

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

***** 750.535.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT
OF THE 2014 REGULAR SESSION SINE DIE *****

750.535.amended Buying, receiving, possessing, concealing, or aiding in concealment of stolen, embezzled, or converted property or motor vehicle; violation; penalty; rebuttable presumption; enhanced sentence based on prior convictions; prohibited defense.

Sec. 535. (1) A person shall not buy, receive, possess, conceal, or aid in the concealment of stolen, embezzled, or converted money, goods, or property knowing, or having reason to know or reason to believe, that the money, goods, or property is stolen, embezzled, or converted.

(2) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of \$20,000.00 or more.

(b) The property purchased, received, possessed, or concealed has a value of \$1,000.00 or more but less than \$20,000.00, and the person has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The property purchased, received, possessed, or concealed has a value of \$200.00 or more but less than \$1,000.00, and the person has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of \$200.00 or more but less than \$1,000.00.

(b) The property purchased, received, possessed, or concealed has a value of less than \$200.00, and the person has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property purchased, received, possessed, or concealed has a value of less than \$200.00, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine.

(6) The values of property purchased, received, possessed, or concealed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property purchased, received, possessed, or concealed.

(7) A person shall not buy, receive, possess, conceal, or aid in the concealment of a stolen motor vehicle knowing, or having reason to know or reason to believe, that the motor vehicle is stolen, embezzled, or converted. Except as provided in subsection (8), a person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the motor vehicle purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine. A person who is charged with, convicted of, or punished for a violation of this subsection shall not be convicted of or punished for a violation of another provision of this section arising from the purchase, receipt, possession, concealment, or aiding in the concealment of the same motor vehicle. This subsection does not prohibit the person from being charged, convicted, or punished under any other applicable law.

(8) A person who violates subsection (7) and has 1 or more prior convictions for committing or attempting to commit an offense under this section, other than a violation of subsection (4)(b) or (5), is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the

value of the vehicle purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine.

(9) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before 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.

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

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

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

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1941, Act 11, Eff. Jan. 10, 1942;—CL 1948, 750.535;—Am. 1952, Act 40, Eff. Sept. 18, 1952;—Am. 1957, Act 69, Eff. Sept. 27, 1957;—Am. 1972, Act 242, Eff. Mar. 30, 1973;—Am. 1974, Act 55, Imd. Eff. Apr. 1, 1974;—Am. 1979, Act 11, Eff. Mar. 27, 1980;—Am. 1998, Act 311, Eff. Jan. 1, 1999;—Am. 2002, Act 720, Eff. Apr. 1, 2003;—Am. 2006, Act 374, Eff. Oct. 1, 2006;—Am. 2014, Act 221, Eff. (sine die).

Constitutionality: The statutory presumption in MCL 750.535(2) that a dealer in personal property is presumed to know that property received with an altered serial number is stolen does not violate due process requirements because there is a rational connection between the proven facts and the fact presumed. *People v Gallagher*, 404 Mich 429; 273 NW2d 440 (1979).

Former law: See section 20 of Ch. 154 of R.S. 1846, being CL 1857, § 5764; CL 1871, § 7571; How., § 9142; CL 1897, § 11556; CL 1915, § 15301; CL 1929, § 16902; and Act 220 of 1897.