

THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

CHAPTER LXXXI

STOLEN, EMBEZZLED OR CONVERTED PROPERTY

750.535 Buying, receiving, possessing, concealing, or aiding in concealment of stolen, embezzled, or converted property or motor vehicle; violation; penalty; rebuttable presumption; enhanced sentence based on prior convictions; prohibited defense.

Sec. 535. (1) A person shall not buy, receive, possess, conceal, or aid in the concealment of stolen, embezzled, or converted money, goods, or property knowing, or having reason to know or reason to believe, that the money, goods, or property is stolen, embezzled, or converted.

(2) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of \$20,000.00 or more.

(b) The property purchased, received, possessed, or concealed has a value of \$1,000.00 or more but less than \$20,000.00, and the person has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The property purchased, received, possessed, or concealed has a value of \$200.00 or more but less than \$1,000.00, and the person has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

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

(a) The property purchased, received, possessed, or concealed has a value of \$200.00 or more but less than \$1,000.00.

(b) The property purchased, received, possessed, or concealed has a value of less than \$200.00, and the person has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property purchased, received, possessed, or concealed has a value of less than \$200.00, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine.

(6) The values of property purchased, received, possessed, or concealed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property purchased, received, possessed, or concealed.

(7) A person shall not buy, receive, possess, conceal, or aid in the concealment of a stolen motor vehicle knowing, or having reason to know or reason to believe, that the motor vehicle is stolen, embezzled, or converted. Except as provided in subsection (8), a person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the motor vehicle purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine. A person who is charged with, convicted of, or punished for a violation of this subsection shall not be convicted of or punished for a violation of another provision of this section arising from the purchase, receipt, possession, concealment, or aiding in the concealment of the same motor vehicle. This subsection does not prohibit the person from being charged, convicted, or punished under any other applicable law.

(8) A person who violates subsection (7) and has 1 or more prior convictions for committing or attempting to commit an offense under this section, other than a violation of subsection (4)(b) or (5), is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the

value of the vehicle purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine.

(9) 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 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.

(10) A person who is a dealer in or collector of merchandise or personal property, or the agent, employee, or representative of a dealer or collector of merchandise or personal property who fails to reasonably inquire whether the person selling or delivering the stolen, embezzled, or converted property to the dealer or collector has a legal right to do so or who buys or receives stolen, embezzled, or converted property that has a registration, serial, or other identifying number altered or obliterated on an external surface of the property, is presumed to have bought or received the property knowing the property is stolen, embezzled, or converted. This presumption is rebuttable.

(11) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction under 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.

(12) It is not a defense to a charge under this section that the property was not stolen, embezzled, or converted property at the time of the violation if the property was explicitly represented to the accused person as being stolen, embezzled, or converted property.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1941, Act 11, Eff. Jan. 10, 1942;—CL 1948, 750.535;—Am. 1952, Act 40, Eff. Sept. 18, 1952;—Am. 1957, Act 69, Eff. Sept. 27, 1957;—Am. 1972, Act 242, Eff. Mar. 30, 1973;—Am. 1974, Act 55, Imd. Eff. Apr. 1, 1974;—Am. 1979, Act 11, Eff. Mar. 27, 1980;—Am. 1998, Act 311, Eff. Jan. 1, 1999;—Am. 2002, Act 720, Eff. Apr. 1, 2003;—Am. 2006, Act 374, Eff. Oct. 1, 2006;—Am. 2014, Act 221, Eff. Mar. 31, 2015.

Constitutionality: The statutory presumption in MCL 750.535(2) that a dealer in personal property is presumed to know that property received with an altered serial number is stolen does not violate due process requirements because there is a rational connection between the proven facts and the fact presumed. *People v Gallagher*, 404 Mich 429; 273 NW2d 440 (1979).

Former law: See section 20 of Ch. 154 of R.S. 1846, being CL 1857, § 5764; CL 1871, § 7571; How., § 9142; CL 1897, § 11556; CL 1915, § 15301; CL 1929, § 16902; and Act 220 of 1897.

750.535a Definitions; owning, operating, or conducting chop shop; aiding and abetting; felony; penalty; second or subsequent conviction; restitution; property subject to seizure or forfeiture; process; disposition of money seized; seizure without process; bond; duties of seizing law enforcement agency; return of property; hearing; notice to rightful owner; interest of secured party; return of property seized to rightful owner; sale of unclaimed stolen property; sale of forfeited property; distribution of proceeds; enhancement of law enforcement efforts; applicability of section.

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 (10):
 - (a) Place the property under seal.

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

(c) Petition 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) The seizing agency may deposit money seized under subsection (8) into an interest-bearing account in a financial institution. As used in this subsection, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

(10) An attorney for a person who is charged with a violation of this section involving or related to money seized by a law enforcement agency under this section shall be afforded a period of 60 days within which to examine that money. This 60-day period shall begin to run after notice is given under subsection (12) but before the money is deposited into a financial institution under subsection (9). If the attorney general or prosecuting attorney fails to sustain his or her burden of proof in criminal proceedings under this section, the court shall order the return of the money, including any interest earned on money deposited into a financial institution under subsection (9).

(11) 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.

(12) 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.

(13) 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.

(14) 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.

(15) 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.

(16) 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).

History: Add. 1984, Act 407, Eff. Apr. 1, 1985;—Am. 1988, Act 140, Imd. Eff. June 3, 1988;—Am. 1999, Act 185, Eff. Apr. 1, 2000;—Am. 2006, Act 129, Imd. Eff. May 5, 2006.

750.535b Transporting or shipping stolen firearm or stolen ammunition as felony; receiving, concealing, storing, bartering, selling, disposing of, pledging, or accepting as security for a loan a stolen firearm as felony; penalties.

Sec. 535b. (1) A person who transports or ships a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than \$5,000.00, or both.

(2) A person who receives, conceals, stores, barter, sells, disposes of, pledges, or accepts as security for a loan a stolen firearm or stolen ammunition, knowing that the firearm or ammunition was stolen, is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than \$5,000.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991.

750.536 Conviction for larceny not essential.

Sec. 536. In any prosecution of the offense of buying, receiving or aiding in the concealment of stolen, embezzled or converted money or other property it shall not be necessary to aver, nor on the trial thereof to prove that the person who stole, embezzled or converted such property has been convicted.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.536;—Am. 1952, Act 40, Eff. Sept. 18, 1952.

Former law: See section 23 of Ch. 154 of R.S. 1846, being CL 1857, § 5766; CL 1871, § 7573; How., § 9144; CL 1897, § 11558; CL 1915, § 15303; and CL 1929, § 16904.

750.536a Rendering goods or property unidentifiable; possession or sale of goods or property with identifying number obscured, defaced, altered, obliterated, removed, destroyed, or otherwise concealed or disguised.

Sec. 536a. (1) A person who obscures, defaces, alters, obliterates, removes, destroys, or otherwise conceals or disguises any registration, serial, or other identifying number embossed, engraved, carved, stamped, welded, or otherwise placed or situated in or upon goods or property held for sale in the ordinary course of business with the intent to render the goods or property unidentifiable shall be guilty of a misdemeanor.

(2) A person who is a dealer in or collector of any merchandise or personal property or the agent, employee, or representative of a dealer or collector and who possesses goods or property with the intent to sell the goods or property in the ordinary course of business knowing the registration, serial, or other identifying number has been obscured, defaced, altered, obliterated, removed, destroyed, or otherwise concealed or disguised shall be guilty of a misdemeanor.

(3) A person who is a dealer or collector of any merchandise or personal property or the agent, employee, or representative of a dealer or collector and who sells goods or property in the ordinary course of business knowing that the registration, serial, or other identifying number has been obscured, defaced, altered, obliterated, removed, destroyed, or otherwise concealed or disguised shall be guilty of a misdemeanor.

History: Add. 1980, Act 44, Eff. July 1, 1980;—Am. 1984, Act 407, Eff. Apr. 1, 1985.

750.537 Copper or silver ore; barter, transfer, or sale; memorandum of sale; certificate; applicability; violation as misdemeanor.

Sec. 537. A person working in any copper or silver mine of this state, or any person in behalf of such person, shall not sell, barter, transfer, or ship any copper or silver ore, bullion, pig, or copper or silver in the raw or unmanufactured state, and shall not be a party to any barter, transfer, or sale, or aid or assist therein, unless a memorandum be filed with the county clerk of the county where the barter, transfer, or sale shall take place, giving the names of the parties making such barter, transfer, sale, or shipment, the dates, consideration, and the origin of the copper or silver so bartered, transferred, sold, or shipped, and in all cases where the origin of said copper or silver is not known to the parties, no barter, transfer, sale, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk or by a constable or deputy sheriff, judge, stating in substance that he or she has investigated the source or origin of the copper or silver so to be bartered, transferred, sold, or shipped and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to transfer or sell the articles. This section does not apply to any person authorized to act in behalf of a person, firm, or corporation engaged in the business of mining copper or silver as owner. Any person violating the provisions of this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.537;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 3 of Act 281 of 1925, being CL 1929, §§ 9837 and 9839.

750.538 Copper or silver ore; sales, transfers, or shipments; memorandum of sale; certificate; violation as misdemeanor; penalty.

Sec. 538. (1) Any sales, transfers, or shipments of copper or silver ore, bullion, pig, or copper or silver in the raw or unmanufactured state in any county of this state where copper and silver are mined, by any person not engaged in the business of mining or producing copper or silver ore, bullion, pig, or copper or silver in the unmanufactured state, shall be unlawful unless and until a memorandum thereof shall be filed with the county clerk of the county where such sale or transfer shall take place, giving the names of the parties, the dates, consideration, and origin of the copper or silver so sold, transferred, or shipped or offered for sale, transfer, or shipping; and in all cases where the origin of the copper or silver is not known, no sale, transfer, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk, constable, or deputy sheriff, stating in substance that he or she has investigated the source or origin of the copper or silver offered for sale, transfer, or shipment, and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to sell, transfer, and ship the same.

(2) Any person violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.538;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991;—Am. 2002, Act

672, Eff. Mar. 31, 2003.

Former law: See sections 2 and 3 of Act 281 of 1925, being CL 1929, §§ 9838 and 9839.