

SENATE BILL No. 1234

April 27, 2006, Introduced by Senator CROPSEY and referred to the Committee on Judiciary.

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 REASONABLE**
4 **CAUSE TO BELIEVE, THAT** the money, goods, or property is stolen,
5 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
10 concealed, whichever is greater, or both imprisonment and a fine:

11 (a) The property purchased, received, possessed, or concealed

1 has a value of \$20,000.00 or more.

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

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

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

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

23 (4) If any of the following apply, a person who violates
24 subsection (1) is guilty of a misdemeanor punishable by
25 imprisonment for not more than 1 year or a fine of not more than
26 \$2,000.00 or 3 times the value of the property purchased, received,
27 possessed, or concealed, whichever is greater, or both imprisonment

1 and a fine:

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

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

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

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

21 (7) A person shall not buy, receive, possess, conceal, or aid
22 in the concealment of a stolen motor vehicle knowing, **OR HAVING**
23 **REASONABLE CAUSE TO BELIEVE**, that the motor vehicle is stolen,
24 embezzled, or converted. A person who violates this subsection is
25 guilty of a felony punishable by imprisonment for not more than 5
26 years or a fine of not more than \$10,000.00 or 3 times the value of
27 the motor vehicle purchased, received, possessed, or concealed,

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

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

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

23 (9) A person who is a dealer in or collector of merchandise or
24 personal property, or the agent, employee, or representative of a
25 dealer or collector of merchandise or personal property who fails
26 to reasonably inquire whether the person selling or delivering the
27 stolen, embezzled, or converted property to the dealer or collector

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

7 (10) If the sentence for a conviction under this section is
8 enhanced by 1 or more prior convictions, those prior convictions
9 shall not be used to further enhance the sentence for the
10 conviction pursuant to section 10, 11, or 12 of chapter IX of the
11 code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and
12 769.12.

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