

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1234

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 535 (MCL 750.535), as amended by 2002 PA 720.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 535. (1) A person shall not buy, receive, possess,
2 conceal, or aid in the concealment of stolen, embezzled, or
3 converted money, goods, or property knowing, **OR HAVING REASON TO**
4 **KNOW OR REASON TO BELIEVE, THAT** the money, goods, or property is
5 stolen, embezzled, or converted.

6 (2) If any of the following apply, a person who violates
7 subsection (1) is guilty of a felony punishable by imprisonment for
8 not more than 10 years or a fine of not more than \$15,000.00 or 3
9 times the value of the property purchased, received, possessed, or

1 concealed, whichever is greater, or both imprisonment and a fine:

2 (a) The property purchased, received, possessed, or concealed
3 has a value of \$20,000.00 or more.

4 (b) The ~~person violates subsection (3) (a) and~~ **PROPERTY**
5 **PURCHASED, RECEIVED, POSSESSED, OR CONCEALED HAS A VALUE OF**
6 **\$1,000.00 OR MORE BUT LESS THAN \$20,000.00, AND THE PERSON** has 2 or
7 more prior convictions for committing or attempting to commit an
8 offense under this section. For purposes of this subdivision,
9 however, a prior conviction does not include a conviction for a
10 violation or attempted violation of subsection (4) (b) or (5).

11 (3) If any of the following apply, a person who violates
12 subsection (1) is guilty of a felony punishable by imprisonment for
13 not more than 5 years or a fine of not more than \$10,000.00 or 3
14 times the value of the property purchased, received, possessed, or
15 concealed, whichever is greater, or both imprisonment and a fine:

16 (a) The property purchased, received, possessed, or concealed
17 has a value of \$1,000.00 or more but less than \$20,000.00.

18 (b) The ~~person violates subsection (4) (a) and~~ **PROPERTY**
19 **PURCHASED, RECEIVED, POSSESSED, OR CONCEALED HAS A VALUE OF \$200.00**
20 **OR MORE BUT LESS THAN \$1,000.00, AND THE PERSON** has 1 or more prior
21 convictions for committing or attempting to commit an offense under
22 this section. For purposes of this subdivision, however, a prior
23 conviction does not include a conviction for a violation or
24 attempted violation of subsection (4) (b) or (5).

25 (4) If any of the following apply, a person who violates
26 subsection (1) is guilty of a misdemeanor punishable by
27 imprisonment for not more than 1 year or a fine of not more than

1 \$2,000.00 or 3 times the value of the property purchased, received,
2 possessed, or concealed, whichever is greater, or both imprisonment
3 and a fine:

4 (a) The property purchased, received, possessed, or concealed
5 has a value of \$200.00 or more but less than \$1,000.00.

6 (b) The ~~person violates subsection (5) and~~ **PROPERTY**
7 **PURCHASED, RECEIVED, POSSESSED, OR CONCEALED HAS A VALUE OF LESS**
8 **THAN \$200.00, AND THE PERSON** has 1 or more prior convictions for
9 committing or attempting to commit an offense under this section or
10 a local ordinance substantially corresponding to this section.

11 (5) If the property purchased, received, possessed, or
12 concealed has a value of less than \$200.00, a person who violates
13 subsection (1) is guilty of a misdemeanor punishable by
14 imprisonment for not more than 93 days or a fine of not more than
15 \$500.00 or 3 times the value of the property purchased, received,
16 possessed, or concealed, whichever is greater, or both imprisonment
17 and a fine.

18 (6) The values of property purchased, received, possessed, or
19 concealed in separate incidents pursuant to a scheme or course of
20 conduct within any 12-month period may be aggregated to determine
21 the total value of property purchased, received, possessed, or
22 concealed.

23 (7) A person shall not buy, receive, possess, conceal, or aid
24 in the concealment of a stolen motor vehicle knowing, **OR HAVING**
25 **REASON TO KNOW OR REASON TO BELIEVE**, that the motor vehicle is
26 stolen, embezzled, or converted. A person who violates this
27 subsection is guilty of a felony punishable by imprisonment for not

1 more than 5 years or a fine of not more than \$10,000.00 or 3 times
2 the value of the motor vehicle purchased, received, possessed, or
3 concealed, whichever is greater, or both imprisonment and a fine. A
4 person who is charged with, convicted of, or punished for a
5 violation of this subsection shall not be convicted of or punished
6 for a violation of another provision of this section arising from
7 the purchase, receipt, possession, concealment, or aiding in the
8 concealment of the same motor vehicle. This subsection does not
9 prohibit the person from being charged, convicted, or punished
10 under any other applicable law.

11 (8) If the prosecuting attorney intends to seek an enhanced
12 sentence based upon the defendant having 1 or more prior
13 convictions, the prosecuting attorney shall include on the
14 complaint and information a statement listing the prior conviction
15 or convictions. The existence of the defendant's prior conviction
16 or convictions shall be determined by the court, without a jury, at
17 sentencing or at a separate hearing for that purpose before
18 sentencing. The existence of a prior conviction may be established
19 by any evidence relevant for that purpose, including, but not
20 limited to, 1 or more of the following:

- 21 (a) A copy of the judgment of conviction.
22 (b) A transcript of a prior trial, plea-taking, or sentencing.
23 (c) Information contained in a presentence report.
24 (d) The defendant's statement.

25 (9) A person who is a dealer in or collector of merchandise or
26 personal property, or the agent, employee, or representative of a
27 dealer or collector of merchandise or personal property who fails

1 to reasonably inquire whether the person selling or delivering the
2 stolen, embezzled, or converted property to the dealer or collector
3 has a legal right to do so or who buys or receives stolen,
4 embezzled, or converted property that has a registration, serial,
5 or other identifying number altered or obliterated on an external
6 surface of the property, is presumed to have bought or received the
7 property knowing the property is stolen, embezzled, or converted.
8 This presumption is rebuttable.

9 (10) 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.

15 **(11) IT IS NOT A DEFENSE TO A CHARGE UNDER THIS SECTION THAT**
16 **THE PROPERTY WAS NOT STOLEN, EMBEZZLED, OR CONVERTED PROPERTY AT**
17 **THE TIME OF THE VIOLATION IF THE PROPERTY WAS EXPLICITLY**
18 **REPRESENTED TO THE ACCUSED PERSON AS BEING STOLEN, EMBEZZLED, OR**
19 **CONVERTED PROPERTY.**

20 Enacting section 1. This amendatory act takes effect October
21 1, 2006.