

SENATE BILL No. 1114

February 13, 2008, Introduced by Senators BROWN, BARCIA, KAHN and HARDIMAN and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 356 (MCL 750.356), as amended by 1998 PA 311.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 356. (1) A person who commits larceny by stealing any of
2 the following property of another person is guilty of a crime as
3 provided in this section:

4 (a) Money, goods, or chattels.

5 (b) A bank note, bank bill, bond, promissory note, due bill,
6 bill of exchange or other bill, draft, order, or certificate.

7 (c) A book of accounts for or concerning money or goods due,
8 to become due, or to be delivered.

9 (d) A deed or writing containing a conveyance of land or other
10 valuable contract in force.

1 (e) A receipt, release, or defeasance.

2 (f) A writ, process, or public record.

3 (2) 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 stolen, whichever is greater, or both imprisonment and a
7 fine:

8 (a) The property stolen, **OR THE COST OF REPAIRING THE DAMAGE**
9 **CAUSED BY THE LARCENY OF THE PROPERTY, OR BOTH**, has a value of
10 \$20,000.00 or more.

11 (b) The person violates subsection (3)(a) and has 2 or more
12 prior convictions for committing or attempting to commit an offense
13 under this section. For purposes of this subdivision, however, a
14 prior conviction does not include a conviction for a violation or
15 attempted violation of subsection (4)(b) or (5).

16 (3) If any of the following apply, the person is guilty of a
17 felony punishable by imprisonment for not more than 5 years or a
18 fine of not more than \$10,000.00 or 3 times the value of the
19 property stolen, whichever is greater, or both imprisonment and a
20 fine:

21 (a) The property stolen, **OR THE COST OF REPAIRING THE DAMAGE**
22 **CAUSED BY THE LARCENY OF THE PROPERTY, OR BOTH**, has a value of
23 \$1,000.00 or more but less than \$20,000.00.

24 (b) The person violates subsection (4)(a) and has 1 or more
25 prior convictions for committing or attempting to commit an offense
26 under this section. For purposes of this subdivision, however, a
27 prior conviction does not include a conviction for a violation or

1 attempted violation of subsection (4)(b) or (5).

2 (4) If any of the following apply, the person is guilty of a
3 misdemeanor punishable by imprisonment for not more than 1 year or
4 a fine of not more than \$2,000.00 or 3 times the value of the
5 property stolen, whichever is greater, or both imprisonment and a
6 fine:

7 (a) The property stolen, **OR THE COST OF REPAIRING THE DAMAGE**
8 **CAUSED BY THE LARCENY OF THE PROPERTY, OR BOTH,** has a value of
9 \$200.00 or more but less than \$1,000.00.

10 (b) The person violates subsection (5) and has 1 or more prior
11 convictions for committing or attempting to commit an offense under
12 this section or a local ordinance substantially corresponding to
13 this section.

14 (5) If the property stolen, **OR THE COST OF REPAIRING THE**
15 **DAMAGE CAUSED BY THE LARCENY OF THE PROPERTY, OR BOTH,** has a value
16 of less than \$200.00, the person is guilty of a misdemeanor
17 punishable by imprisonment for not more than 93 days or a fine of
18 not more than \$500.00 or 3 times the value of the property stolen,
19 whichever is greater, or both imprisonment and a fine.

20 (6) The values of property stolen in separate incidents
21 pursuant to a scheme or course of conduct within any 12-month
22 period may be aggregated to determine the total value of property
23 stolen.

24 (7) If the prosecuting attorney intends to seek an enhanced
25 sentence based upon the defendant having 1 or more prior
26 convictions, the prosecuting attorney shall include on the
27 complaint and information a statement listing the prior conviction

1 or convictions. The existence of the defendant's prior conviction
2 or convictions shall be determined by the court, without a jury, at
3 sentencing or at a separate hearing for that purpose before
4 sentencing. The existence of a prior conviction may be established
5 by any evidence relevant for that purpose, including, but not
6 limited to, 1 or more of the following:

7 (a) A copy of the judgment of conviction.

8 (b) A transcript of a prior trial, plea-taking, or sentencing.

9 (c) Information contained in a presentence report.

10 (d) The defendant's statement.

11 (8) If the sentence for a conviction under this section is
12 enhanced by 1 or more prior convictions, those prior convictions
13 shall not be used to further enhance the sentence for the
14 conviction pursuant to section 10, 11, or 12 of chapter IX of the
15 code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and
16 769.12.

17 (9) **AS USED IN THIS SECTION, "VALUE OF THE PROPERTY STOLEN"**
18 **MEANS THE GREATEST OF THE FOLLOWING:**

19 (A) **THE REPLACEMENT COST OF THE STOLEN PROPERTY.**

20 (B) **THE COST OF REPAIRING THE DAMAGE CAUSED BY THE LARCENY OF**
21 **THAT PROPERTY.**

22 (C) **THE TOTAL OF SUBDIVISIONS (A) AND (B).**