## **SENATE BILL No. 1193**

March 6, 2008, Introduced by Senators RICHARDVILLE, WHITMER, CHERRY, BIRKHOLZ, JELINEK, KAHN, HARDIMAN and PAPPAGEORGE and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code,"

by amending section 356a (MCL 750.356a), as amended by 1998 PA 311.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 356a. (1) A person who commits larceny by stealing or
- 2 unlawfully removing or taking any wheel, tire, air bag, CATALYTIC
- 3 CONVERTER, radio, stereo, clock, telephone, computer, or other
- 4 electronic device in or on any motor vehicle, house trailer,
- 5 trailer, or semitrailer is quilty of a felony punishable by
- 6 imprisonment for not more than 5 years or a fine of not more than
- 7 \$10,000.00, or both.
- **8** (2) Except as provided in subsection (3), a person who enters
- 9 or breaks into a motor vehicle, house trailer, trailer, or

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- 1 semitrailer to steal or unlawfully remove property from it is
- 2 guilty of a crime as follows:
- 3 (a) If the value of the property is less than \$200.00, the
- 4 person is guilty of a misdemeanor punishable by imprisonment for
- 5 not more than 93 days or a fine of not more than \$500.00 or 3 times
- 6 the value of the property, whichever is greater, or both
- 7 imprisonment and a fine.
- 8 (b) If any of the following apply, the person is guilty of a
- 9 misdemeanor punishable by imprisonment for not more than 1 year or
- 10 a fine of not more than \$2,000.00 or 3 times the value of the
- 11 property, whichever is greater, or both imprisonment and a fine:
- 12 (i) The value of the property is \$200.00 or more but less than
- **13** \$1,000.00.
- 14 (ii) The person violates subdivision (a) and has 1 or more
- 15 prior convictions for committing or attempting to commit an offense
- 16 under this section or a local ordinance substantially corresponding
- 17 to this section.
- 18 (c) If any of the following apply, the person is guilty of a
- 19 felony punishable by imprisonment for not more than 5 years or a
- 20 fine of not more than \$10,000.00 or 3 times the value of the
- 21 property, whichever is greater, or both imprisonment and a fine:
- 22 (i) The value of the property is \$1,000.00 or more but less
- 23 than \$20,000.00.
- 24 (ii) The person violates subdivision (b) (i) and has 1 or more
- 25 prior convictions for violating or attempting to violate this
- 26 section. For purposes of this subparagraph, however, a prior
- 27 conviction does not include a conviction for a violation or

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- 1 attempted violation of subdivision (a) or (b) (ii).
- 2 (d) If any of the following apply, the person is guilty of a
- 3 felony punishable by imprisonment for not more than 10 years or a
- 4 fine of not more than \$15,000.00 or 3 times the value of the
- 5 property, whichever is greater, or both imprisonment and a fine:
- 6 (i) The property has a value of \$20,000.00 or more.
- 7 (ii) The person violates subdivision (c) (i) and has 2 or more
- 8 prior convictions for committing or attempting to commit an offense
- 9 under this section. For purposes of this subparagraph, however, a
- 10 prior conviction does not include a conviction for a violation or
- 11 attempted violation of subdivision (a) or (b) (ii).
- 12 (3) A person who violates subsection (2)(a) or (b) and who
- 13 breaks, tears, cuts, or otherwise damages any part of the motor
- 14 vehicle, house trailer, trailer, or semitrailer is guilty of a
- 15 felony punishable by imprisonment for not more than 5 years or a
- 16 fine of not more than \$10,000.00, or both, regardless of the value
- 17 of the property.
- 18 (4) The values of property stolen or unlawfully removed in
- 19 separate incidents pursuant to a scheme or course of conduct within
- 20 any 12-month period may be aggregated to determine the total value
- 21 of property stolen or unlawfully removed.
- 22 (5) If the prosecuting attorney intends to seek an enhanced
- 23 sentence based upon the defendant having 1 or more prior
- 24 convictions, the prosecuting attorney shall include on the
- 25 complaint and information a statement listing the prior conviction
- 26 or convictions. The existence of the defendant's prior conviction
- 27 or convictions shall be determined by the court, without a jury, at

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## Senate Bill No. 1193 as amended December 18, 2008

- 1 sentencing or at a separate hearing for that purpose before
- 2 sentencing. The existence of a prior conviction may be established
- 3 by any evidence relevant for that purpose, including, but not
- 4 limited to, 1 or more of the following:
- 5 (a) A copy of the judgment of conviction.
- 6 (b) A transcript of a prior trial, plea-taking, or sentencing.
- 7 (c) Information contained in a presentence report.
- **8** (d) The defendant's statement.
- 9 (6) If the sentence for a conviction under this section is
- 10 enhanced by 1 or more prior convictions, those prior convictions
- 11 shall not be used to further enhance the sentence for the
- 12 conviction pursuant to section 10, 11, or 12 of chapter IX of the
- 13 code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and
- **14** 769.12.

[Enacting section 1. This amendatory act takes effect April 1, 2009.]

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