



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1234 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Alan L. Cropsy
Committee: Judiciary

Date Completed: 7-24-06

RATIONALE

The Michigan Penal Code prohibits a person from buying, receiving, possessing, or concealing stolen, embezzled, or converted money, goods, or property, knowing it to be stolen, embezzled, or converted. In investigating automobile theft and chop shop operations (in which stolen vehicles are dismantled and the parts sold), undercover law enforcement officers may set up a sting operation in which they represent automobile parts as being stolen. Apparently, charges against some individuals caught and arrested in these enforcement efforts have not been sustained because the parts used by the officers were not actually stolen property. To address this, it has been suggested that the prohibition should include situations in which the person had a reasonable belief that the property was stolen.

CONTENT

The bill would amend the Michigan Penal Code to extend penalties for dealing in stolen, embezzled, or converted property to a person who had reasonable cause to believe that the property was stolen, embezzled, or converted. The bill also would prohibit a defense that the property was not actually stolen, if it had been represented to the accused as stolen property.

The Code prohibits a person from buying, receiving, possessing, concealing, or aiding

in the concealment of stolen, embezzled, or converted money, goods, or property knowing the money, goods, or property is stolen, embezzled, or converted. Under the bill, the prohibition also would apply to a person who had reasonable cause to believe that the money, goods, or property was stolen, embezzled, or converted.

Similarly, the Code prohibits a person from buying, receiving, possessing, concealing, or aiding in the concealment of a stolen motor vehicle knowing that the vehicle is stolen, embezzled, or converted. The bill would include a person who had reasonable cause to believe that the motor vehicle was stolen, embezzled, or converted.

The bill also 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 were explicitly represented to the accused person as being stolen, embezzled, or converted property.

The penalties for an offense (other than one involving a motor vehicle) are shown in Table 1. The penalties are based on the value of the property and the number of prior convictions. In each case, the maximum fine is the amount listed or three times the value of the property, whichever is greater.

Table 1

Property Value	Prior Convictions	Offense	Maximum Imprisonment	Maximum Fine
< \$200		Misd.	93 days	\$500
< \$200	1 or more	Misd.	1 year	\$2,000
\$200-< \$1,000		Misd.	1 year	\$2,000
\$200-< \$1,000	1 or more	Felony	5 years	\$10,000
\$1,000-< \$20,000		Felony	5 years	\$10,000
\$1,000-< \$20,000	2 or more	Felony	10 years	\$15,000
\$20,000 or more		Felony	10 years	\$15,000

An offense involving a motor vehicle is a felony punishable by up to five years' imprisonment and/or a maximum fine of \$10,000 or three times the value of the vehicle, whichever is greater.

MCL 750.535

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Wayne County has far more automobile thefts than any other county in Michigan. The Wayne County Sheriff testified before the Judiciary Committee, however, that his efforts to fight the auto theft problem are hindered because the Penal Code's prohibition against receiving stolen property is interpreted to mean that the property actually must be stolen. While undercover officers have sold automobile parts they represented as being stolen to people they suspected of operating chop shops, charges of receiving stolen property in these cases evidently were dropped, or cases were dismissed, because the parts were not in fact stolen. By authorizing prosecution if the person receiving the property had a reasonable belief that it was stolen, and prohibiting a defense that the property was not stolen if it were represented to the accused person as being stolen, the bill would allow the Wayne County Sheriff's Department and other law enforcement agencies to be more effective in fighting automobile theft, and would slow down the flow of stolen vehicles in Michigan.

Supporting Argument

Steep automobile insurance rates are a major problem for some car owners in the Detroit area. Apparently, the high incidence

of auto theft in Detroit is part of the reason for expensive insurance in Michigan's largest urban area. If enforcement efforts were improved as a result of the bill, perhaps the rate of automobile theft would decline, thereby offering some consumer relief in the form of lower auto insurance rates.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of buying, receiving, possessing, concealing, or aiding in the concealment of a motor vehicle or money, goods, or property having reasonable cause to believe the property was stolen, embezzled, or converted. In 2003, there were 2,303 felony convictions (561 of which were for attempting the offense) under this section of the Penal Code. Of these, 452 offenders were sentenced to prison, 1,262 to probation, 250 to jail, and 339 to a delayed or suspended sentence or Holmes Youthful Trainee Act (HYTA) probation. There are no data to indicate the number of misdemeanor convictions under this section. To the extent that the bill would result in more convictions, local governments would incur increased costs of incarceration in local facilities, which vary by county. The State would incur increased costs of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.