

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4895

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 535 (MCL 750.535), as amended by 2006 PA 374.

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 property purchased, received, possessed, or concealed
5 has a value of \$1,000.00 or more but less than \$20,000.00, and the
6 person has 2 or more prior convictions for committing or attempting
7 to commit an offense under this section. For purposes of this
8 subdivision, however, a prior conviction does not include a
9 conviction for a violation or attempted violation of subsection
10 (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 property purchased, received, possessed, or concealed
19 has a value of \$200.00 or more but less than \$1,000.00, and the
20 person has 1 or more prior convictions for committing or attempting
21 to commit an offense under this section. For purposes of this
22 subdivision, however, a prior conviction does not include a
23 conviction for a violation or attempted violation of subsection
24 (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 property purchased, received, possessed, or concealed
7 has a value of less than \$200.00, and the person has 1 or more
8 prior convictions for committing or attempting to commit an offense
9 under this section or a local ordinance substantially corresponding
10 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-EXCEPT AS PROVIDED IN SUBSECTION~~
27 **(8)**, A person who violates this subsection is guilty of a felony

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

12 **(8) A PERSON WHO VIOLATES SUBSECTION (7) AND HAS 1 OR MORE**
13 **PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE**
14 **UNDER THIS SECTION, OTHER THAN A VIOLATION OF SUBSECTION (4) (B) OR**
15 **(5), IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE**
16 **THAN 10 YEARS OR A FINE OF NOT MORE THAN \$15,000.00 OR 3 TIMES THE**
17 **VALUE OF THE VEHICLE PURCHASED, RECEIVED, POSSESSED, CONCEALED,**
18 **WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.**

19 (9) ~~(8)~~—If the prosecuting attorney intends to seek an
20 enhanced sentence based upon the defendant having 1 or more prior
21 convictions, the prosecuting attorney shall include on the
22 complaint and information a statement listing the prior conviction
23 or convictions. The existence of the defendant's prior conviction
24 or convictions shall be determined by the court, without a jury, at
25 sentencing or at a separate hearing for that purpose before
26 sentencing. The existence of a prior conviction may be established
27 by any evidence relevant for that purpose, including, but not

1 limited to, 1 or more of the following:

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

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

4 (c) Information contained in a presentence report.

5 (d) The defendant's statement.

6 (10) ~~(9)~~—A person who is a dealer in or collector of
7 merchandise or personal property, or the agent, employee, or
8 representative of a dealer or collector of merchandise or personal
9 property who fails to reasonably inquire whether the person selling
10 or delivering the stolen, embezzled, or converted property to the
11 dealer or collector has a legal right to do so or who buys or
12 receives stolen, embezzled, or converted property that has a
13 registration, serial, or other identifying number altered or
14 obliterated on an external surface of the property, is presumed to
15 have bought or received the property knowing the property is
16 stolen, embezzled, or converted. This presumption is rebuttable.

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

23 (12) ~~(11)~~—It is not a defense to a charge under this section
24 that the property was not stolen, embezzled, or converted property
25 at the time of the violation if the property was explicitly
26 represented to the accused person as being stolen, embezzled, or
27 converted property.

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.