

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.540f Telecommunications access device; use in violation of MCL 750.219a; misdemeanor; violation of subsection (1) and previous conviction as felony; prior conviction; definitions.

Sec. 540f. (1) Except as provided in subsection (2), a person who knowingly or intentionally publishes a telecommunications access device or unlawful telecommunications access device with the intent that it be used or knowing or having reason to know that it will be used or is likely to be used to violate section 219a is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(2) A person who violates subsection (1) and has a previous conviction for a violation of section 219a or 540c or former section 219c is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both. For purposes of imposing fines under this section for a repeat offender, the fines shall be imposed for each telecommunications access device and unlawful telecommunications access device involved in the violation.

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

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.
- (4) As used in this section:

(a) "Publish" means to communicate information or make information available to 1 or more persons orally, in writing, or by means of any telecommunications. Publish includes, but is not limited to, communicating information on a computer bulletin board or similar system.

(b) "Telecommunications access device" shall have the same meaning as in section 219a.

(c) "Unlawful telecommunications access device" shall have the same meaning as in section 219a.

History: Add. 1996, Act 333, Eff. Apr. 1, 1997;—Am. 2002, Act 672, Eff. Mar. 31, 2003.