the secondary metal.</p>	<p>(2) When the offense is a <b>third or subsequent offense</b> within a five-year period, regardless of the amount involved and regardless of the grading of the prior offenses, an offense under this section is a felony of the third degree.</p>
<p><b>(d) Definition.</b>--As used in this section, the term "secondary metal" means wire, pipe or cable commonly used by communications, gas, water, wastewater and electrical utilities and railroads and mass transit or commuter rail agencies, <b>a catalytic converter</b>, copper, aluminum or other metal, or a combination of metals, that is valuable for recycling or reuse as raw material.</p>	