

**SENATE BILL NO. 106**

January 27, 1999, Introduced by Senators V. SMITH, CHERRY, YOUNG,  
SCHUETTE, HART and MC MANUS and referred to the Committee  
on Judiciary.

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

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).

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 be ordered to  
22 make restitution to the rightful owner of a stolen motor vehicle  
23 or of a stolen major component part, or to the owner's insurer if  
24 the owner has already been compensated for the loss by the insurer,  
25 for any financial loss sustained as a result of the theft of  
26 the 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~~ 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

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.

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.

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).