

HOUSE BILL No. 5492

March 20, 2012, Introduced by Reps. Olson, Greimel, Tlaib, Smiley, Muxlow, Liss,
Kandrevas, Bauer and Brown and referred to the Committee on Regulatory Reform.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 356 (MCL 750.356), as amended by 2008 PA 431.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 356. (1) A person who commits larceny by stealing any of
2 the following property of another person is guilty of a crime as
3 provided in this section:

4 (a) Money, goods, or chattels.

5 (b) A bank note, bank bill, bond, promissory note, due bill,
6 bill of exchange or other bill, draft, order, or certificate.

7 (c) A book of accounts for or concerning money or goods due,
8 to become due, or to be delivered.

9 (d) A deed or writing containing a conveyance of land or other
10 valuable contract in force.

11 (e) A receipt, release, or defeasance.

1 (f) A writ, process, or public record.

2 (g) ~~Nonferrous~~ **SCRAP** metal.

3 (2) If any of the following apply, the person is guilty of a
4 felony punishable by imprisonment for not more than 10 years or a
5 fine of not more than \$15,000.00 or 3 times the value of the
6 property stolen, whichever is greater, or both imprisonment and a
7 fine:

8 (a) The property stolen has a value of \$20,000.00 or more.

9 (b) The person violates subsection (3)(a) and has 2 or more
10 prior convictions for committing or attempting to commit an offense
11 under this section. For purposes of this subdivision, however, a
12 prior conviction does not include a conviction for a violation or
13 attempted violation of subsection (4)(b) or (5).

14 (3) If any of the following apply, the person 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 3 times the value of the
17 property stolen, whichever is greater, or both imprisonment and a
18 fine:

19 (a) The property stolen has a value of \$1,000.00 or more but
20 less than \$20,000.00.

21 (b) The person violates subsection (4)(a) and has 1 or more
22 prior convictions for committing or attempting to commit an offense
23 under this section. For purposes of this subdivision, however, a
24 prior conviction does not include a conviction for a violation or
25 attempted violation of subsection (4)(b) or (5).

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

1 a fine of not more than \$2,000.00 or 3 times the value of the
2 property stolen, whichever is greater, or both imprisonment and a
3 fine:

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

6 (b) The person violates subsection (5) and has 1 or more prior
7 convictions for committing or attempting to commit an offense under
8 this section or a local ordinance substantially corresponding to
9 this section.

10 (5) If the property stolen has a value of less than \$200.00,
11 the person is guilty of a misdemeanor punishable by imprisonment
12 for not more than 93 days or a fine of not more than \$500.00 or 3
13 times the value of the property stolen, whichever is greater, or
14 both imprisonment and a fine.

15 (6) If the property stolen is ~~nonferrous~~**SCRAP** metal, then, as
16 used in this section, "the value of the property stolen" means the
17 greatest of the following:

18 (a) The replacement cost of the stolen ~~nonferrous~~**SCRAP** metal.

19 (b) The cost of repairing the damage caused by the larceny of
20 the ~~nonferrous~~**SCRAP** metal.

21 (c) The sum of subdivisions (a) and (b).

22 (7) The values of property stolen in separate incidents
23 pursuant to a scheme or course of conduct within any 12-month
24 period may be aggregated to determine the total value of property
25 stolen.

26 (8) If the prosecuting attorney intends to seek an enhanced
27 sentence based upon the defendant having 1 or more prior

1 convictions, the prosecuting attorney shall include on the
2 complaint and information a statement listing the prior conviction
3 or convictions. The existence of the defendant's prior conviction
4 or convictions shall be determined by the court, without a jury, at
5 sentencing or at a separate hearing for that purpose before
6 sentencing. The existence of a prior conviction may be established
7 by any evidence relevant for that purpose, including, but not
8 limited to, 1 or more of the following:

9 (a) A copy of the judgment of conviction.

10 (b) A transcript of a prior trial, plea-taking, or sentencing.

11 (c) Information contained in a presentence report.

12 (d) The defendant's statement.

13 (9) If the sentence for a conviction under this section is
14 enhanced by 1 or more prior convictions, those prior convictions
15 shall not be used to further enhance the sentence for the
16 conviction pursuant to section 10, 11, or 12 of chapter IX of the
17 code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and
18 769.12.

19 (10) As used in this section, ~~"nonferrous metal" means a metal~~
20 ~~that does not contain significant quantities of ferrous metal but~~
21 ~~contains copper, brass, platinum-based metals, aluminum, bronze,~~
22 ~~lead, zinc, nickel, or alloys of those metals.~~ **"SCRAP METAL" MEANS**
23 **THAT TERM AS DEFINED IN SECTION 3 OF THE SCRAP METAL REGULATORY**
24 **ACT, 2008 PA 429, MCL 445.423.**

25 Enacting section 1. This amendatory act does not take effect
26 unless all of the following bills of the 96th Legislature are
27 enacted into law:

1 (a) Senate Bill No. _____ or House Bill No. 5490 (request no.
2 03482'11 *).

3 (b) Senate Bill No. _____ or House Bill No. 5491 (request no.
4 03565'11 *).