

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 guilty 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

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

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

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.