

SUBSTITUTE FOR
HOUSE BILL NO. 5445

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 356a, 412, 413, 415, 416, and 535a (MCL
750.356a, 750.412, 750.413, 750.415, 750.416, and 750.535a), sec-
tion 535a as amended by 1988 PA 140, and by adding section 535c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 356a. (1) ~~Any~~ A person who ~~shall commit the offense~~
2 ~~of~~ COMMITS larceny by stealing or unlawfully removing or taking
3 any wheel, tire, radio, ~~heater or~~ STEREO, clock, TELEPHONE,
4 COMPUTER, OR OTHER ELECTRONIC DEVICE in or on any motor vehicle,
5 house trailer, trailer, or semi-trailer ~~, shall be~~ IS guilty of
6 a felony ~~, punishable by a fine not to exceed \$1,000.00, or~~
7 ~~by~~ imprisonment ~~in the state prison~~ FOR not more than 5 years
8 OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

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1 (2) ~~Any~~ EXCEPT AS PROVIDED IN SUBSECTION (3), A person who
2 ~~shall enter~~ ENTERS or ~~break~~ BREAKS into ~~any~~ A motor
3 vehicle, house trailer, trailer, or semi-trailer ~~, for the pur-~~
4 ~~pose of stealing~~ TO STEAL or unlawfully ~~removing therefrom any~~
5 goods, chattels or REMOVE property ~~of the value of not less~~
6 ~~than \$5.00, or who shall break or enter into any motor vehicle,~~
7 ~~house trailer, trailer or semi-trailer, for the purpose of steal-~~
8 ~~ing or unlawfully removing therefrom any goods, chattels or prop-~~
9 ~~erty regardless of the value thereof if in so doing such~~ FROM IT
10 IS GUILTY OF A CRIME AS FOLLOWS:

11 (A) IF THE VALUE OF THE PROPERTY IS LESS THAN \$200.00, THE
12 PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR
13 NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3
14 TIMES THE VALUE OF THE PROPERTY, WHICHEVER IS GREATER, OR BOTH
15 IMPRISONMENT AND A FINE.

16 (B) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
17 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR
18 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE
19 PROPERTY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

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

22 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 1 OR MORE
23 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
24 OFFENSE UNDER THIS SECTION OR A LOCAL ORDINANCE SUBSTANTIALLY
25 CORRESPONDING TO THIS SECTION.

26 (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
27 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A

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1 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE
2 PROPERTY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

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

5 (ii) THE PERSON VIOLATES SUBDIVISION (B)(i) AND HAS 1 OR
6 MORE PRIOR CONVICTIONS FOR VIOLATING OR ATTEMPTING TO VIOLATE
7 THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A
8 PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A VIOLATION OR
9 ATTEMPTED VIOLATION OF SUBDIVISION (A) OR (B)(ii).

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

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

15 (ii) THE PERSON VIOLATES SUBDIVISION (C)(i) AND HAS 2 OR
16 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
17 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH,
18 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
19 VIOLATION OR ATTEMPTED VIOLATION OF SUBDIVISION (A) OR (B)(ii).

20 (3) A person WHO VIOLATES SUBSECTION (2)(A) OR (B) AND WHO
21 breaks, tears, cuts, or otherwise damages any part of ~~such~~ THE
22 motor vehicle, house trailer, trailer, or semi-trailer ~~, shall~~
23 ~~be~~ IS guilty of a felony ~~—~~ punishable by ~~a fine not to exceed~~
24 ~~\$1,000.00, or by~~ imprisonment ~~in the state prison~~ FOR not more
25 than 5 years OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH,
26 REGARDLESS OF THE VALUE OF THE PROPERTY.

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1 (4) THE VALUES OF PROPERTY STOLEN OR UNLAWFULLY REMOVED IN
2 SEPARATE INCIDENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT
3 WITHIN ANY 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE
4 TOTAL VALUE OF PROPERTY STOLEN OR UNLAWFULLY REMOVED.

5 (5) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
6 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-
7 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT
8 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR
9 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
10 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,
11 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE
12 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTAB-
13 LISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT
14 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

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

16 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
17 SENTENCING.

18 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

19 (D) THE DEFENDANT'S STATEMENT.

20 (6) IF THE SENTENCE FOR A CONVICTION UNDER THIS SECTION IS
21 ENHANCED BY 1 OR MORE PRIOR CONVICTIONS, THOSE PRIOR CONVICTIONS
22 SHALL NOT BE USED TO FURTHER ENHANCE THE SENTENCE FOR THE CONVIC-
23 TION PURSUANT TO SECTION 10, 11, OR 12 OF CHAPTER IX OF THE CODE
24 OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.10, 769.11, AND
25 769.12.

26 Sec. 412. ~~Definition--The term "motor vehicle" as~~ AS used
27 in this chapter: ~~shall include all vehicles~~

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1 (A) "MAJOR COMPONENT PART" MEANS THAT TERM AS DEFINED IN
2 SECTION 535A.

3 (B) EXCEPT AS OTHERWISE PROVIDED, "MOTOR VEHICLE" MEANS ANY
4 VEHICLE impelled on the ~~public~~ highways ~~of this state~~ by
5 mechanical power, except traction engines, road rollers, and
6 ~~such~~ vehicles ~~as~~ THAT run only upon rails or tracks.

7 Sec. 413. (1) ~~Taking possession of and driving away a~~
8 ~~motor vehicle--Any~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
9 A person who ~~shall, wilfully~~ WILLFULLY and without authority
10 ~~, take~~ TAKES possession of and ~~drive~~ DRIVES or ~~take~~ TAKES
11 away ~~, and any person shall assist in or be a party to such~~
12 ~~taking possession, driving or taking away of any motor vehicle,~~
13 ~~belonging to another, shall be~~ A MOTOR VEHICLE BELONGING TO
14 ANOTHER PERSON IS guilty of a felony ~~, punishable by imprison-~~
15 ment ~~in the state prison~~ for not more than 5 years OR A FINE OF
16 NOT MORE THAN \$20,000.00, OR BOTH.

17 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON
18 WHO STEALS OR ATTEMPTS TO STEAL A MAJOR COMPONENT PART IS GUILTY
19 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS
20 OR A FINE OF NOT MORE THAN \$20,000.00, OR BOTH.

21 (3) A SECOND CONVICTION UNDER THIS SECTION IS PUNISHABLE BY
22 IMPRISONMENT FOR NOT MORE THAN 7 YEARS OR A FINE OF NOT MORE THAN
23 \$20,000.00, OR BOTH.

24 (4) A THIRD OR SUBSEQUENT CONVICTION UNDER THIS SECTION IS
25 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE
26 OF NOT MORE THAN \$20,000.00, OR BOTH.

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1 (5) AS USED IN THIS SECTION, "MOTOR VEHICLE" MEANS THAT TERM
2 AS DEFINED IN SECTION 535A.

3 Sec. 415. (1) A person who, without the intent to mislead
4 another PERSON as to the identity of the vehicle, conceals or
5 misrepresents the identity of a motor vehicle, MAJOR COMPONENT
6 PART, or ~~of a~~ mechanical device, by ~~removing or defacing the~~
7 ~~manufacturer's serial number or the engine or motor number on the~~
8 ~~motor vehicle, or by replacing a part of the motor vehicle or~~
9 ~~mechanical device bearing the serial number or engine or motor~~
10 ~~number of the vehicle with a new part, upon which the proper~~
11 ~~serial number or engine or motor number has not been stamped,~~
12 DOING ANY OF THE FOLLOWING is guilty of a misdemeanor PUNISHABLE
13 BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE
14 THAN \$100.00, OR BOTH:

15 (A) REMOVING OR DEFACING THE MANUFACTURER'S SERIAL NUMBER,
16 THE ENGINE OR MOTOR NUMBER, OR ANY OTHER NUMBER PLACED ON THE
17 MOTOR VEHICLE, MAJOR COMPONENT PART, OR MECHANICAL DEVICE BY THE
18 MANUFACTURER TO IDENTIFY THE MOTOR VEHICLE, MAJOR COMPONENT PART,
19 OR MECHANICAL DEVICE.

20 (B) REPLACING A PART OF THE MOTOR VEHICLE, MAJOR COMPONENT
21 PART, OR MECHANICAL DEVICE BEARING THE SERIAL NUMBER, THE ENGINE
22 OR MOTOR NUMBER, OR ANY OTHER NUMBER PLACED ON THE MOTOR VEHICLE,
23 MAJOR COMPONENT PART, OR MECHANICAL DEVICE BY THE MANUFACTURER TO
24 IDENTIFY THE MOTOR VEHICLE, MAJOR COMPONENT PART, OR MECHANICAL
25 DEVICE WITH A NEW OR REPLACEMENT PART UPON WHICH THE SERIAL
26 NUMBER, ENGINE OR MOTOR NUMBER, OR OTHER NUMBER DESCRIBED IN THIS
27 SUBDIVISION HAS NOT BEEN STAMPED.

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1 (2) A person who, with the intent to mislead another as to
2 the identity of a vehicle, ~~conceals or misrepresents the iden-~~
3 ~~tity of a motor vehicle or of a mechanical device, by removing or~~
4 ~~defacing the manufacturer's serial number or the engine or motor~~
5 ~~number on the motor vehicle, or by replacing a part of the motor~~
6 ~~vehicle or mechanical device bearing the serial number or engine~~
7 ~~or motor number of the vehicle, with a new part, upon which the~~
8 ~~proper serial number or engine or motor number has not been~~
9 ~~stamped,~~ DOES AN ACT DESCRIBED IN SUBSECTION (1)(A) OR (B) is
10 guilty of a felony ~~, and if the person is a licensed dealer, the~~
11 ~~license shall be revoked~~ PUNISHABLE BY IMPRISONMENT FOR NOT MORE
12 THAN 5 YEARS OR A FINE OF NOT MORE THAN \$20,000.00, OR BOTH.

13 (3) In all prosecutions under this section, possession ~~by a~~
14 ~~person~~ of a motor vehicle, MAJOR COMPONENT PART, or ~~of a~~
15 mechanical device with the manufacturer's serial number, ~~or the~~
16 engine or motor number, OR OTHER NUMBER DESCRIBED IN
17 SUBSECTION (1) removed, defaced, destroyed, or altered or with a
18 part bearing ~~the~~ A number ~~or numbers~~ replaced by ~~one~~ 1 on
19 which the proper number does not appear ~~, shall be~~ IS prima
20 facie evidence of A violation of this section.

21 (4) If the identification of a motor vehicle, MAJOR COMPO-
22 NENT PART, or ~~a~~ mechanical device has been removed, defaced, or
23 altered as ~~provided~~ DESCRIBED in this section ~~,~~ and the real
24 identity of the motor vehicle, MAJOR COMPONENT PART, or mechani-
25 cal device cannot be determined, the motor vehicle, MAJOR COMPO-
26 NENT PART, or mechanical device ~~shall be~~ IS subject to
27 confiscation by the state ~~,~~ and ~~shall~~ MAY be DESTROYED OR

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1 sold at public auction. ~~If the items are confiscated from a~~
2 ~~licensed vehicle dealer, the dealer's license shall be revoked.~~

3 (5) AS USED IN THIS SECTION, "MOTOR VEHICLE" MEANS THAT TERM
4 AS DEFINED IN SECTION 535A.

5 Sec. 416. (1) ~~Damaging or unauthorized tampering or meddl-~~
6 ~~ing with motor vehicle--Any~~ A person ~~shall be~~ WHO DOES ANY OF
7 THE FOLLOWING IS guilty of a ~~misdemeanor, who shall~~ FELONY PUN-
8 ISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF
9 NOT MORE THAN \$1,000.00, OR BOTH:

10 (A) Intentionally and without THE OWNER'S authority ~~from~~
11 ~~the owner, start or cause~~ STARTS OR CAUSES to be started the
12 motor of any motor vehicle. ~~, or maliciously shift or change~~

13 (B) MALICIOUSLY SHIFTS OR CHANGES the starting device or
14 gears of a standing motor vehicle to a position other than that
15 in which it was left by the MOTOR VEHICLE'S owner or driver. ~~of~~
16 ~~said motor vehicle; or~~

17 Intentionally cut, mark, scratch or damage the chassis, run-
18 ning gear, body, sides, top, covering or upholstering of any
19 motor vehicle, the property of another, or intentionally cut,
20 mash, mark, destroy or damage such motor vehicle, or any of the
21 accessories, equipment, appurtenances or attachments thereof, or
22 any spare or extra parts thereon being or thereto attached, with-
23 out the permission of the owner thereof; or

24 (C) Intentionally ~~release~~ RELEASES the brake upon ~~any~~ A
25 standing motor vehicle ~~, with intent to injure said machine~~
26 DAMAGE IT or cause ~~the same~~ IT to be removed without the
27 OWNER'S consent. ~~of the owner: Provided, That this~~

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1 (2) A PERSON WHO INTENTIONALLY AND WITHOUT THE OWNER'S
2 AUTHORITY BREAKS, CUTS, MARKS, SCRATCHES, DESTROYS, OR OTHERWISE
3 DAMAGES A MOTOR VEHICLE OR ANY MAJOR COMPONENT PART, EQUIPMENT,
4 ACCESSORY, ATTACHMENT, OR OTHER PART OF A MOTOR VEHICLE IS GUILTY
5 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS
6 OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

7 (3) THIS section ~~shall~~ DOES not apply ~~in case of~~ TO
8 moving or starting ~~of~~ A motor ~~vehicles~~ VEHICLE by ~~the~~
9 ~~police~~ A LAW ENFORCEMENT OFFICER under ~~authority of~~ A local
10 ordinance or by members of fire departments in case of emergency
11 in the vicinity of a fire.

12 (4) AS USED IN THIS SECTION, "MOTOR VEHICLE" MEANS THAT TERM
13 AS DEFINED IN SECTION 535A.

14 Sec. 535a. (1) As used in this section AND SECTION 535C:

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

18 (b) "Chop shop" means any area, building, storage lot,
19 field, or any other premises or place where 1 or more persons are
20 engaged or have engaged in altering, dismantling, reassembling,
21 or in any way concealing or disguising the identity of a stolen
22 motor vehicle or ~~of any~~ A major component part of a stolen
23 motor vehicle ~~or~~ or ~~any area, building, storage lot, field, or~~
24 ~~any other premises or place~~ where ~~there are~~ 3 or more stolen
25 motor vehicles ~~present or where there are~~ OR major component
26 parts from 3 or more stolen motor vehicles ARE present.

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1 (C) "CONVERTED MAJOR COMPONENT PART" MEANS A MAJOR COMPONENT
2 PART THAT HAS BEEN THE SUBJECT OF A FALSE OR FRAUDULENT CLAIM TO
3 AN INSURANCE COMPANY.

4 (D) "CONVERTED MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT HAS
5 BEEN THE SUBJECT OF A FALSE OR FRAUDULENT CLAIM TO AN INSURANCE
6 COMPANY.

7 (E) ~~(c)~~ "Major component part" means ~~1~~ ANY of the fol-
8 lowing parts of a motor vehicle:

9 (i) The engine.

10 (ii) The transmission.

11 (iii) The right or left front fender.

12 (iv) The hood.

13 (v) A door allowing entrance to or egress from the VEHICLE'S
14 passenger compartment. ~~of the vehicle.~~

15 (vi) The front or rear bumper.

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

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

18 (ix) The trunk floor pan.

19 (x) The cargo box of a pickup.

20 (xi) The frame ~~—~~ or, if the vehicle has a unitized body,
21 the supporting structure or structures ~~which~~ THAT serve as the
22 frame.

23 (xii) The cab of a truck.

24 (xiii) The body of a passenger vehicle.

25 (xiv) AN AIR BAG.

26 (xv) THE TRANSFER CASE.

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1 (xvi) A WHEEL.

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

6 (F) ~~(d)~~ "Motor vehicle" means a device in, upon, or by
7 which a person or property is or may be transported or drawn upon
8 a highway that is self-propelled or that may be connected to and
9 towed by a self-propelled device ~~, and~~ OR a land-based device
10 that is self-propelled but ~~is~~ not designed for use upon a high-
11 way, including, but not limited to, farm machinery ~~,~~ OR a bull-
12 dozer, ~~and a~~ steam shovel, OR OTHER HEAVY CONSTRUCTION
13 EQUIPMENT.

14 (2) Except as provided in ~~subsection~~ SUBSECTIONS (3) AND
15 (4), a person who knowingly owns, operates, or conducts a chop
16 shop or who knowingly aids and abets another person in owning,
17 operating, or conducting a chop shop is guilty of a felony ~~,~~
18 punishable by imprisonment for not more than [5] years ~~,~~ or
19 ~~by~~ a fine of not LESS THAN \$10,000.00 OR more than ~~\$5,000.00~~
20 \$100,000.00, or both.

21 (3) Upon a second ~~or subsequent~~ conviction under this sec-
22 tion, the person convicted may be imprisoned for not more than
23 ~~5~~ [15 10] years and shall be fined not less than \$10,000.00 OR MORE
24 THAN \$100,000.00, OR BOTH.

25 (4) IF A PERSON CONVICTED UNDER THIS SECTION HAS 2 OR MORE
26 PRIOR CONVICTIONS FOR VIOLATIONS OR ATTEMPTED VIOLATIONS OF THIS
27 SECTION OR SECTION 413, 414, 415, 535, OR 535C, THE PERSON MAY BE

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1 PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF
2 NOT LESS THAN \$10,000.00 OR MORE THAN \$100,000.00, OR BOTH.

3 (5) ~~(4)~~ A person ~~who violates~~ CONVICTED OF VIOLATING
4 this section ~~, upon conviction, in addition to any other~~
5 ~~punishment,~~ may be ordered to make restitution to the rightful
6 owner of a stolen motor vehicle or ~~of~~ a stolen major component
7 part, or to the owner's insurer if the owner has already been
8 compensated for the loss by the insurer, for any financial loss
9 sustained as a result of the theft of the motor vehicle or a
10 major component part. Restitution may be imposed in addition to,
11 but not instead of, any imprisonment or fine imposed.

12 (6) ~~(5)~~ All of the following are subject to seizure and,
13 if a person is charged with a violation or attempted violation of
14 subsection (2) and ~~is~~ convicted of a violation or attempted
15 violation of subsection (2) or section 415, 416, 535, or 536a,
16 ~~all of the following are~~ subject to forfeiture:

17 (a) An engine, tool, machine, implement, device, chemical,
18 or substance used or designed for altering, DESTROYING,
19 SECRETING, dismantling, reassembling, or in any other way con-
20 cealing or disguising the identity of a stolen OR CONVERTED motor
21 vehicle or ~~any~~ major component part.

22 (b) A stolen OR CONVERTED motor vehicle or major component
23 part found at ~~the site of~~ a chop shop or a motor vehicle or
24 major component part for which there is probable cause to believe
25 that it is stolen.

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1 (c) A wrecker, car hauler, or any other motor vehicle that
2 is ~~used~~ BEING or has been used to convey or transport a stolen
3 OR CONVERTED motor vehicle or major component part.

4 (d) Books, records, money, negotiable instruments, or other
5 personal property or real property THAT ARE BEING OR HAVE BEEN
6 USED IN A CHOP SHOP OPERATION, except real property that is the
7 primary residence of the spouse or a dependent child of the
8 owner. ~~, that is or has been used in a chop shop operation.~~

9 (7) ~~(6)~~ Except as provided in subsection ~~(7)~~ (8), prop-
10 erty described in subsection ~~(5)~~ (6) may be seized by a state
11 or local law enforcement agency upon process issued by the
12 recorder's court of the city of Detroit or the district or cir-
13 cuit court having jurisdiction over the property. Seizure with-
14 out process may be made in any of the following cases:

15 (a) The seizure is incident to an arrest or pursuant to a
16 search warrant or an inspection under an administrative inspec-
17 tion warrant.

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

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

25 (8) ~~(7) In order to retain, pending the forfeiture~~
26 ~~hearing,~~ TO RETAIN property for which seizure and forfeiture is
27 sought under this section PENDING THE FORFEITURE HEARING, a

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1 licensed used or secondhand vehicle parts dealer or the owner may
2 post a bond in the amount of 1-1/2 times the value of the
3 property. This subsection does not apply to a motor vehicle or
4 major component part that is to be used as evidence in a criminal
5 proceeding.

6 (9) ~~(8) In the event of~~ FOR a seizure of property other
7 than real property pursuant to subsection ~~(6)~~ (7), the seizing
8 law enforcement agency shall do 1 or more of the following,
9 subject to subsection ~~(9)~~ (10):

10 (a) Place the property under seal.

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

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

16 (10) ~~(9)~~ If property is seized without process under
17 subsection ~~(6)~~ (7), ~~within 14 days after the seizure,~~ the
18 seizing agency shall return the property to the person from whom
19 it was seized WITHIN 14 DAYS AFTER THE SEIZURE unless a hearing
20 has been scheduled to determine whether the seizure was proper
21 and reasonable notice of the hearing has been given.

22 ~~(10) The rightful owner of any property under~~
23 ~~subsection (5) that is to be forfeited shall be served notice at~~
24 ~~least 10 days before the matter is to be heard regarding the for-~~
25 ~~feiture, and if the rightful owner did not know of and did not~~
26 ~~consent to the commission of the crime, the property shall be~~
27 ~~returned to the rightful owner. If the rightful owner of the~~

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~~1 property is not known or cannot be found, notice may be served by
2 publishing notice of the forfeiture hearing not less than 10 days
3 before the date of the hearing in a newspaper of general circula-
4 tion in the county where the hearing is to be held. The notice
5 shall contain a general description of the property and any
6 serial or registration numbers on the property.~~

7 (11) IF PROPERTY IS SEIZED UNDER SUBSECTION (7), FORFEITURE
8 PROCEEDINGS SHALL BE INSTITUTED PROMPTLY. IF SEIZURE IS MADE
9 WITHOUT PROCESS AS PROVIDED UNDER SUBSECTION (7) AND THE TOTAL
10 VALUE OF THE PROPERTY SEIZED DOES NOT EXCEED \$100,000.00, THE
11 FOLLOWING PROCEDURE SHALL BE USED:

12 (A) THE LOCAL UNIT OF GOVERNMENT SEIZING THE PROPERTY OR, IF
13 THE PROPERTY IS SEIZED BY THE STATE, THE STATE SHALL CAUSE NOTICE
14 OF THE SEIZURE AND THE INTENTION TO FORFEIT AND DISPOSE OF THE
15 PROPERTY ACCORDING TO THIS SECTION TO BE GIVEN TO THE PROPERTY'S
16 OWNER BY DELIVERING THE NOTICE TO THE OWNER OR SENDING THE NOTICE
17 TO THE OWNER BY CERTIFIED MAIL. IF THE OWNER'S NAME AND ADDRESS
18 ARE NOT REASONABLY ASCERTAINABLE, OR DELIVERY OF THE NOTICE
19 CANNOT REASONABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED
20 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE
21 PROPERTY WAS SEIZED FOR 10 SUCCESSIVE PUBLISHING DAYS.

22 (B) WITHIN 20 DAYS AFTER RECEIVING THE NOTICE OR OF THE DATE
23 OF THE FIRST PUBLICATION OF THE NOTICE, A PERSON CLAIMING AN
24 INTEREST IN PROPERTY THAT IS THE SUBJECT OF THE NOTICE MAY FILE A
25 CLAIM WITH THE LOCAL UNIT OF GOVERNMENT OR THE STATE EXPRESSING
26 HIS OR HER INTEREST IN THE PROPERTY. THE LOCAL UNIT OF
27 GOVERNMENT OR THE STATE SHALL TRANSMIT THE CLAIM WITH A LIST AND

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1 DESCRIPTION OF THE PROPERTY SEIZED TO THE ATTORNEY GENERAL, THE
2 PROSECUTING ATTORNEY FOR THE COUNTY, OR THE ATTORNEY FOR THE
3 LOCAL UNIT OF GOVERNMENT IN WHICH THE SEIZURE WAS MADE. THE
4 ATTORNEY GENERAL, PROSECUTING ATTORNEY, OR ATTORNEY FOR THE LOCAL
5 UNIT OF GOVERNMENT SHALL PROMPTLY INSTITUTE FORFEITURE PROCEED-
6 INGS AFTER THE 20-DAY PERIOD EXPIRES.

7 (C) IF NO CLAIM IS FILED WITHIN THE 20-DAY PERIOD AS
8 DESCRIBED IN SUBDIVISION (B), THE LOCAL UNIT OF GOVERNMENT OR THE
9 STATE SHALL DECLARE THE PROPERTY FORFEITED AND SHALL DISPOSE OF
10 THE PROPERTY ACCORDING TO SUBSECTIONS (13) AND (14).

11 (12) ~~(11)~~ A forfeiture of property encumbered by a bona
12 fide security interest is subject to the interest of the secured
13 party who neither had knowledge of nor consented to the act or
14 omission in violation of this section.

15 (13) ~~(12)~~ Any STOLEN property seized under subsection ~~(6)~~
16 ~~that was stolen~~ (7) shall be returned to its rightful owner if
17 that ownership can be established to the satisfaction of the
18 seizing law enforcement agency. Any stolen property ~~that is~~
19 unclaimed after seizure may be sold pursuant to law.

20 (14) ~~(13)~~ Any property forfeited under this section may be
21 sold pursuant to an order of the court. The proceeds of the sale
22 shall be distributed by the court having jurisdiction over the
23 forfeiture proceeding to the entity having budgetary authority
24 over the seizing law enforcement agency. If more than 1 law
25 enforcement agency was substantially involved in effecting the
26 forfeiture, the court having jurisdiction over the forfeiture
27 proceeding shall distribute equitably the proceeds of the sale

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1 among the entities having budgetary authority over the seizing
2 law enforcement agencies. Twenty-five percent of the money
3 received by an entity under this subsection shall be used to
4 enhance law enforcement efforts pertaining to this section.

5 (15) ~~(14)~~ This section does not apply to a person who is a
6 bona fide purchaser for value of the motor vehicle or major com-
7 ponent parts. ~~described in subsection (1).~~

8 SEC. 535C. (1) A PERSON WHO KNOWS THAT A MOTOR VEHICLE IS
9 STOLEN OR CONTAINS 1 OR MORE STOLEN OR CONVERTED MAJOR COMPONENT
10 PARTS AND WHO BUYS, RECEIVES, POSSESSES, CONCEALS, OR AIDS IN THE
11 CONCEALMENT OF THAT MOTOR VEHICLE IS GUILTY OF A FELONY PUNISH-
12 ABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT
13 MORE THAN \$5,000.00, OR BOTH.

14 (2) A SECOND CONVICTION UNDER THIS SECTION IS PUNISHABLE BY
15 IMPRISONMENT FOR NOT MORE THAN 7 YEARS OR A FINE OF NOT MORE THAN
16 \$10,000.00, OR BOTH.

17 (3) A PERSON WHO IS CONVICTED UNDER THIS SECTION AND HAS 2
18 OR MORE PRIOR CONVICTIONS FOR VIOLATIONS OR ATTEMPTED VIOLATIONS
19 OF THIS SECTION OR SECTION 413, 414, 415, 535, OR 535A MAY BE
20 PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF
21 NOT MORE THAN \$20,000.00, OR BOTH.

22 Enacting section 1. This amendatory act takes effect
23 January 1, 1999.

24 Enacting section 2. This amendatory act does not take
25 effect unless all of the following bills of the 89th Legislature
26 are enacted into law:

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- 1 (a) House Bill No. 5447.
- 2 (b) House Bill No. 5468.