

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

RECEIVED

APR 17 1989

~~Mich. State Law Library~~

Senate Bill 606 (as enrolled)
Sponsor: Senator Art Miller, Jr.
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 140 of 1988*WROG
vol.*

Date Completed: 2-6-89

RATIONALE

Public Act 407 of 1984 made it a felony to own or operate a chop shop, which essentially is a place where stolen vehicles or their parts are dismantled. In addition to establishing penalties for the offense, the Act provided for the forfeiture of certain property used in or found at a chop shop; that is, law enforcement agencies may seize the property and petition a court to dispose of it, if certain procedures are followed. Generally, property that may be seized under the current Act is limited to stolen motor vehicles or major component parts, equipment or other devices used for dismantling stolen vehicles or parts, and wreckers used to transport stolen vehicles. Some people consider it an oversight that the forfeiture provisions do not extend to other items of personal property, as well as to real property, used in a chop shop operation. In addition, some people believe that the chop shop forfeiture provisions should better protect legitimate businesses and innocent parties against unwarranted seizure and forfeiture of property.

CONTENT

The bill would amend the chop shop section of the Michigan Penal Code to:

- Specify additional property that would be subject to seizure and forfeiture.
- Require a criminal conviction before seized property could be forfeited.
- Create an exception to the section for bona fide purchasers for value.
- Allowing vehicle parts dealers and owners to post a bond in order retain property for which seizure and forfeiture were sought.
- Provide for the return of property seized without process.
- Revise the definition of "major component part".

The additional property that would be subject to seizure and forfeiture includes books, records, money, negotiable instruments, and other personal property and real property, except real property that was the primary residence of the spouse or a dependent child of the owner, used in a chop shop operation. Further, where the Code specifies that property is subject

to seizure and forfeiture, the bill would provide that the property is subject to seizure and, upon a person's being charged with a chop shop offense and convicted of a particular crime, subject to forfeiture. The crimes in question include chop shop offenses; concealing or misrepresenting the identity of a motor vehicle or mechanical device; damaging or meddling with a motor vehicle; possessing or concealing stolen or embezzled property; and defacing or destroying the identification of goods held for sale (MCL 750.415, 750.416, 750.535, and 750.536a).

In order to retain property for which seizure and forfeiture were sought, pending the forfeiture hearing, a licensed used or secondhand vehicle parts dealer or the owner could post a bond in the amount of one and one-half times the value of the property. This provision would not apply to a motor vehicle or major component part that was to be used as evidence in a criminal proceeding.

The Code authorizes both seizure of property with process issued by a court, and seizure without process if seizure is incident to an arrest or search warrant, if the property has been the subject of a prior judgment in favor of the State in a chop shop forfeiture proceeding, or if exigent circumstances exist. Under the bill, if property were seized without process, within 14 days after the seizure, the seizing agency would have to return the property to the person from whom it was seized unless a hearing had been scheduled to determine whether the seizure was proper and reasonable notice of the hearing had been given.

The Code requires that the rightful owner of any seized property be given notice at least 10 days before the forfeiture hearing. The bill also would require that the property be returned to the owner if he or she did not know of and consent to the commission of the crime.

The bill would amend the definition of "major component part" to add several items, such as a truck floor pan, hatchback, cargo box of a pickup, and frame, as well as "any other part of a motor vehicle which the secretary of state determined is comparable in design or function to any of the parts listed".

The bill provides that the chop shop section would not apply to a person who is a bona fide purchaser for value of the motor vehicle or major component parts. "Bona fide purchaser for value" would mean a person who purchases property for value in good faith and without notice of any adverse claim to it.

MCL 750.535a

FISCAL IMPACT

The bill would have an indeterminate impact on State and local government. Neither the amount of revenue generated by, nor the related costs of seizure and forfeiture of personal and real property, can be determined.

This Page is Not Yet **Available**

**If you have a hardcopy page suitable for scanning,
LLMC would like to hear from you.**

Thank you.

1-800-235-4446

or

llmcdigital@aol.com