

# HOUSE BILL No. 5249

October 16, 2001, Introduced by Reps. Koetje, Pappageorge, Van Woerkom, Bovin, Kuipers, Shackleton, Ehardt, Vander Veen and Patterson and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
(MCL 750.1 to 750.568) by adding section 395.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 395. (1) A PERSON SHALL NOT DO EITHER OF THE  
2 FOLLOWING:

3 (A) DAMAGE OR DESTROY THE AGRICULTURAL PROPERTY OF ANOTHER  
4 PERSON WITH THE INTENT TO DO EITHER OF THE FOLLOWING:

5 (i) TO FRIGHTEN, INTIMIDATE, OR HARASS ANY PERSON.

6 (ii) TO PREVENT ANY PERSON FROM ENGAGING IN ANY LAWFUL PRO-  
7 FESSION, OCCUPATION, OR ACTIVITY.

8 (B) PLACE ANY OBJECT IN ANY AGRICULTURAL PROPERTY TO PREVENT  
9 THE LAWFUL GROWING, HARVESTING, TRANSPORTATION, KEEPING, SELLING,  
10 OR PROCESSING OF THAT AGRICULTURAL PROPERTY.

1 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A  
2 CRIME AS FOLLOWS:

3 (A) IF THE VALUE OF THE PROPERTY IS LESS THAN \$200.00, THE  
4 PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR  
5 NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3  
6 TIMES THE VALUE OF THE PROPERTY DAMAGED OR DESTROYED, WHICHEVER  
7 IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

8 (B) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
9 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR  
10 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE  
11 PROPERTY DAMAGED OR DESTROYED, WHICHEVER IS GREATER, OR BOTH  
12 IMPRISONMENT AND A FINE:

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

15 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 1 OR MORE  
16 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT A VIOLA-  
17 TION OF THIS SECTION.

18 (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
19 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A  
20 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE  
21 PROPERTY DAMAGED OR DESTROYED, WHICHEVER IS GREATER, OR BOTH  
22 IMPRISONMENT AND A FINE:

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

25 (ii) THE PERSON VIOLATES SUBDIVISION (B)(i) AND HAS 1 OR  
26 MORE PRIOR CONVICTIONS FOR VIOLATING OR ATTEMPTING TO VIOLATE  
27 THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A

1 PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A VIOLATION OR  
2 ATTEMPTED VIOLATION OF SUBDIVISION (A) OR (B)(ii).

3 (D) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
4 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A  
5 FINE OF NOT MORE THAN \$15,000.00 OR 3 TIMES THE VALUE OF THE  
6 PROPERTY DAMAGED OR DESTROYED, WHICHEVER IS GREATER, OR BOTH  
7 IMPRISONMENT AND A FINE:

8 (i) THE PROPERTY HAS A VALUE OF \$20,000.00 OR MORE.

9 (ii) THE PERSON VIOLATES SUBDIVISION (C)(i) AND HAS 2 OR  
10 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT A  
11 VIOLATION OF THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH,  
12 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A  
13 VIOLATION OR ATTEMPTED VIOLATION OF SUBDIVISION (A) OR (B)(ii).

14 (E) IF THE VIOLATION RESULTS IN PHYSICAL INJURY TO ANOTHER  
15 INDIVIDUAL, OTHER THAN SERIOUS IMPAIRMENT OF A BODY FUNCTION, THE  
16 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT  
17 MORE THAN 25 YEARS OR A FINE OF NOT MORE THAN \$20,000.00 OR 3  
18 TIMES THE VALUE OF THE PROPERTY DAMAGED OR DESTROYED, WHICHEVER  
19 IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

20 (F) IF THE VIOLATION CAUSES SERIOUS IMPAIRMENT OF A BODY  
21 FUNCTION TO ANOTHER INDIVIDUAL, THE PERSON IS GUILTY OF A FELONY  
22 PUNISHABLE BY IMPRISONMENT FOR LIFE OR ANY TERM OF YEARS OR A  
23 FINE OF NOT MORE THAN \$25,000.00 OR 3 TIMES THE VALUE OF THE  
24 PROPERTY DAMAGED OR DESTROYED, WHICHEVER IS GREATER, OR BOTH  
25 IMPRISONMENT AND A FINE. AS USED IN THIS SUBDIVISION, "SERIOUS  
26 IMPAIRMENT OF A BODY FUNCTION" INCLUDES, BUT IS NOT LIMITED TO, 1  
27 OR MORE OF THE FOLLOWING:

- 1       (i) THE LOSS OF A LIMB OR USE OF A LIMB.
- 2       (ii) THE LOSS OF A HAND, FOOT, FINGER, OR THUMB OR USE OF A  
3 HAND, FOOT, FINGER, OR THUMB.
- 4       (iii) THE LOSS OF AN EYE OR EAR OR USE OF AN EYE OR EAR.
- 5       (iv) THE LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY  
6 FUNCTION.
- 7       (v) A SERIOUS VISIBLE DISFIGUREMENT.
- 8       (vi) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.
- 9       (vii) ANY MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.
- 10      (viii) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.
- 11      (ix) A SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.
- 12      (G) IF THE VIOLATION CAUSES THE DEATH OF ANOTHER INDIVIDUAL,  
13 THE PERSON IS GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR LIFE  
14 WITHOUT ELIGIBILITY FOR PAROLE AND MAY BE FINED NOT MORE THAN  
15 \$40,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY DAMAGED OR  
16 DESTROYED, WHICHEVER IS GREATER.
- 17      (3) THE VALUE OF PROPERTY DAMAGED OR DESTROYED IN SEPARATE  
18 INCIDENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY  
19 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL VALUE OF  
20 PROPERTY DAMAGED OR DESTROYED.
- 21      (4) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED  
22 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-  
23 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT  
24 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR  
25 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION  
26 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,  
27 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE

1 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE  
2 ESTABLISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING,  
3 BUT NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

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

5 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
6 SENTENCING.

7 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

8 (D) THE DEFENDANT'S STATEMENT.

9 (5) IF THE SENTENCE FOR A CONVICTION UNDER THIS SECTION IS  
10 ENHANCED BY 1 OR MORE PRIOR CONVICTIONS, THOSE PRIOR CONVICTIONS  
11 SHALL NOT BE USED TO FURTHER ENHANCE THE SENTENCE FOR THE CONVIC-  
12 TION PURSUANT TO SECTION 10, 11, OR 12 OF CHAPTER IX OF THE CODE  
13 OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.10, 769.11, AND  
14 769.12.

15 (6) THE COURT SHALL ORDER A PERSON CONVICTED OF VIOLATING  
16 THIS SECTION TO PAY RESTITUTION TO THE VICTIM. THE COURT MAY  
17 ALSO ORDER THE PERSON TO PAY 1 OR MORE OF THE FOLLOWING:

18 (A) ALL RESEARCH AND DEVELOPMENT COSTS FOR THE AGRICULTURAL  
19 PROPERTY DAMAGED OR DESTROYED THAT ARISE OUT OF THE VIOLATION.

20 (B) THE TUITION COSTS AND LOST WAGES OF A STUDENT CONDUCTING  
21 RESEARCH REGARDING THE AGRICULTURAL PROPERTY DAMAGED OR DESTROYED  
22 OR WHO IS UNABLE TO CONDUCT OR CONTINUE RESEARCH BECAUSE OF A  
23 LOSS THAT ARISES OUT OF THE VIOLATION.

24 (7) AS USED IN THIS SECTION:

25 (A) "AGRICULTURAL COMMODITY" MEANS ANY PLANT OR ANIMAL OR  
26 ANY BY-PRODUCT OF A PLANT OR ANIMAL THAT IS GROWN, RAISED, OR  
27 KEPT FOR SALE AS A COMMERCIAL PRODUCT OR FOR RESEARCH.

1           (B) "AGRICULTURAL PROPERTY" MEANS ANY REAL OR PERSONAL  
2 PROPERTY THAT IS USED TO GROW, HARVEST, TRANSPORT, KEEP, SELL, OR  
3 PROCESS AN AGRICULTURAL COMMODITY.