



# SENATE BILL No. 863

February 15, 1996, Introduced by Senator V. SMITH and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to amend section 535a of Act No. 328 of the Public Acts of 1931, entitled as amended "The Michigan penal code," as amended by Act No. 140 of the Public Acts of 1988, being section 750.535a of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 535a of Act No. 328 of the Public Acts  
2 of 1931, as amended by Act No. 140 of the Public Acts of 1988,  
3 being section 750.535a of the Michigan Compiled Laws, is amended  
4 to read as follows:

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

6 (a) "Bona fide purchaser for value" means a person who pur-  
7 chases property for value in good faith and without notice of any  
8 adverse claim to the property.

1 (b) "Chop shop" means any OF THE FOLLOWING:

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

8 (ii) ANY area, building, storage lot, field, or ~~any~~ other  
9 premises or place where there are 3 or more stolen motor vehicles  
10 present or where there are major component parts from 3 or more  
11 stolen motor vehicles present.

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

14 (i) The engine.

15 (ii) The transmission.

16 (iii) The right or left front fender.

17 (iv) The hood.

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

20 (vi) The front or rear bumper.

21 (vii) The right or left rear quarter panel.

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

23 (ix) The trunk floor pan.

24 (x) The cargo box of a pickup.

25 (xi) The frame, or if the vehicle has a unitized body, the  
26 supporting structure or structures ~~which~~ THAT serve as the  
27 frame.

1 (xii) The cab of a truck.

2 (xiii) The body of a passenger vehicle.

3 (xiv) Any other part of a motor vehicle ~~which~~ THAT the  
4 secretary of state determines is comparable in design or function  
5 to any of the parts listed in subparagraphs (i) to (xiii).

6 (d) "Motor vehicle" means ~~a~~ EITHER OF THE FOLLOWING:

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

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

14 (2) Except as provided in subsection (3), a person who know-  
15 ingly owns, operates, or conducts a chop shop or who knowingly  
16 aids and abets another person in owning, operating, or conducting  
17 a chop shop is guilty of a felony ~~—~~ punishable by imprisonment  
18 for not more than ~~5~~ 15 years ~~—~~ or ~~by~~ a fine of not more  
19 than ~~\$5,000.00~~ \$250,000.00, or both.

20 (3) Upon a second or subsequent conviction under this sec-  
21 tion, the person convicted may be imprisoned for not more than  
22 ~~5~~ 15 years and shall be fined not less than \$10,000.00 OR MORE  
23 THAN \$250,000.00, OR BOTH.

24 (4) ~~A person who violates~~ IN ADDITION TO ANY OTHER PUNISH-  
25 MENT, A PERSON CONVICTED OF VIOLATING this section ~~— upon con-~~  
26 ~~viction, in addition to any other punishment,~~ may be ordered to  
27 make restitution to the rightful owner of a stolen motor vehicle

1 or of a stolen major component part, or to the owner's insurer if  
2 the owner has already been compensated for the loss by the insur-  
3 er, for any financial loss sustained as a result of the theft of  
4 the motor vehicle or a major component part. Restitution may be  
5 imposed in addition to, but not instead of, any imprisonment or  
6 fine imposed.

7 (5) All of the following are subject to seizure and, if a  
8 person is charged with a violation or attempted violation of sub-  
9 section (2) and is convicted of a violation or attempted viola-  
10 tion of subsection (2) or section 415, 416, 535, or 536a, ~~all of~~  
11 ~~the following are~~ subject to forfeiture:

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

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

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

23 (d) ~~Books, records~~ ANY BOOK, RECORD, money, negotiable  
24 ~~instruments~~ INSTRUMENT, or other personal property or real  
25 property, except real property that is the primary residence of  
26 the spouse or a dependent child of the owner, that is or has been  
27 used in a chop shop operation.

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

7 (a) The seizure is incident to an arrest or pursuant to a  
8 search warrant or an inspection under an administrative inspec-  
9 tion warrant.

10 (b) The property subject to seizure has been the subject of  
11 a prior judgment in favor of this state in a forfeiture proceed-  
12 ing based upon this section.

13 (c) Exigent circumstances exist that preclude ~~the~~ obtain-  
14 ing ~~of~~ process and there is probable cause to believe that the  
15 property was used or is intended to be used in violation of this  
16 section.

17 (7) ~~In order to retain, pending the forfeiture hearing,~~ TO  
18 RETAIN property for which seizure and forfeiture ~~is~~ ARE sought  
19 under this section PENDING THE FORFEITURE HEARING, a licensed  
20 used or secondhand vehicle parts dealer or the owner may post a  
21 bond in the amount of 1-1/2 times the value of the property.  
22 This subsection does not apply to a motor vehicle or major compo-  
23 nent part that is to be used as evidence in a criminal  
24 proceeding.

25 (8) ~~In the event of a seizure of~~ IF property other than  
26 real property ~~pursuant to~~ IS SEIZED UNDER subsection (6), the

1 seizing law enforcement agency shall do 1 or more of the  
2 following, subject to subsection (9):

3 (a) Place the property under seal.

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

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

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

15 (10) The rightful owner of any property under subsection (5)  
16 that is to be forfeited shall be served notice at least 10 days  
17 before the matter is to be heard regarding the forfeiture —  
18 and, if the rightful owner did not know of and did not consent to  
19 the commission of the crime, the property shall be returned to  
20 the rightful owner. If the rightful owner of the property is not  
21 known or cannot be found, notice may be served by publishing  
22 notice of the forfeiture hearing not less than 10 days before the  
23 date of the hearing in a newspaper of general circulation in the  
24 county where the hearing is to be held. The notice shall contain  
25 a general description of the property and any serial or registra-  
26 tion numbers on the property.

1 (11) A forfeiture of property encumbered by a bona fide  
2 security interest is subject to the interest of the secured party  
3 who ~~neither had knowledge of nor consented~~ DID NOT KNOW OF OR  
4 CONSENT to the act or omission in violation of this section.

5 (12) Any property seized under subsection (6) that was  
6 stolen shall be returned to its rightful owner if that ownership  
7 can be established to the satisfaction of the seizing law  
8 enforcement agency. Any stolen property that is unclaimed after  
9 seizure may be sold ~~pursuant to~~ AS PROVIDED BY law.

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

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