

SUBSTITUTE FOR
SENATE BILL NO. 106

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 535a (MCL 750.535a), as amended by 1988 PA
140.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

5 (b) "Chop shop" means any OF THE FOLLOWING:

6 (i) ANY area, building, storage lot, field, or ~~any~~ other
7 premises or place where 1 or more persons are engaged or have
8 engaged in altering, dismantling, reassembling, or in any way
9 concealing or disguising the identity of a stolen motor vehicle

SB 106, As Passed Senate, February 18, 1999

Senate Bill No. 106

2

1 or of any major component part of a stolen motor vehicle. ~~or~~
2 ~~any~~

3 (ii) ANY area, building, storage lot, field, or ~~any~~ other
4 premises or place where there are 3 or more stolen motor vehicles
5 present or where there are major component parts from 3 or more
6 stolen motor vehicles present.

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

9 (i) The engine.

10 (ii) The transmission.

11 (iii) The right or left front fender.

12 (iv) The hood.

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

15 (vi) The front or rear bumper.

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

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

18 (ix) The trunk floor pan.

19 (x) The cargo box of a pickup.

20 (xi) The frame, or if the vehicle has a unitized body, the
21 supporting structure or structures ~~which~~ THAT serve as the
22 frame.

23 (xii) The cab of a truck.

24 (xiii) The body of a passenger vehicle.

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

SB 106, As Passed Senate, February 18, 1999

Senate Bill No. 106

3

1 (d) "Motor vehicle" means ~~a~~ EITHER OF THE FOLLOWING:

2 (i) A device in, upon, or by which a person or property is
3 or may be transported or drawn upon a highway that is
4 self-propelled or that may be connected to and towed by a
5 self-propelled device. ~~, and a~~

6 (ii) A land-based device that is self-propelled but ~~is~~ not
7 designed for use upon a highway, including, but not limited to,
8 farm machinery, a bulldozer, ~~and~~ OR a steam shovel.

9 (2) Except as provided in subsection (3), a person who know-
10 ingly owns, operates, or conducts a chop shop or who knowingly
11 aids and abets another person in owning, operating, or conducting
12 a chop shop is guilty of a felony ~~,~~ punishable by imprisonment
13 for not more than ~~5~~ 15 years ~~,~~ or ~~by~~ a fine of not more
14 than ~~\$5,000.00~~ \$250,000.00, or both.

15 (3) Upon a second or subsequent conviction under this sec-
16 tion, the person convicted may be imprisoned for not more than
17 ~~5~~ 15 years and shall be fined not less than \$10,000.00 OR MORE
18 THAN \$250,000.00, OR BOTH.

19 (4) ~~A person who violates~~ IN ADDITION TO ANY OTHER PUNISH-
20 MENT, A PERSON CONVICTED OF VIOLATING this section ~~, upon con-~~
21 viction, ~~in addition to any other punishment, may~~ SHALL be
22 ordered to make restitution to the rightful owner of a stolen
23 motor vehicle or of a stolen major component part, or to the
24 owner's insurer if the owner has already been compensated for the
25 loss by the insurer, for any financial loss sustained as a result
26 of the theft of the motor vehicle or a major component part.

SB 106, As Passed Senate, February 18, 1999

Senate Bill No. 106

4

1 Restitution ~~may~~ SHALL be imposed in addition to, but not
2 instead of, any imprisonment or 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~~ ANY BOOK, RECORD, money, negotiable
20 ~~instruments~~ INSTRUMENT, or other personal property or real
21 property, except real property that is the primary residence of
22 the spouse or a dependent child of the owner, that is or has been
23 used in a chop shop operation.

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

SB 106, As Passed Senate, February 18, 1999

Senate Bill No. 106

5

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~~ obtain-
10 ing ~~of~~ process and there is probable cause to believe that the
11 property was used or is intended to be used in violation of this
12 section.

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

21 (8) ~~In the event of a seizure of~~ IF property other than
22 real property ~~pursuant to~~ IS SEIZED UNDER subsection (6), the
23 seizing law enforcement agency shall do 1 or more of the follow-
24 ing, subject to subsection (9):

25 (a) Place the property under seal.

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

SB 106, As Passed Senate, February 18, 1999

Senate Bill No. 106

6

1 (c) Petition the recorder's court of the city of Detroit or
2 the district or circuit court to appoint a custodian to take
3 custody of the property and to remove it to an appropriate loca-
4 tion for disposition in accordance with law.

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

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

23 (11) A forfeiture of property encumbered by a bona fide
24 security interest is subject to the interest of the secured party
25 who ~~neither had knowledge of nor consented~~ DID NOT KNOW OF OR
26 CONSENT to the act or omission in violation of this section.

SB 106, As Passed Senate, February 18, 1999

Senate Bill No. 106

7

1 (12) Any property seized under subsection (6) that was
2 stolen shall be returned to its rightful owner if that ownership
3 can be established to the satisfaction of the seizing law
4 enforcement agency. Any stolen property that is unclaimed after
5 seizure may be sold ~~pursuant to~~ AS PROVIDED BY law.

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

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