

HOUSE BILL No. 5896

June 4, 1992, Introduced by Reps. Nye, Bartnik, Johnson, Munsell, Dalman, McNutt, Strand, Horton, Fitzgerald, Bandstra, Van Singel, Bender and DeMars and referred to the Committee on Judiciary.

A bill to amend section 535a of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

as amended by Act No. 140 of the Public Acts of 1988, being section 750.535a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 535a of Act No. 328 of the Public Acts
2 of 1931, as amended by Act No. 140 of the Public Acts of 1988,
3 being section 750.535a of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 535a. (1) As used in this section:

6 (a) "Bona fide purchaser for value" means a person who pur-
7 chases property for value in good faith and without notice of any
8 adverse claim to the property.

1 (b) "Chop shop" means any area, building, storage lot,
2 field, or any other premises or place where 1 or more persons are
3 engaged or have engaged in altering, dismantling, reassembling,
4 or in any way concealing or disguising the identity of a stolen
5 motor vehicle or of any major component part of a stolen motor
6 vehicle; or any area, building, storage lot, field, or any other
7 premises or place where there are 3 or more stolen motor vehicles
8 present or where there are major component parts from 3 or more
9 stolen motor vehicles present.

10 (c) "Major component part" means 1 of the following parts of
11 a motor vehicle:

12 (i) The engine.

13 (ii) The transmission.

14 (iii) The right or left front fender.

15 (iv) The hood.

16 (v) A door allowing entrance to or egress from the passenger
17 compartment of the vehicle.

18 (vi) The front or rear bumper.

19 (vii) The right or left rear quarter panel.

20 (viii) The deck lid, tailgate, or hatchback.

21 (ix) The trunk floor pan.

22 (x) The cargo box of a pickup.

23 (xi) The frame, or if the vehicle has a unitized body, the
24 supporting structure or structures ~~which~~ THAT serve as the
25 frame.

26 (xii) The cab of a truck.

1 (xiii) The body of a passenger vehicle.

2 (xiv) Any other part of a motor vehicle ~~which~~ THAT the
3 secretary of state determines is comparable in design or function
4 to any of the parts listed in subparagraphs (i) to (xiii).

5 (d) "Motor vehicle" means a device in, upon, or by which a
6 person or property is or may be transported or drawn upon a high-
7 way that is self-propelled or that may be connected to and towed
8 by a self-propelled device, and a land-based device that is
9 self-propelled but is not designed for use upon a highway,
10 including, but not limited to, farm machinery, a bulldozer, and a
11 steam shovel.

12 (2) Except as provided in subsection (3), a person who know-
13 ingly owns, operates, or conducts a chop shop or who knowingly
14 aids and abets another person in owning, operating, or conducting
15 a chop shop is guilty of a felony, punishable by imprisonment for
16 not more than 5 years, or by a fine of not more than \$5,000.00,
17 or both.

18 (3) Upon a second or subsequent conviction under this sec-
19 tion, the person convicted may be imprisoned for not more than
20 5 years and shall be fined not less than \$10,000.00.

21 (4) A person who violates this section, upon conviction, in
22 addition to any other punishment, may be ordered to make restitu-
23 tion to the rightful owner of a stolen motor vehicle or of a
24 stolen major component part, or to the owner's insurer if the
25 owner has already been compensated for the loss by the insurer,
26 for any financial loss sustained as a result of the theft of the
27 motor vehicle or a major component part. Restitution may be

1 imposed in addition to, but not instead of, any imprisonment or
2 fine imposed.

3 (5) All of the following are subject to seizure and, if a
4 person is charged with a violation or attempted violation of sub-
5 section (2) and is convicted of a violation or attempted viola-
6 tion of subsection (2) or section 415, 416, 535, or 536a, all of
7 the following are subject to forfeiture:

8 (a) An engine, tool, machine, implement, device, chemical,
9 or substance used or designed for altering, dismantling, reassem-
10 bling, or in any other way concealing or disguising the identity
11 of a stolen motor vehicle or any major component part.

12 (b) A stolen motor vehicle or major component part found at
13 the site of a chop shop or a motor vehicle or major component
14 part for which there is probable cause to believe that it is
15 stolen.

16 (c) A wrecker, car hauler, or any other motor vehicle that
17 is used or has been used to convey or transport a stolen motor
18 vehicle or major component part.

19 (d) Books, records, money, negotiable instruments, or other
20 personal property or real property, except real property that is
21 the primary residence of the spouse or a dependent child of the
22 owner, that is or has been used in a chop shop operation.

23 (6) Except as provided in subsection (7), property described
24 in subsection (5) may be seized by a state or local law enforce-
25 ment agency upon process issued by the recorder's court of the
26 city of Detroit or the district or circuit court having

1 jurisdiction over the property. Seizure without process may be
2 made in any of the following cases:

3 (a) The seizure is incident to an arrest or pursuant to a
4 search warrant or an inspection under an administrative inspec-
5 tion warrant.

6 (b) The property subject to seizure has been the subject of
7 a prior judgment in favor of this state in a forfeiture proceed-
8 ing based upon this section.

9 (c) Exigent circumstances exist that preclude the obtaining
10 of process and there is probable cause to believe that the prop-
11 erty was used or is intended to be used in violation of this
12 section.

13 (7) In order to retain, pending the forfeiture hearing,
14 property for which seizure and forfeiture is sought under this
15 section, a licensed used or secondhand vehicle parts dealer or
16 the owner may post a bond in the amount of 1-1/2 times the value
17 of the property. This subsection does not apply to a motor vehi-
18 cle or major component part that is to be used as evidence in a
19 criminal proceeding.

20 (8) In the event of a seizure of property other than real
21 property pursuant to subsection (6), the seizing law enforcement
22 agency shall do 1 or more of the following, subject to
23 subsection (9):

24 (a) Place the property under seal.

25 (b) Remove the property to a designated storage area.

26 (c) Petition the recorder's court of the city of Detroit or
27 the district or circuit court to appoint a custodian to take

1 custody of the property and to remove it to an appropriate
2 location for disposition in accordance with law.

3 (9) If property is seized without process under
4 subsection (6), within ~~14~~ 28 days after the seizure, the seiz-
5 ing agency shall return the property to the person from whom it
6 was seized unless a hearing has been scheduled to determine
7 whether the seizure was proper and reasonable notice of the hear-
8 ing has been given.

9 (10) The rightful owner of any property under subsection (5)
10 that is to be forfeited shall be served notice at least 10 days
11 before the matter is to be heard regarding the forfeiture, and if
12 the rightful owner did not know of and did not consent to the
13 commission of the crime, the property shall be returned to the
14 rightful owner. If the rightful owner of the property is not
15 known or cannot be found, notice may be served by publishing
16 notice of the forfeiture hearing not less than 10 days before the
17 date of the hearing in a newspaper of general circulation in the
18 county where the hearing is to be held. The notice shall contain
19 a general description of the property and any serial or registra-
20 tion numbers on the property.

21 (11) A forfeiture of property encumbered by a bona fide
22 security interest is subject to the interest of the secured party
23 who neither had knowledge of nor consented to the act or omission
24 in violation of this section.

25 (12) Any property seized under subsection (6) that was
26 stolen shall be returned to its rightful owner if that ownership
27 can be established to the satisfaction of the seizing law

1 enforcement agency. Any stolen property that is unclaimed after
2 seizure may be sold pursuant to law.

3 (13) Any property forfeited under this section may be sold
4 pursuant to an order of the court. The proceeds of the sale
5 shall be distributed by the court having jurisdiction over the
6 forfeiture proceeding to the entity having budgetary authority
7 over the seizing law enforcement agency. If more than 1 law
8 enforcement agency was substantially involved in effecting the
9 forfeiture, the court having jurisdiction over the forfeiture
10 proceeding shall distribute equitably the proceeds of the sale
11 among the entities having budgetary authority over the seizing
12 law enforcement agencies. Twenty-five percent of the money
13 received by an entity under this subsection shall be used to
14 enhance law enforcement efforts pertaining to this section.

15 (14) This section does not apply to a person who is a bona
16 fide purchaser for value of the motor vehicle or major component
17 parts described in subsection (1).