

Act No. 185
Public Acts of 1999
Approved by the Governor
November 23, 1999
Filed with the Secretary of State
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**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 1999**

Introduced by Senators V. Smith, Cherry, Young, Schuette, Hart, McManus, Peters, Byrum, Murphy, DeBeaussaert, Miller, Leland, McCotter, North, Gougeon, Schwarz, Rogers, Bullard, Sikkema, Hammerstrom, Steil, Jaye, Goschka, Shugars, Stille, Bennett, A. Smith and Hoffman

ENROLLED SENATE BILL No. 106

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 535a (MCL 750.535a), as amended by 1988 PA 140.

The People of the State of Michigan enact:

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

(a) "Bona fide purchaser for value" means a person who purchases property for value in good faith and without notice of any adverse claim to the property.

(b) "Chop shop" means any of the following:

(i) Any area, building, storage lot, field, or other premises or place where 1 or more persons are engaged or have engaged in altering, dismantling, reassembling, or in any way concealing or disguising the identity of a stolen motor vehicle or of any major component part of a stolen motor vehicle.

(ii) Any area, building, storage lot, field, or other premises or place where there are 3 or more stolen motor vehicles present or where there are major component parts from 3 or more stolen motor vehicles present.

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

(i) The engine.

(ii) The transmission.

(iii) The right or left front fender.

(iv) The hood.

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

(vi) The front or rear bumper.

(vii) The right or left rear quarter panel.

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

(ix) The trunk floor pan.

(x) The cargo box of a pickup.

(xi) The frame, or if the vehicle has a unitized body, the supporting structure or structures that serve as the frame.

(xii) The cab of a truck.

(xiii) The body of a passenger vehicle.

(xiv) An airbag or airbag assembly.

(xv) A wheel or tire.

(xvi) Any other part of a motor vehicle that the secretary of state determines is comparable in design or function to any of the parts listed in subparagraphs (i) to (xv).

(d) "Motor vehicle" means either of the following:

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

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

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

(3) Upon a second or subsequent conviction under this section, the person convicted may be imprisoned for not more than 10 years and shall be fined not less than \$10,000.00 or more than \$250,000.00, or both.

(4) In addition to any other punishment, a person convicted of violating this section shall be ordered to make restitution to the rightful owner of a stolen motor vehicle or of a stolen major component part, or to the owner's insurer if the owner has already been compensated for the loss by the insurer, for any financial loss sustained as a result of the theft of the motor vehicle or a major component part. Restitution shall be imposed in addition to, but not instead of, any imprisonment or fine imposed.

(5) All of the following are subject to seizure and, if a person is charged with a violation or attempted violation of subsection (2) and is convicted of a violation or attempted violation of subsection (2) or section 415, 416, 535, or 536a, subject to forfeiture:

(a) An engine, tool, machine, implement, device, chemical, or substance used or designed for altering, dismantling, reassembling, or in any other way concealing or disguising the identity of a stolen motor vehicle or any major component part.

(b) A stolen motor vehicle or major component part found at the site of a chop shop or a motor vehicle or major component part for which there is probable cause to believe that it is stolen.

(c) A wrecker, car hauler, or any other motor vehicle that is used or has been used to convey or transport a stolen motor vehicle or major component part.

(d) Any book, record, money, negotiable instrument, or other personal property or real property, except real property that is the primary residence of the spouse or a dependent child of the owner, that is or has been used in a chop shop operation.

(6) Except as provided in subsection (7), property described in subsection (5) may be seized by a state or local law enforcement agency upon process issued by the recorder's court of the city of Detroit or the district or circuit court having jurisdiction over the property. Seizure without process may be made in any of the following cases:

(a) The seizure is incident to an arrest or pursuant to a search warrant or an inspection under an administrative inspection warrant.

(b) The property subject to seizure has been the subject of a prior judgment in favor of this state in a forfeiture proceeding based upon this section.

(c) Exigent circumstances exist that preclude obtaining process and there is probable cause to believe that the property was used or is intended to be used in violation of this section.

(7) To retain property for which seizure and forfeiture are sought under this section pending the forfeiture hearing, a licensed used or secondhand vehicle parts dealer or the owner may post a bond in the amount of 1-1/2 times the value of the property. This subsection does not apply to a motor vehicle or major component part that is to be used as evidence in a criminal proceeding.

(8) If property other than real property is seized under subsection (6), the seizing law enforcement agency shall do 1 or more of the following, subject to subsection (9):

(a) Place the property under seal.

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

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

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

(10) The rightful owner of any property that is to be forfeited under subsection (5) shall be served notice at least 10 days before the matter is to be heard regarding the forfeiture and, if the rightful owner did not know of and did not consent to the commission of the crime, the property shall be returned to the rightful owner. If the rightful owner of the property is not known or cannot be found, notice may be served by publishing notice of the forfeiture hearing not less than 10 days before the date of the hearing in a newspaper of general circulation in the county where the hearing is to be held. The notice shall contain a general description of the property and any serial or registration numbers on the property.

(11) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party who did not know of or consent to the act or omission in violation of this section.

(12) Any property seized under subsection (6) that was stolen shall be returned to its rightful owner if that ownership can be established to the satisfaction of the seizing law enforcement agency. Any stolen property that is unclaimed after seizure may be sold as provided by law.

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

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

Enacting section 1. This amendatory act takes effect April 1, 2000.

Carol Morey Viventi

Secretary of the Senate.

Jay E. Randall

Clerk of the House of Representatives.

Approved

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Governor.