

# HOUSE BILL No. 5653

May 22, 2012, Introduced by Reps. Brown, Tlaib and Nathan and referred to the Committee on Judiciary.

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.

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

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

3 (g) Nonferrous metal.

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

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

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

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

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

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

27 **(C) THE PROPERTY IS STOLEN FROM A PUBLIC SCHOOL AND HAS A**

1 **VALUE OF MORE THAN \$250.00.**

2 (4) ~~If~~**EXCEPT AS PROVIDED IN SUBSECTION (3) (C), IF** any of the  
3 following apply, the person is guilty of a misdemeanor punishable  
4 by imprisonment for not more than 1 year or a fine of not more than  
5 \$2,000.00 or 3 times the value of the property stolen, whichever is  
6 greater, or both imprisonment and a fine:

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

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

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

18 (6) If the property stolen is nonferrous metal, then, as used  
19 in this section, "the value of the property stolen" means the  
20 greatest of the following:

21 (a) The replacement cost of the stolen nonferrous metal.

22 (b) The cost of repairing the damage caused by the larceny of  
23 the nonferrous metal.

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

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

1 stolen.

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

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

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

14 (c) Information contained in a presentence report.

15 (d) The defendant's statement.

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

22 (10) As used in this section: ~~"nonferrous metal"~~

23 **(A) "NONFERROUS METAL"** means a metal that does not contain  
24 significant quantities of ferrous metal but contains copper, brass,  
25 platinum-based metals, aluminum, bronze, lead, zinc, nickel, or  
26 alloys of those metals.

27 **(B) "PUBLIC SCHOOL" MEANS A PUBLIC ELEMENTARY OR SECONDARY**

1 EDUCATIONAL ENTITY OR AGENCY THAT IS ESTABLISHED UNDER THE REVISED  
2 SCHOOL CODE, 1976 PA 451, MCL 380.1 TO 380.1852.