

Legislative Analysis



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DEALING IN STOLEN GOODS

Senate Bill 1234 (Substitute H-1)

Sponsor: Sen. Alan L. Cropsey

House Committee: Judiciary

Senate Committee: Judiciary

First Analysis (7-11-06)

BRIEF SUMMARY: The bill would make it a crime for a person to receive or possess stolen goods or motor vehicles if he or she had reason to know or reason to believe that the goods or motor vehicle were stolen.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on state and local governments. A more detailed fiscal analysis follows later in the document.

THE APPARENT PROBLEM:

Current law makes it a crime to buy, receive, or possess stolen property or to conceal stolen property if the person knew the property was stolen. A similar provision applies to motor vehicles. The problem is that some courts are throwing out cases arising from "sting" operations conducted by law enforcement agencies based on the fact that the property or motor vehicles involved in setting up the sting were not stolen to begin with or it couldn't be proven that the property or motor vehicles had been stolen. At the request of the Wayne County Sheriff's Department, legislation has been offered to revise the intent language of the current provisions to include those persons who have a reason to know or to believe they are dealing in stolen goods.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Penal Code (MCL 750.535) to extend penalties for buying, receiving, possessing, and concealing stolen or converted property to a person who had reason to know or reason to believe that the property had been stolen, embezzled, or converted. The bill would take effect October 1, 2006.

The code prohibits a person from buying, receiving, possessing, concealing, or aiding in the concealment of a stolen motor vehicle or stolen, embezzled, or converted money, goods, or property. The bill would expand the provision to include persons who had reason to know or reason to believe that the motor vehicle, money, goods, or property had been stolen.

Further, the bill specifies that it would not be a defense to a charge under these provisions that the property was not stolen, embezzled, or converted property at the time of the violation if the property had been explicitly represented to the accused person as being stolen, embezzled, or converted property.

HOUSE COMMITTEE ACTION:

The committee adopted a substitute that added an effective date. In addition, the Senate-passed version expanded the above provision to include persons who had reasonable cause to believe that a motor vehicle or property was stolen, etc., whereas the House committee substitute expands the provision to include those who had reason to know or reason to believe the motor vehicle or property was stolen, embezzled, or converted.

FISCAL INFORMATION:

The bill's fiscal impact would depend on how it affected convictions and sentences for receiving and concealing stolen property. To the extent that more misdemeanor or felony convictions were obtained, the bill could increase local and state correctional costs. Costs of misdemeanor sanctions, whether jail or misdemeanor probation supervision, are borne by local units of government and vary by jurisdiction. Felons may be sentenced to prison, jail, probation, or some combination of jail and probation. Cost of jail incarceration borne by the county and varies from county to county. Costs of prison incarceration and felony probation supervision are borne by the state and average about \$30,000 per prisoner per year for prison incarceration and \$2,000 per supervised offender per year for parole/probation supervision. To the extent that additional penal fine revenues were collected under the bill, the bill could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

There are no data to indicate how frequently defendants would have reasonable cause to believe that they are receiving or concealing stolen property in violation of the bill, nor are there any data to indicate how many defendants are convicted of misdemeanor receiving/concealing. However, in 2003, there were over 2,300 sentences for felony offenses of receiving and concealing stolen property or its attempt. As shown in the table below, about 20 percent of those sentences were prison terms; the remainder were probation, jail, or some other sanction such as a suspended sentence or assignment to the Holmes Youthful Trainee Act.

2003 Felony Dispositions - Receiving and Concealing Stolen Property (MCL 750.535)										
	Prison		Probation		Jail		Other		Total	
	Number	%	Number	%	Number	%	Number	%	Number	%
Violations	435	24.5	935	52.7	225	12.7	178	10.0	1,773	100.0
Attempts	34	6.0	333	59.1	35	6.2	161	28.6	563	100.0
Total	469	20.1	1,268	54.3	260	11.1	339	14.5	2,336	100.0

In 2003, there were 281 commitments to the Department of Corrections for receiving/concealing stolen property or its attempt. Sentences ranged from six months to five years.

ARGUMENTS:

For:

The revisions proposed by the bill would enable law enforcement agencies and prosecutors to arrest and convict those operating illegal chop shops (businesses that buy or receive stolen vehicles and then dismantle them to sell the individual parts) and fencing operations (people or businesses that regularly buy and disseminate stolen jewelry, art work, electronics, and so on). Currently, it must be proven that a person knew the object was stolen. In the case of sting operations conducted by law enforcement agencies, vehicles or other property may be represented as being stolen, but may not actually have been stolen. Apparently, some courts have dismissed cases arising from sting operations if the vehicle or property used in the sting was not actually stolen or if the police agency cannot prove that it was stolen. The bill would close this legal loophole by extending the penalties to actions in which the person buying, possessing, or concealing the goods in question has reason to know or reason to believe that the goods or vehicle had been stolen; for example, if an object had been represented as being stolen.

Against:

The bill may reach beyond its stated intent of increasing prosecutions arising from sting operations of chop shops and fencing operations. The bill could be problematic for legitimate pawn shop or resale shop owners who purchase items from unconventional customers. For example, a young person bringing in an expensive item of jewelry could be the legitimate owner. If the person insisted he or she owned the object, is the store owner expected to decide the validity of the statement based on the age, dress, demeanor, address, or ethnicity of the person bearing the object for sale? Is it possible that the bill could inadvertently expose store owners to a choice between facing a discrimination lawsuit or prosecution under the new language based on the allegation that personal characteristics of the customer should have led them to believe that the object had been stolen?

POSITIONS:

A representative of the Wayne County Sheriff's Department testified in support of the bill. (6-28-06)

The Michigan Department of State Police indicated support for the bill. (6-28-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.