

HOUSE BILL No. 5008

September 26, 2017, Introduced by Reps. Hoitenga, Sheppard, Iden and Kesto and referred to the Committee on Law and Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 356 (MCL 750.356), as amended by 2013 PA 217.

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 (g) Scrap metal.

4 **(H) AN APPLIANCE FROM A RENTAL PROPERTY.**

5 (2) If any of the following apply, the person is guilty of a
6 felony punishable by imprisonment for not more than 10 years or a
7 fine of not more than \$15,000.00 or 3 times the value of the
8 property stolen, whichever is greater, or both imprisonment and a
9 fine:

10 (a) The property stolen has a value of \$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 has a value of \$1,000.00 or more but
22 less than \$20,000.00.

23 (b) The person violates subsection (4) (a) and has 1 or more
24 prior convictions for committing or attempting to commit an offense
25 under this section. For purposes of this subdivision, however, a
26 prior conviction does not include a conviction for a violation or
27 attempted violation of subsection (4) (b) or (5).

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

6 (a) The property stolen has a value of \$200.00 or more but
7 less than \$1,000.00.

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

12 (5) If the property stolen has a value of less than \$200.00,
13 the person is guilty of a misdemeanor punishable by imprisonment
14 for not more than 93 days or a fine of not more than \$500.00 or 3
15 times the value of the property stolen, whichever is greater, or
16 both imprisonment and a fine.

17 (6) If the property stolen is scrap metal, then, as used in
18 this section, "the value of the property stolen" means the greatest
19 of the following:

20 (a) The replacement cost of the stolen scrap metal.

21 (b) The cost of repairing the damage caused by the larceny of
22 the scrap metal.

23 (c) The sum of subdivisions (a) and (b).

24 (7) The values of property stolen in separate incidents
25 pursuant to a scheme or course of conduct within any 12-month
26 period may be aggregated to determine the total value of property
27 stolen.

(8) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions ~~shall~~**MUST** be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

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

(c) Information contained in a presentence report.

(d) The defendant's statement.

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

(10) IF THE PROPERTY STOLEN IS AN APPLIANCE FROM A RENTAL PROPERTY, UPON CONVICTION THE COURT SHALL ORDER RESTITUTION AS PROVIDED IN SECTION 1A(4) OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.1A.

(11) ~~(10)~~As used in this section: ~~"serap~~

(A) "APPLIANCE" MEANS AN APPLIANCE THAT IS NECESSARY TO MAINTAIN THE HABITABILITY OF A RESIDENTIAL RENTAL PROPERTY OR TO

1 MAINTAIN A PROPERTY FOR ITS INTENDED USE IN A COMMERCIAL,
2 INDUSTRIAL, OR MIXED USE RENTAL PROPERTY.

3 (B) "RENTAL PROPERTY" MEANS A RESIDENTIAL, COMMERCIAL,
4 INDUSTRIAL, OR MIXED USE PROPERTY OWNED BY AN INDIVIDUAL OR ENTITY
5 FOR THE EXPRESS PURPOSE OF RENTING TO AN INDIVIDUAL, FAMILY, OR
6 ENTITY FOR PROFIT.

7 (C) "SCRAP metal" means that term as defined in section 3 of
8 the scrap metal regulatory act, 2008 PA 429, MCL 445.423.

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.

11 Enacting section 2. This amendatory act does not take effect
12 unless Senate Bill No. _____ or House Bill No. 5007 (request no.
13 03521'17a) of the 99th
14 Legislature is enacted into law.