



HOUSE BILL No. 4197

January 30, 1995, Introduced by Reps. Profit, Nye, Bush and Hill and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 282, 356, 356a, 356c, 356d, 362a, 377a, 380, 387, and 535 of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

section 282 as amended by Act No. 32 of the Public Acts of 1987 and sections 356c and 356d as added by Act No. 20 of the Public Acts of 1988, being sections 750.282, 750.356, 750.356a, 750.356c, 750.356d, 750.362a, 750.377a, 750.380, 750.387, and 750.535 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 282, 356, 356a, 356c, 356d, 362a, 377a,
2 380, 387, and 535 of Act No. 328 of the Public Acts of 1931, sec-
3 tion 282 as amended by Act No. 32 of the Public Acts of 1987 and
4 sections 356c and 356d as added by Act No. 20 of the Public Acts
5 of 1988, being sections 750.282, 750.356, 750.356a, 750.356c,

1 750.356d, 750.362a, 750.377a, 750.380, 750.387, and 750.535 of
2 the Michigan Compiled Laws, are amended to read as follows:

3 Sec. 282. (1) A person shall not do any of the following:

4 (a) Willfully or fraudulently injure, or fraudulently allow
5 to be injured, a meter, wire, line, pipe, or appliance belonging
6 to a ~~water, steam, electric, or gas company, or propane gas~~
7 ~~dealer or distributor~~ UTILITY.

8 (b) Willfully or fraudulently prevent a water, steam, elec-
9 tric, gas, or propane gas meter belonging to a ~~water, steam,~~
10 ~~electric, or gas company, or propane gas dealer or distributor~~
11 UTILITY from duly registering the quantity of water, steam, elec-
12 tric current, gas, or propane gas measured through the meter —
13 or in any way hinder or interfere with the meter's proper action
14 or just registration.

15 (c) Attach a line, wire, or pipe to a UTILITY'S line, wire,
16 pipe, or main. ~~belonging to a water, steam, electric, or gas~~
17 ~~company, or propane gas dealer or distributor.~~ This subdivision
18 does not apply to the use of a ground wire to ground an electri-
19 cal system.

20 (d) Willfully or fraudulently interfere with a pressure reg-
21 ulator device on a propane gas tank or incorporated into a pro-
22 pane gas system.

23 (e) Use, ~~or~~ burn, or cause to be used or burned any water,
24 steam, electric current, gas, or propane gas supplied by a
25 ~~water, steam, electric, or gas company, or propane gas dealer or~~
26 ~~distributor,~~ UTILITY without the written consent of the ~~company~~
27 ~~or the propane gas dealer or distributor,~~ UTILITY or the

1 UTILITY'S authorized agent or officer ~~of the company or the~~
2 ~~propane gas dealer or distributor,~~ unless the water, steam,
3 electric current, gas, or propane gas passes through a meter or
4 is measured by a meter set by the ~~company or the propane gas~~
5 ~~dealer or distributor, fraudulently~~ UTILITY.

6 (F) FRAUDULENTLY use OR WASTE the water, steam, electric
7 current, gas, or propane gas ~~, or fraudulently waste the water,~~
8 ~~steam, electric current, gas, or propane gas~~ supplied by a
9 ~~water, steam, electric, or gas company, or propane gas dealer or~~
10 ~~distributor~~ UTILITY.

11 (2) A person who violates subsection (1) is guilty of a
12 CRIME AS FOLLOWS:

13 (A) A misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE
14 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE
15 VALUE, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE, if
16 the value of the water, steam, electric current, gas, or propane
17 gas used, burned, or wasted ~~—~~ or the damage caused ~~—~~ as a
18 result of the violation ~~—~~ is ~~not more~~ LESS than ~~\$500.00~~
19 \$200.00.

20 (B) A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
21 THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE
22 VALUE, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE, IF
23 THE VALUE OF THE WATER, STEAM, ELECTRIC CURRENT, GAS, OR PROPANE
24 USED, BURNED, OR WASTED OR THE DAMAGE CAUSED AS A RESULT OF THE
25 VIOLATION IS \$200.00 OR MORE BUT LESS THAN \$1,000.00.

26 (C) A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5
27 YEARS OR A FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE,

1 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE, IF THE
2 VALUE OF THE WATER, STEAM, ELECTRIC CURRENT, GAS, OR PROPANE
3 USED, BURNED, OR WASTED OR THE DAMAGE CAUSED AS A RESULT OF THE
4 VIOLATION IS \$1,000.00 OR MORE BUT LESS THAN \$20,000.00.

5 (D) A ~~person who violates subsection (1) is guilty of a~~
6 felony PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A
7 FINE OF NOT MORE THAN 3 TIMES THE VALUE, OR BOTH, if the value of
8 the water, steam, electric current, gas, or propane gas used,
9 burned, or wasted ~~—~~ or the damage caused ~~—~~ as a result of the
10 violation ~~—~~ is \$20,000.00 OR more. ~~than \$500.00.~~

11 (3) A criminal prosecution under this section ~~shall~~ DOES
12 not ~~in any way~~ impair the UTILITY'S right ~~of the company or~~
13 ~~the propane gas dealer or distributor~~ to full compensation in
14 damages by civil action.

15 ~~(4) The provisions of this section shall extend and apply~~
16 ~~to all offenses against all water, steam, electric, or gas com-~~
17 ~~panies, or propane gas dealers or distributors, and boards or~~
18 ~~municipalities owning or operating plants for producing, manufac-~~
19 ~~turing, furnishing, transmitting, or conducting water, steam,~~
20 ~~electricity, or gas, either natural, liquefied, or artificial.~~

21 (4) ~~(5)~~ A person who attaches ~~any~~ A line, wire, or pipe
22 or any other device or process to ~~any~~ A UTILITY line, wire, or
23 pipe ~~of a water, steam, electric, or gas company, or propane gas~~
24 ~~dealer or distributor which~~ THAT interferes with the proper
25 operation and just registration of a meter ~~within the meaning~~
26 IN VIOLATION of this section ~~—~~ or who interferes with a
27 pressure regulator device on a propane gas tank or incorporated

1 into a propane gas system ~~—~~ is presumed to do so with intent to
 2 avoid ~~—~~ or to enable another PERSON to avoid ~~—~~ payment for
 3 the service involved.

4 (5) ~~(6)~~ In ~~all~~ prosecutions under this section, proof
 5 that the defendant, other than a lessor, had control of or occu-
 6 pied the premises where the offense was committed ~~—~~ or received
 7 the benefit of the water, steam, electric current, gas, or pro-
 8 pane gas used or consumed ~~—, shall be~~ IS prima facie evidence of
 9 a violation of this section.

10 (6) AS USED IN THIS SECTION, "UTILITY" MEANS ANY OF THE
 11 FOLLOWING:

12 (A) A PERSON WHO PRODUCES, MANUFACTURES, FURNISHES, TRANS-
 13 MITS, OR CONDUCTS WATER, STEAM, ELECTRICITY, OR LIQUIFIED, NATU-
 14 RAL, OR ARTIFICIAL GAS FOR SALE OR RESALE, WHETHER PRIVATELY OR
 15 MUNICIPALLY OWNED.

16 (B) A PROPANE GAS DEALER OR DISTRIBUTOR.

17 Sec. 356. (1) ~~Any~~ A person who ~~shall commit the offense~~
 18 ~~of~~ COMMITS larceny ~~—~~ by stealing ~~— of~~ FROM the property of
 19 another ~~—~~ PERSON any ~~money~~ OF THE FOLLOWING IS GUILTY OF A
 20 CRIME AS PROVIDED IN THIS SECTION:

21 (A) MONEY, goods, or chattels. ~~—, or any~~

22 (B) A bank note, bank bill, bond, promissory note, due bill,
 23 bill of exchange or other bill, draft, order, or certificate. ~~—~~
 24 ~~or any~~

25 (C) A book of accounts for or concerning money or goods due,
 26 ~~or~~ to become due, or to be delivered. ~~or any~~

1 (D) A deed or writing containing a conveyance of land ~~, or~~
 2 ~~any~~ OR other valuable contract in force. ~~, or any~~

3 (E) A receipt, release, or defeasance. ~~, or any~~

4 (F) A writ, process, or public record. ~~, if~~

5 (2) IF THE PROPERTY STOLEN HAS A VALUE OF \$20,000.00 OR
 6 MORE, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT
 7 FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN 3 TIMES THE
 8 VALUE OF THE PROPERTY STOLEN, OR BOTH.

9 (3) IF the property stolen ~~exceed the~~ HAS A value of
 10 ~~\$100.00, shall be~~ \$1,000.00 OR MORE BUT LESS THAN \$20,000.00,
 11 THE PERSON IS guilty of a felony ~~,~~ punishable by imprisonment
 12 ~~in the state prison~~ FOR not more than 5 years or ~~by~~ A fine of
 13 not more than ~~\$2,500.00~~ \$10,000.00 OR 3 TIMES THE VALUE OF THE
 14 PROPERTY STOLEN, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A
 15 FINE.

16 (4) IF THE PROPERTY STOLEN HAS A VALUE OF \$200.00 OR MORE
 17 BUT LESS THAN \$1,000.00, THE PERSON IS GUILTY OF A MISDEMEANOR
 18 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF
 19 NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY
 20 STOLEN, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

21 (5) If the property stolen ~~shall be of the~~ HAS A value of
 22 ~~\$100.00 or~~ less THAN \$200.00, ~~such~~ THE person ~~shall be~~ IS
 23 guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE
 24 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE
 25 VALUE OF THE PROPERTY STOLEN, WHICHEVER IS GREATER, OR BOTH
 26 IMPRISONMENT AND A FINE.

1 Sec. 356a. (1) ~~Any~~ A person who ~~shall commit the~~
 2 ~~offense of~~ COMMITS larceny by stealing or unlawfully removing or
 3 taking any wheel, tire, radio, heater or clock in or on any motor
 4 vehicle, house trailer, trailer, or semi-trailer ~~, shall be~~ IS
 5 guilty of a felony ~~, punishable by a fine not to exceed~~
 6 ~~\$1,000.00, or by~~ imprisonment ~~in the state prison~~ FOR not more
 7 than 5 years OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

8 (2) ~~Any~~ EXCEPT AS PROVIDED IN SUBSECTION (3), A person who
 9 ~~shall enter~~ ENTERS or ~~break~~ BREAKS into ~~any~~ A motor vehi-
 10 cle, house trailer, trailer, or semi-trailer ~~, for the purpose~~
 11 ~~of stealing~~ TO STEAL or unlawfully ~~removing therefrom any~~
 12 ~~goods, chattels or~~ REMOVE property ~~of the value of not less~~
 13 ~~than \$5.00, or who shall break or enter into any motor vehicle,~~
 14 ~~house trailer, trailer or semi trailer, for the purpose of steal-~~
 15 ~~ing or unlawfully removing therefrom any goods, chattels or prop-~~
 16 ~~erty regardless of the value thereof if in so doing such~~ FROM IT
 17 IS GUILTY OF A CRIME AS FOLLOWS:

18 (A) IF THE VALUE OF THE PROPERTY IS LESS THAN \$200.00, THE
 19 PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR
 20 NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3
 21 TIMES THE VALUE OF THE PROPERTY, WHICHEVER IS GREATER, OR BOTH
 22 IMPRISONMENT AND A FINE.

23 (B) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
 24 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR
 25 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE
 26 PROPERTY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

1 (i) THE VALUE OF THE PROPERTY IS \$200.00 OR MORE BUT LESS
2 THAN \$1,000.00.

3 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS A PRIOR
4 CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE
5 UNDER THAT SUBDIVISION.

6 (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
7 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
8 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE
9 PROPERTY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

10 (i) THE VALUE OF THE PROPERTY IS \$1,000.00 OR MORE BUT LESS
11 THAN \$20,000.00.

12 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 2 OR MORE
13 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
14 OFFENSE UNDER THAT SUBDIVISION.

15 (iii) THE PERSON VIOLATES SUBDIVISION (B) AND HAS A PRIOR
16 CONVICTION FOR VIOLATING OR ATTEMPTING TO VIOLATE THAT
17 SUBDIVISION.

18 (D) IF THE VALUE OF THE PROPERTY IS \$20,000.00 OR MORE, THE
19 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
20 MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN 3 TIMES THE VALUE
21 OF THE PROPERTY, OR BOTH.

22 (3) A person WHO VIOLATES SUBSECTION (2)(A) OR (B) AND WHO
23 breaks, tears, cuts, or otherwise damages any part of ~~such~~ THE
24 motor vehicle, house trailer, trailer, or semi-trailer ~~shall~~
25 ~~be~~ IS guilty of a felony ~~shall~~ punishable by ~~a fine not to exceed~~
26 ~~\$1,000.00, or by imprisonment in the state prison~~ FOR not more

1 than 5 years OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH,
2 REGARDLESS OF THE VALUE OF THE PROPERTY.

3 (4) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
4 SENTENCE UNDER SUBSECTION (2)(B) BASED UPON THE DEFENDANT HAVING
5 A PRIOR CONVICTION, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE
6 COMPLAINT AND INFORMATION A STATEMENT LISTING THAT PRIOR
7 CONVICTION. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
8 SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY, AT SENTENCING.
9 THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTABLISHED BY ANY
10 EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT NOT LIMITED
11 TO, 1 OR MORE OF THE FOLLOWING:

12 (A) A COPY OF THE JUDGMENT OF CONVICTION.

13 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
14 SENTENCING.

15 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

16 (D) THE DEFENDANT'S STATEMENT.

17 Sec. 356c. (1) A person who does any of the following in a
18 store or in its immediate vicinity is guilty of retail fraud in
19 the first degree, a felony punishable by imprisonment for not
20 more than ~~2~~ 5 years ~~—~~ or a fine of not more than ~~\$1,000.00~~
21 \$10,000.00 OR 3 TIMES THE VALUE OF THE DIFFERENCE IN PRICE, PROP-
22 ERTY STOLEN, OR MONEY OR PROPERTY OBTAINED OR ATTEMPTED TO BE
23 OBTAINED, WHICHEVER IS GREATER, or both IMPRISONMENT AND A FINE:

24 (a) While a store is open to the public, alters, transfers,
25 removes and replaces, conceals, or otherwise misrepresents the
26 price at which property is offered for sale, with the intent not
27 to pay for the property or to pay less than the price at which

1 the property is offered for sale, if the resulting difference in
2 price is ~~more than \$100.00~~ \$1,000.00 OR MORE.

3 (b) While a store is open to the public, steals property of
4 the store that is offered for sale at a price of ~~more than~~
5 ~~\$100.00~~ \$1,000.00 OR MORE.

6 (c) With intent to defraud, obtains or attempts to obtain
7 money or property from the store as a refund or exchange for
8 property that was not paid for and belongs to the store, if the
9 amount of money ~~—~~ or the value of the property ~~—~~ obtained or
10 attempted to be obtained is ~~more than \$100.00~~ \$1,000.00 OR
11 MORE.

12 (2) A person who violates ~~section 356d~~ 356D(1) and WHO has
13 1 or more prior convictions FOR COMMITTING OR ATTEMPTING TO
14 COMMIT AN OFFENSE under this section, section 218, 356, 356d, or
15 360, or a local ordinance substantially corresponding to this
16 section or section 218, 356, 356d, or 360 is guilty of retail
17 fraud in the first degree.

18 (3) A PERSON WHO VIOLATES SECTION 356D(5) AND WHO HAS 2 OR
19 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
20 OFFENSE UNDER SECTION 356D(5) IS GUILTY OF RETAIL FRAUD IN THE
21 FIRST DEGREE.

22 (4) ~~(3)~~ A person who commits ~~the crime of~~ retail fraud
23 in the first degree shall not be prosecuted under the felony pro-
24 vision of section 356, or under section 218 or 360.

25 Sec. 356d. (1) A person who does any of the following in a
26 store or in its immediate vicinity is guilty of retail fraud in
27 the second degree, a misdemeanor punishable by imprisonment for

1 not more than ~~93 days,~~ 1 YEAR or a fine of not more than
2 ~~\$100.00~~ \$2,000.00 OR 3 TIMES THE VALUE OF THE DIFFERENCE IN
3 PRICE, PROPERTY STOLEN, OR MONEY OR PROPERTY OBTAINED OR
4 ATTEMPTED TO BE OBTAINED, WHICHEVER IS GREATER, or both
5 IMPRISONMENT AND A FINE:

6 (a) While a store is open to the public, alters, transfers,
7 removes and replaces, conceals, or otherwise misrepresents the
8 price at which property is offered for sale ~~—~~ with the intent
9 not to pay for the property or to pay less than the price at
10 which the property is offered for sale IF THE RESULTING DIFFER-
11 ENCE IN PRICE IS \$200.00 OR MORE BUT LESS THAN \$1,000.00.

12 (b) While a store is open to the public, steals property of
13 the store that is offered for sale AT A PRICE OF \$200.00 OR MORE
14 BUT LESS THAN \$1,000.00.

15 (c) With intent to defraud, obtains or attempts to obtain
16 money or property from the store as a refund or exchange for
17 property that was not paid for and belongs to the store IF THE
18 AMOUNT OF MONEY OR THE VALUE OF THE PROPERTY OBTAINED OR
19 ATTEMPTED TO BE OBTAINED IS \$200.00 OR MORE BUT LESS THAN
20 \$1,000.00.

21 (2) A PERSON WHO VIOLATES SUBSECTION (5) AND WHO HAS A PRIOR
22 CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE
23 UNDER THAT SUBSECTION IS GUILTY OF RETAIL FRAUD IN THE SECOND
24 DEGREE.

25 (3) ~~(2)~~ A person who commits ~~the crime of~~ retail fraud
26 in the second degree shall not be prosecuted under the felony
27 provision of section 356, or under section 218 or 360.

1 (4) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
2 SENTENCE UNDER SUBSECTION (2) BASED UPON THE DEFENDANT HAVING A
3 PRIOR CONVICTION, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE
4 COMPLAINT AND INFORMATION A STATEMENT LISTING THAT PRIOR
5 CONVICTION. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
6 SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY, AT SENTENCING.
7 THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTABLISHED BY ANY
8 EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT NOT LIMITED
9 TO, 1 OR MORE OF THE FOLLOWING:

10 (A) A COPY OF THE JUDGMENT OF CONVICTION.

11 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
12 SENTENCING.

13 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

14 (D) THE DEFENDANT'S STATEMENT.

15 (5) A PERSON WHO DOES ANY OF THE FOLLOWING IN A STORE OR IN
16 ITS IMMEDIATE VICINITY IS GUILTY OF RETAIL FRAUD IN THE THIRD
17 DEGREE, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
18 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE
19 VALUE OF THE DIFFERENCE IN PRICE, PROPERTY STOLEN, OR MONEY OR
20 PROPERTY OBTAINED OR ATTEMPTED TO BE OBTAINED, WHICHEVER IS
21 GREATER, OR BOTH IMPRISONMENT AND A FINE:

22 (A) WHILE A STORE IS OPEN TO THE PUBLIC, ALTERS, TRANSFERS,
23 REMOVES AND REPLACES, CONCEALS, OR OTHERWISE MISREPRESENTS THE
24 PRICE AT WHICH PROPERTY IS OFFERED FOR SALE, WITH THE INTENT NOT
25 TO PAY FOR THE PROPERTY OR TO PAY LESS THAN THE PRICE AT WHICH
26 THE PROPERTY IS OFFERED FOR SALE, IF THE RESULTING DIFFERENCE IN
27 PRICE IS LESS THAN \$200.00.

1 (B) WHILE A STORE IS OPEN TO THE PUBLIC, STEALS PROPERTY OF
2 THE STORE THAT IS OFFERED FOR SALE AT A PRICE OF LESS THAN
3 \$200.00.

4 (C) WITH INTENT TO DEFRAUD, OBTAINS OR ATTEMPTS TO OBTAIN
5 MONEY OR PROPERTY FROM THE STORE AS A REFUND OR EXCHANGE FOR
6 PROPERTY THAT WAS NOT PAID FOR AND BELONGS TO THE STORE, IF THE
7 AMOUNT OF MONEY, OR THE VALUE OF THE PROPERTY, OBTAINED OR
8 ATTEMPTED TO BE OBTAINED IS LESS THAN \$200.00.

9 (6) A PERSON WHO COMMITS THE CRIME OF RETAIL FRAUD IN THE
10 THIRD DEGREE SHALL NOT BE PROSECUTED UNDER THE FELONY PROVISION
11 OF SECTION 356, OR UNDER SECTION 218 OR 360.

12 Sec. 362a. (1) ~~Any~~ A person to whom a motor vehicle,
13 trailer, or other tangible property is delivered on a rental or
14 lease basis under ~~any~~ A WRITTEN agreement ~~in writing~~ provid-
15 ing for its return to a particular place at a particular time who
16 WITH INTENT TO DEFRAUD THE LESSOR refuses or ~~willfully~~ WILLFULLY
17 neglects to return ~~such~~ THE vehicle, trailer, or other tangible
18 property ~~—~~ after ~~the~~ expiration of the time stated in a
19 WRITTEN notice ~~in writing proved to have been duly~~ mailed by
20 registered or certified mail addressed to ~~the~~ THAT PERSON'S
21 last known address ~~of the person who rented or leased the motor~~
22 ~~vehicle, trailer or other tangible property, and with intent to~~
23 ~~defraud the lessor,~~ is guilty of larceny, PUNISHABLE AS PROVIDED
24 IN THIS SECTION.

25 (2) If the vehicle, trailer, or other tangible property
26 ~~exceeds the~~ HAS A value of ~~\$100.00 he shall be~~ \$20,000.00 OR
27 MORE, THE PERSON IS guilty of a felony punishable by imprisonment

1 for not more than ~~2~~ 10 years or ~~by~~ a fine of not more than
2 ~~\$1,000.00~~ 3 TIMES THE VALUE OF THE VEHICLE, TRAILER, OR OTHER
3 TANGIBLE PROPERTY, or both.

4 (3) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
5 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
6 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE
7 VEHICLE, TRAILER, OR OTHER TANGIBLE PROPERTY, WHICHEVER IS GREAT-
8 ER, OR BOTH IMPRISONMENT AND A FINE:

9 (A) THE VEHICLE, TRAILER, OR OTHER TANGIBLE PROPERTY HAS A
10 VALUE OF \$1,000.00 OR MORE BUT LESS THAN \$20,000.00.

11 (B) THE PERSON VIOLATES SUBSECTION (5) AND HAS 2 OR MORE
12 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
13 OFFENSE UNDER THAT SUBSECTION.

14 (C) THE PERSON VIOLATES SUBSECTION (4) AND HAS A PRIOR CON-
15 VICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE UNDER
16 THAT SUBSECTION.

17 (4) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
18 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR
19 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE
20 VEHICLE, TRAILER, OR OTHER TANGIBLE PROPERTY, WHICHEVER IS GREAT-
21 ER, OR BOTH IMPRISONMENT AND A FINE:

22 (A) THE VEHICLE, TRAILER, OR OTHER TANGIBLE PROPERTY HAS A
23 VALUE OF \$200.00 OR MORE BUT LESS THAN \$1,000.00.

24 (B) THE PERSON VIOLATES SUBSECTION (5) AND HAS A PRIOR CON-
25 VICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE UNDER
26 THAT SUBSECTION.

1 (5) If the vehicle, trailer, or other tangible property ~~is~~
2 ~~of the~~ HAS A value of ~~-\$100.00 or~~ less THAN \$200.00, ~~he shall~~
3 ~~be~~ THE PERSON IS guilty of a misdemeanor PUNISHABLE BY IMPRISON-
4 MENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00
5 OR 3 TIMES THE VALUE OF THE VEHICLE, TRAILER, OR OTHER TANGIBLE
6 PROPERTY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

7 (6) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
8 SENTENCE UNDER SUBSECTION (4) BASED UPON THE DEFENDANT HAVING 1
9 OR MORE PRIOR CONVICTIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE
10 ON THE COMPLAINT AND INFORMATION A STATEMENT LISTING THOSE PRIOR
11 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
12 SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY, AT SENTENCING.
13 THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTABLISHED BY ANY
14 EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT NOT LIMITED
15 TO, 1 OR MORE OF THE FOLLOWING:

16 (A) A COPY OF THE JUDGMENT OF CONVICTION.

17 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
18 SENTENCING.

19 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

20 (D) THE DEFENDANT'S STATEMENT.

21 Sec. 377a. (1) ~~Any~~ A person who ~~shall wilfully~~
22 WILLFULLY and maliciously ~~destroy or injure~~ DESTROYS OR INJURES
23 the personal property of another ~~, by any means not particularly~~
24 ~~mentioned or described in the preceding section, if the damage~~
25 ~~resulting from such injury shall exceed \$100.00, shall be~~ PERSON
26 IS GUILTY OF A CRIME AS FOLLOWS:

1 (A) IF THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$20,000.00
2 OR MORE, THE PERSON IS guilty of a felony PUNISHABLE BY
3 IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE
4 THAN 3 TIMES THE AMOUNT OF THE DESTRUCTION OR INJURY, OR BOTH.

5 (B) IF THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$1,000.00
6 OR MORE BUT LESS THAN \$20,000.00, THE PERSON IS GUILTY OF A
7 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
8 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE AMOUNT OF THE
9 DESTRUCTION OR INJURY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT
10 AND A FINE.

11 (C) IF THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$200.00 OR
12 MORE BUT LESS THAN \$1,000.00, THE PERSON IS GUILTY OF A MISDE-
13 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A
14 FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE AMOUNT OF THE
15 DESTRUCTION OR INJURY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT
16 AND A FINE.

17 (D) If the ~~damage done shall be \$100.00 or~~ AMOUNT OF THE
18 DESTRUCTION OR INJURY IS less THAN \$200.00, ~~such~~ THE person
19 ~~shall be~~ IS guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT
20 FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3
21 TIMES THE AMOUNT OF THE DESTRUCTION OR INJURY, WHICHEVER IS
22 GREATER, OR BOTH IMPRISONMENT AND A FINE.

23 (2) FOR PURPOSES OF THIS SECTION, AMOUNTS OF DESTRUCTION OR
24 INJURY MAY BE AGGREGATED IN DETERMINING THE TOTAL AMOUNT OF THE
25 DESTRUCTION OR INJURY.

26 Sec. 380. (!) ~~Any~~ A person ~~who~~ shall ~~willfully~~ NOT
27 WILLFULLY and maliciously destroy or injure ~~any~~ ANOTHER

1 PERSON'S house, barn, or other building ~~of another, or the~~
2 ITS appurtenances. ~~thereof, if the damage resulting from such~~
3 ~~injury shall exceed \$100.00, shall be guilty of a felony. If the~~
4 ~~damage done shall be \$100.00 or~~

5 (2) IF THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$20,000.00
6 OR MORE, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-
7 MENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN 3
8 TIMES THE AMOUNT OF THE DESTRUCTION OR INJURY, OR BOTH.

9 (3) IF THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$1,000.00
10 OR MORE BUT LESS THAN \$20,000.00, THE PERSON IS GUILTY OF A
11 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
12 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE AMOUNT OF THE
13 DESTRUCTION OR INJURY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT
14 AND A FINE.

15 (4) IF THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$200.00 OR
16 MORE BUT LESS THAN \$1,000.00, THE PERSON IS GUILTY OF A MISDE-
17 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A
18 FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE AMOUNT OF THE
19 DESTRUCTION OR INJURY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT
20 AND A FINE.

21 (5) IF THE AMOUNT OF THE DESTRUCTION OR INJURY IS less THAN
22 \$200.00, ~~he shall be~~ THE PERSON IS guilty of a misdemeanor
23 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF
24 NOT MORE THAN \$500.00 OR 3 TIMES THE AMOUNT OF THE DESTRUCTION OR
25 INJURY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

26 Sec. 387. (1) ~~Any~~ A person, other than the burial right
27 owner or his OR HER representative, heir at law, or a person

1 having care, custody, or control of a cemetery ~~by virtue of~~
2 PURSUANT TO law, A contract, or other legal right, ~~who~~ shall
3 ~~wilfully~~ NOT WILLFULLY destroy, mutilate, deface, injure, or
4 remove ~~any~~ A tomb, monument, gravestone, or other structure or
5 thing placed or designed for a memorial of the dead, or ~~any~~ A
6 fence, railing, curb, or other thing intended for the protection
7 or for the ornament of any tomb, monument, gravestone, or other
8 structure ~~mentioned~~ DESCRIBED in this subsection ~~or~~ or ~~of~~
9 any OTHER enclosure for the burial of the dead. ~~, or who shall~~
10 ~~wilfully destroy, mutilate, remove, cut, break, or injure any~~
11 ~~tree, shrub, or plant, placed or being within any such enclosure,~~
12 ~~is guilty of a misdemeanor.~~

13 (2) Prosecution under ~~this~~ subsection (1) may commence
14 upon complaint by the burial right owner or his OR HER represen-
15 tative, heir at law, or person having care, custody, or control
16 of a cemetery, tomb, monument, gravestone, or other structure or
17 thing ~~placed or designed for a memorial of the dead, or any~~
18 ~~fence, railing, curb, or other thing intended for the protection~~
19 ~~or for the ornament of any tomb, monument, gravestone, or other~~
20 ~~structure mentioned~~ DESCRIBED in ~~this~~ subsection (1). ~~, or~~
21 ~~of any enclosure for the burial of the dead, or tree, shrub, or~~
22 ~~plant.~~

23 (3) IF THE TOTAL AMOUNT OF DAMAGE IS LESS THAN \$200.00, A
24 PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A MISDEMEANOR
25 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF
26 NOT MORE THAN \$500.00 OR 3 TIMES THE AMOUNT OF DAMAGE, WHICHEVER
27 IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

1 (4) IF THE TOTAL AMOUNT OF DAMAGE IS \$200.00 OR MORE BUT
 2 LESS THAN \$1,000.00, A PERSON WHO VIOLATES SUBSECTION (1) IS
 3 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
 4 THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE
 5 AMOUNT OF DAMAGE, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND
 6 A FINE.

7 (5) ~~(2) A~~ IF THE TOTAL AMOUNT OF DAMAGE IS \$1,000.00 OR
 8 MORE BUT LESS THAN \$20,000.00, A person WHO VIOLATES SUBSECTION
 9 (1) is guilty of a felony punishable by imprisonment for not more
 10 than 5 years or ~~by~~ a fine of not more than ~~\$2,500.00~~
 11 \$10,000.00 OR 3 TIMES THE AMOUNT OF DAMAGE, WHICHEVER IS GREATER,
 12 or both ~~if the person does either of the following~~ IMPRISONMENT
 13 AND A FINE.

14 ~~(a) Does any act described in subsection (1) which causes~~
 15 ~~damage in excess of \$100.00.~~

16 ~~(b) Does any act described in subsection (1) which is~~
 17 ~~directed against 2 or more separate burial rights or places in~~
 18 ~~whatever form for tombs or for the memorial of the dead.~~

19 (6) IF THE TOTAL AMOUNT OF DAMAGE IS \$20,000.00 OR MORE, A
 20 PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A FELONY PUNISH-
 21 ABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT
 22 MORE THAN 3 TIMES THE AMOUNT OF DAMAGE, OR BOTH.

23 (7) FOR THE PURPOSES OF THIS SECTION, THE AMOUNTS OF DAMAGE
 24 COMMITTED PURSUANT TO A SCHEME OR COURSE OF CONDUCT MAY BE AGGRE-
 25 GATED IN DETERMINING THE TOTAL AMOUNT OF DAMAGE.

26 Sec. 535. (1) A person ~~who buys, receives, possesses,~~
 27 ~~conceals, or aids~~ SHALL NOT BUY, RECEIVE, POSSESS, CONCEAL, OR

1 AID in the concealment of stolen, embezzled, or converted money,
2 goods, or property knowing the money, goods, or property ~~to be~~
3 IS stolen, embezzled, or converted. ~~, if~~

4 (2) IF THE PROPERTY PURCHASED, RECEIVED, POSSESSED, OR CON-
5 CEALD HAS A VALUE OF \$20,000.00 OR MORE, THE PERSON IS GUILTY OF
6 A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR
7 A FINE OF NOT MORE THAN 3 TIMES THE VALUE OF THE PROPERTY PUR-
8 CHASED, RECEIVED, POSSESSED, OR CONCEALED, WHICHEVER IS GREATER,
9 OR BOTH IMPRISONMENT AND A FINE.

10 (3) IF the property purchased, received, possessed, or con-
11 cealed ~~exceeds the value of \$100.00~~ HAS A VALUE OF \$1,000.00 OR
12 MORE BUT LESS THAN \$20,000.00, THE PERSON is guilty of a felony
13 ~~—~~ punishable by imprisonment for not more than 5 years ~~—~~ or
14 ~~by~~ a fine of not more than ~~\$2,500.00~~ \$10,000.00 OR 3 TIMES
15 THE VALUE OF THE PROPERTY PURCHASED, RECEIVED, POSSESSED, OR CON-
16 CEALD, WHICHEVER IS GREATER, or both IMPRISONMENT AND A FINE.

17 (4) IF THE PROPERTY PURCHASED, RECEIVED, POSSESSED, OR CON-
18 CEALD HAS A VALUE OF \$200.00 OR MORE BUT LESS THAN \$1,000.00,
19 THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
20 FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,000.00 OR
21 3 TIMES THE VALUE OF THE PROPERTY PURCHASED, RECEIVED, POSSESSED,
22 OR CONCEALED, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A
23 FINE.

24 (5) If the property purchased, received, possessed, or con-
25 cealed ~~is of~~ HAS a value of ~~\$100.00 or~~ less THAN \$200.00, the
26 person is guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT FOR
27 NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3

1 TIMES THE VALUE OF THE PROPERTY PURCHASED, RECEIVED, POSSESSED,
 2 OR CONCEALED, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A
 3 FINE.

4 (6) On a CONVICTION FOR SUBSECTION (4) OR (5) THAT IS A
 5 third or subsequent conviction under this section, the person is
 6 guilty of a felony ~~—~~ punishable by imprisonment for not more
 7 than 5 years ~~—~~ or ~~by~~ a fine of not more than ~~\$2,500.00~~
 8 \$10,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY PURCHASED,
 9 RECEIVED, POSSESSED, OR CONCEALED, WHICHEVER IS GREATER, or both
 10 IMPRISONMENT AND A FINE, ~~although~~ REGARDLESS OF the value of
 11 the property purchased, received, possessed, or concealed. ~~does~~
 12 ~~not exceed \$100.00.~~

13 (7) ~~(2)~~ A person who is a dealer in or collector of mer-
 14 chandise or personal property, or the agent, employee, or repre-
 15 sentative of a dealer or collector OF MERCHANDISE OR PERSONAL
 16 PROPERTY who fails to ~~make reasonable inquiry that~~ REASONABLY
 17 INQUIRE WHETHER the person selling or delivering the stolen,
 18 embezzled, or converted property to the dealer or collector has a
 19 legal right to do so or who buys or receives stolen, embezzled,
 20 or converted property ~~which~~ THAT has a registration, serial, or
 21 other identifying number altered or obliterated on an external
 22 surface of the property, ~~shall be~~ IS presumed to have bought or
 23 received the property knowing the property ~~to be~~ IS stolen,
 24 embezzled, or converted. This presumption ~~may be rebutted by~~
 25 ~~proof~~ IS REBUTTABLE.

26 Section 2. This amendatory act shall take effect October 1,
 27 1995.