

HOUSE BILL No. 5445

January 14, 1998, Introduced by Reps. Hale, Wallace, Schermesser, Wojno, Bogardus, Vaughn, Hanley, DeHart, Callahan, Leland, Hood, Goschka, Price, Prusi, Scott, Murphy, Basham, Willard, Tesanovich, Scranton, Baade, Mans, Rison, Emerson, Griffin, Dobronski, Olshove, Cherry, Kelly, Thomas, Varga and Parks and referred to the Committee on Judiciary.

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 sections 535c
and 535d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 356a. (1) ~~Any person who shall commit the offense of~~
2 ~~larceny by stealing or unlawfully removing or taking any wheel,~~
3 ~~tire, radio, heater or clock in or on any~~ A PERSON WHO WITH THE
4 INTENT TO STEAL TAKES ANY PART, EQUIPMENT, ACCESSORY, OR ATTACH-
5 MENT FROM A motor vehicle, house trailer, trailer, or
6 ~~semi-trailer, shall be~~ SEMITRAILER IS guilty of a felony —
7 punishable by ~~a fine not to exceed \$1,000.00, or by~~

1 imprisonment ~~in the state prison~~ FOR not more than 5 years OR A
2 FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

3 (2) ~~Any~~ A person who ~~shall enter or break~~ ENTERS OR
4 BREAKS into ~~any~~ A motor vehicle, house trailer, trailer, or
5 ~~semi-trailer, for the purpose of stealing or unlawfully removing~~
6 ~~therefrom any goods, chattels or property of the value of not~~
7 ~~less than \$5.00, or who shall break or enter into any motor vehi-~~
8 ~~cle, house trailer, trailer or semi-trailer, for the purpose of~~
9 ~~stealing or unlawfully removing therefrom any goods, chattels or~~
10 ~~property regardless of the value thereof if in so doing such~~
11 ~~person breaks, tears, cuts or otherwise damages any part of such~~
12 ~~motor vehicle, house trailer, trailer or semi-trailer, shall be~~
13 SEMITRAILER TO STEAL OR UNLAWFULLY REMOVE ANY PROPERTY FROM THAT
14 MOTOR VEHICLE, HOUSE TRAILER, TRAILER, OR SEMITRAILER IS guilty
15 of a felony —, punishable by ~~a fine not to exceed \$1,000.00, or~~
16 ~~by imprisonment in the state prison~~ FOR not more than 5 years
17 OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.

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

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

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

26 Sec. 413. (1) ~~Taking possession of and driving away a~~
27 ~~motor vehicle--Any~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,

1 A person who ~~shall, wilfully~~ WILLFULLY and without authority
2 ~~, take~~ TAKES possession of and ~~drive~~ DRIVES or ~~take~~ TAKES
3 away ~~, and any person shall assist in or be a party to such~~
4 ~~taking possession, driving or taking away of any motor vehicle,~~
5 ~~belonging to another, shall be~~ A MOTOR VEHICLE BELONGING TO
6 ANOTHER PERSON IS guilty of a felony ~~, punishable by imprison-~~
7 ~~ment in the state prison~~ for not more than 5 years.

8 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON
9 WHO STEALS OR ATTEMPTS TO STEAL A MOTOR VEHICLE OR A MAJOR COMPO-
10 NENT PART IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
11 NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR
12 BOTH.

13 (3) A THIRD OR SUBSEQUENT CONVICTION UNDER THIS SECTION IS
14 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE
15 OF NOT MORE THAN \$20,000.00, OR BOTH.

16 (4) THE COURT SHALL ORDER A PERSON CONVICTED OF A SECOND OR
17 SUBSEQUENT VIOLATION OF THIS SECTION TO SURRENDER HIS OR HER
18 OPERATOR'S OR CHAUFFEUR'S LICENSE TO THE COURT. THE COURT SHALL
19 IMMEDIATELY FORWARD THE LICENSE AND AN ABSTRACT OF CONVIC-
20 THE SECRETARY OF STATE. UPON RECEIVING THE ABSTRACT OF CONVIC-
21 TION, THE SECRETARY OF STATE SHALL REVOKE THE PERSON'S OPERATOR'S
22 OR CHAUFFEUR'S LICENSE. THE SECRETARY OF STATE SHALL NOT ISSUE
23 AN OPERATOR'S OR CHAUFFEUR'S LICENSE TO THE PERSON UNTIL THE
24 EXPIRATION OF NOT LESS THAN 2 YEARS AFTER THE REVOCATION.

25 (5) IF A PERSON CONVICTED UNDER THIS SECTION HAS 1 OR MORE
26 PRIOR CONVICTIONS FOR VIOLATIONS OR ATTEMPTED VIOLATIONS OF THIS

1 SECTION OR SECTION 414, 415, 535, 535A, OR 535C, ALL OF THE
2 FOLLOWING APPLY:

3 (A) IF THE PERSON CONVICTED OR AN ENTITY OWNED IN WHOLE OR
4 IN PART BY THE PERSON HOLDS A DEALER LICENSE, A MOTOR VEHICLE
5 REPAIR FACILITY REGISTRATION, OR A MECHANIC'S CERTIFICATE ISSUED
6 BY THE SECRETARY OF STATE UNDER SECTION 248 OF THE MICHIGAN VEHI-
7 CLE CODE, 1949 PA 300, MCL 257.248, OR UNDER THE MOTOR VEHICLE
8 SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1301 TO 257.1340,
9 THE COURT SHALL ORDER THE PERSON TO SURRENDER TO THE COURT THE
10 LICENSE, REGISTRATION, OR CERTIFICATE. THE COURT SHALL IMMEDI-
11 ATELY FORWARD THE LICENSE, REGISTRATION, OR CERTIFICATE AND THE
12 ABSTRACT OF CONVICTION TO THE SECRETARY OF STATE. UPON RECEIVING
13 THE ABSTRACT OF CONVICTION, THE SECRETARY OF STATE SHALL REVOKE
14 THE DEALER LICENSE, MOTOR VEHICLE REPAIR FACILITY REGISTRATION,
15 OR MECHANIC'S CERTIFICATE OF THE PERSON CONVICTED OR OF THE
16 ENTITY OWNED IN WHOLE OR IN PART BY THE PERSON.

17 (B) EXCEPT AS OTHERWISE PROVIDED, THE SECRETARY OF STATE
18 SHALL NOT ISSUE A DEALER LICENSE, MOTOR VEHICLE REPAIR FACILITY
19 REGISTRATION, OR MECHANIC'S CERTIFICATE TO THE PERSON CONVICTED
20 OR TO AN ENTITY OWNED IN WHOLE OR IN PART BY THE PERSON UNTIL THE
21 EXPIRATION OF NOT LESS THAN 5 YEARS AFTER THE DATE OF THE
22 CONVICTION. IF THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS UNDER
23 THIS SECTION, THE SECRETARY OF STATE SHALL NOT ISSUE A DEALER
24 LICENSE OR MOTOR VEHICLE REPAIR FACILITY REGISTRATION TO THE
25 PERSON CONVICTED OR TO AN ENTITY OWNED IN WHOLE OR IN PART BY THE
26 PERSON.

1 (6) 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 90 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.

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~~ PUNISHABLE BY IMPRISONMENT FOR NOT
11 MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$10,000.00, OR
12 BOTH. IF the person WHO VIOLATES THIS SUBSECTION is a licensed
13 dealer, the DEALER'S license shall be revoked. THE COURT SHALL
14 ORDER THE PERSON TO SURRENDER THE LICENSE TO THE COURT AND SHALL
15 FORWARD THE LICENSE AND AN ABSTRACT OF CONVICTION TO THE SECRE-
16 TARY OF STATE. THE SECRETARY OF STATE SHALL NOT ISSUE A DEALER
17 LICENSE TO A PERSON CONVICTED UNDER THIS SUBSECTION UNTIL THE
18 EXPIRATION OF NOT LESS THAN 5 YEARS AFTER THE DATE OF CONVICTION.

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

1 (4) If the identification of a motor vehicle, MAJOR
 2 COMPONENT PART, or ~~a~~ mechanical device has been removed,
 3 defaced, or altered as ~~provided~~ DESCRIBED in this section ~~,~~
 4 and the real identity of the motor vehicle, MAJOR COMPONENT PART,
 5 or mechanical device cannot be determined, the motor vehicle,
 6 MAJOR COMPONENT PART, or mechanical device ~~shall be~~ IS subject
 7 to confiscation by the state ~~,~~ and ~~shall~~ MAY be DESTROYED OR
 8 sold at public auction. If the ~~items are~~ MOTOR VEHICLE, MAJOR
 9 COMPONENT PART, OR MECHANICAL DEVICE IS confiscated from a
 10 licensed vehicle dealer, the dealer's license shall be revoked.

11 (5) AS USED IN THIS SECTION:

12 (A) "LICENSED DEALER" MEANS A PERSON LICENSED AS A DEALER BY
 13 THE SECRETARY OF STATE UNDER SECTION 248 OF THE MICHIGAN VEHICLE
 14 CODE, 1949 PA 300, MCL 257.248.

15 (B) "MOTOR VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION
 16 535A.

17 Sec. 416. (1) ~~Damaging or unauthorized tampering or meddl-~~
 18 ~~ing with motor vehicle--Any~~ A person ~~shall be~~ WHO DOES ANY OF
 19 THE FOLLOWING IS guilty of a misdemeanor ~~,~~ ~~who shall~~ PUNISHABLE
 20 BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE
 21 THAN \$100.00, OR BOTH:

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

25 (B) MALICIOUSLY SHIFTS OR CHANGES the starting device or
 26 gears of a standing motor vehicle to a position other than that

1 in which it was left by the MOTOR VEHICLE'S owner or driver. ~~of~~
2 ~~said motor vehicle; or~~

3 ~~Intentionally cut, mark, scratch or damage the chassis, run-~~
4 ~~ning gear, body, sides, top, covering or upholstering of any~~
5 ~~motor vehicle, the property of another, or intentionally cut,~~
6 ~~mash, mark, destroy or damage such motor vehicle, or any of the~~
7 ~~accessories, equipment, appurtenances or attachments thereof, or~~
8 ~~any spare or extra parts thereon being or thereto attached, with-~~
9 ~~out the permission of the owner thereof; or-~~

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

14 (2) A PERSON WHO INTENTIONALLY AND WITHOUT THE OWNER'S
15 AUTHORITY BREAKS, CUTS, MARKS, SCRATCHES, DESTROYS, OR OTHERWISE
16 DAMAGES A MOTOR VEHICLE OR ANY MAJOR COMPONENT PART, EQUIPMENT,
17 ACCESSORY, ATTACHMENT, OR OTHER PART OF A MOTOR VEHICLE IS GUILTY
18 OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
19 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

20 (3) THIS section ~~shall~~ DOES not apply ~~in case of~~ TO
21 moving or starting ~~of~~ A motor ~~vehicles~~ VEHICLE by ~~the~~
22 ~~police~~ A LAW ENFORCEMENT OFFICER under ~~authority of~~ A local
23 ordinance or by members of fire departments in case of emergency
24 in the vicinity of a fire.

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

1 Sec. 535a. (1) As used in this section AND SECTIONS 535C
2 AND 535D:

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

6 (b) "Chop shop" means any area, building, storage lot,
7 field, or any other premises or place where 1 or more persons are
8 engaged or have engaged in altering, dismantling, reassembling,
9 or in any way concealing or disguising the identity of a stolen
10 motor vehicle or ~~of any~~ A major component part of a stolen
11 motor vehicle ~~or any area, building, storage lot, field, or~~
12 ~~any other premises or place where there are~~ 3 or more stolen
13 motor vehicles ~~present or where there are~~ OR major component
14 parts from 3 or more stolen motor vehicles ARE present.

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

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

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

23 (i) The engine.

24 (ii) The transmission.

25 (iii) The right or left front fender.

26 (iv) The hood.

- 1 (v) A door allowing entrance to or egress from the passenger
2 compartment of the vehicle.
- 3 (vi) The front or rear bumper.
- 4 (vii) The right or left rear quarter panel.
- 5 (viii) The deck lid, tailgate, or hatchback.
- 6 (ix) The trunk floor pan.
- 7 (x) The cargo box of a pickup.
- 8 (xi) The frame ~~—~~ or, if the vehicle has a unitized body,
9 the supporting structure or structures ~~which~~ THAT serve as the
10 frame.
- 11 (xii) The cab of a truck.
- 12 (xiii) The body of a passenger vehicle.
- 13 (xiv) A WHEEL.
- 14 (xv) ~~(xiv)~~ Any other part of a motor vehicle ~~which~~ the
15 secretary of state determines is comparable in design or function
16 to any of the parts listed in subparagraphs (i) to ~~(xiii)~~
17 (xiv).
- 18 (F) ~~(d)~~ "Motor vehicle" means a device in, upon, or by
19 which a person or property is or may be transported or drawn upon
20 a highway that is self-propelled or that may be connected to and
21 towed by a self-propelled device ~~—and~~ OR a land-based device
22 that is self-propelled but ~~is~~ not designed for use upon a high-
23 way, including, but not limited to, farm machinery, a bulldozer,
24 ~~and~~ OR a steam shovel.
- 25 (2) Except as provided in ~~subsection~~ SUBSECTIONS (3) AND
26 (4), a person who knowingly owns, operates, or conducts a chop
27 shop or who knowingly aids and abets another person in owning,

1 operating, or conducting a chop shop is guilty of a felony —,
2 punishable by imprisonment for not more than ~~5~~ 10 years —, or
3 ~~by~~ a fine of not more than ~~\$5,000.00~~ \$10,000.00, or both.

4 (3) Upon a second ~~or subsequent~~ conviction under this sec-
5 tion, the person convicted may be imprisoned for not more than
6 ~~5~~ 15 years and shall be fined not less than \$10,000.00.

7 (4) IF A PERSON CONVICTED UNDER THIS SECTION HAS 2 OR MORE
8 PRIOR CONVICTIONS FOR VIOLATIONS OR ATTEMPTED VIOLATIONS OF THIS
9 SECTION OR SECTION 413, 414, 415, OR 535, THE PERSON MAY BE PUN-
10 IShed BY IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT
11 MORE THAN \$20,000.00, OR BOTH.

12 (5) THE COURT SHALL ORDER A PERSON CONVICTED UNDER THIS SEC-
13 TION TO SURRENDER HIS OR HER OPERATOR'S OR CHAUFFEUR'S LICENSE TO
14 THE COURT. THE COURT SHALL IMMEDIATELY FORWARD THE LICENSE AND
15 AN ABSTRACT OF CONVICTION TO THE SECRETARY OF STATE. UPON
16 RECEIVING THE ABSTRACT OF CONVICTION, THE SECRETARY OF STATE
17 SHALL REVOKE THE PERSON'S OPERATOR'S OR CHAUFFEUR'S LICENSE. THE
18 SECRETARY OF STATE SHALL NOT ISSUE AN OPERATOR'S OR CHAUFFEUR'S
19 LICENSE TO THE PERSON UNTIL THE EXPIRATION OF NOT LESS THAN 2
20 YEARS AFTER THE REVOCATION.

21 (6) IF A PERSON CONVICTED UNDER THIS SECTION OR AN ENTITY
22 OWNED IN WHOLE OR IN PART BY THE PERSON HOLDS A DEALER LICENSE, A
23 MOTOR VEHICLE REPAIR FACILITY REGISTRATION, OR A MECHANIC'S CER-
24 TIFICATE ISSUED BY THE SECRETARY OF STATE UNDER SECTION 248 OF
25 THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.248, OR UNDER THE
26 MOTOR VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1301
27 TO 257.1340, THE COURT SHALL ORDER THE PERSON CONVICTED TO

1 SURRENDER TO THE COURT THE LICENSE, REGISTRATION, OR
2 CERTIFICATE. THE COURT SHALL FORWARD THE LICENSE, REGISTRATION,
3 OR CERTIFICATE AND AN ABSTRACT OF CONVICTION TO THE SECRETARY OF
4 STATE. UPON RECEIVING THE ABSTRACT OF CONVICTION, THE SECRETARY
5 OF STATE SHALL REVOKE THE DEALER LICENSE, MOTOR VEHICLE REPAIR
6 FACILITY REGISTRATION, OR MECHANIC'S CERTIFICATE OF THE PERSON
7 CONVICTED OR THE ENTITY OWNED IN WHOLE OR IN PART BY THE PERSON.

8 (7) THE SECRETARY OF STATE SHALL NOT ISSUE A DEALER LICENSE,
9 MOTOR VEHICLE REPAIR FACILITY REGISTRATION, OR MECHANIC'S CERTIF-
10 ICATE TO A PERSON CONVICTED UNDER THIS SECTION OR TO AN ENTITY
11 OWNED IN WHOLE OR IN PART BY THE PERSON UNTIL THE EXPIRATION OF
12 NOT LESS THAN 5 YEARS AFTER THE DATE OF THE CONVICTION.

13 (8) THE SECRETARY OF STATE SHALL NOT ISSUE A DEALER LICENSE
14 OR A MOTOR VEHICLE REPAIR FACILITY REGISTRATION TO A PERSON WHO
15 HAS 3 OR MORE CONVICTIONS UNDER THIS SECTION.

16 (9) ~~(4)~~ A person ~~who violates~~ CONVICTED OF VIOLATING
17 this section ~~, upon conviction, in addition to any other~~
18 ~~punishment,~~ may be ordered to make restitution to the rightful
19 owner of a stolen motor vehicle or ~~of~~ a stolen major component
20 part, or to the owner's insurer if the owner has already been
21 compensated for the loss by the insurer, for any financial loss
22 sustained as a result of the theft of the motor vehicle or a
23 major component part. Restitution may be imposed in addition to,
24 but not instead of, any imprisonment or fine imposed.

25 (10) ~~(5)~~ All of the following are subject to seizure and,
26 if a person is charged with a violation or attempted violation of
27 subsection (2) and ~~is~~ convicted of a violation or attempted

1 violation of subsection (2) or section 415, 416, 535, or 536a,
2 ~~all of the following are~~ subject to forfeiture:

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

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

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

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

20 (11) ~~—(6)—~~ Except as provided in subsection ~~—(7)—~~ (12),
21 property described in subsection ~~—(5)—~~ (10) may be seized by a
22 state or local law enforcement agency upon process issued by the
23 recorder's court of the city of Detroit or the district or cir-
24 cuit court having jurisdiction over the property. Seizure with-
25 out process may be made in any of the following cases:

1 (a) The seizure is incident to an arrest or pursuant to a
2 search warrant or an inspection under an administrative
3 inspection warrant.

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

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

11 (12) ~~(7) In order to retain, pending the forfeiture~~
12 ~~hearing,~~ TO RETAIN property for which seizure and forfeiture is
13 sought under this section PENDING THE FORFEITURE HEARING, a
14 licensed used or secondhand vehicle parts dealer or the owner may
15 post a bond in the amount of 1-1/2 times the value of the
16 property. This subsection does not apply to a motor vehicle or
17 major component part that is to be used as evidence in a criminal
18 proceeding.

19 (13) ~~(8) In the event of~~ FOR a seizure of property other
20 than real property pursuant to subsection ~~(6)~~ (11), the seizing
21 law enforcement agency shall do 1 or more of the following,
22 subject to subsection ~~(9)~~ (14):

23 (a) Place the property under seal.

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

25 (c) Petition the recorder's court of the city of Detroit or
26 the district or circuit court to appoint a custodian to take

1 custody of the property and to remove it to an appropriate
2 location for disposition in accordance with law.

3 (14) ~~-(9)-~~ If property is seized without process under
4 subsection ~~-(6)-~~ (11), ~~within 14 days after the seizure,~~ the
5 seizing agency shall return the property to the person from whom
6 it was seized WITHIN 14 DAYS AFTER THE SEIZURE unless a hearing
7 has been scheduled to determine whether the seizure was proper
8 and reasonable notice of the hearing has been given.

9 ~~-(10)-~~ The rightful owner of any property under
10 subsection (5) that is to be forfeited shall be served notice at
11 least 10 days before the matter is to be heard regarding the for-
12 feiture, and if the rightful owner did not know of and did not
13 consent to the commission of the crime, the property shall be
14 returned to the rightful owner. If the rightful owner of the
15 property is not known or cannot be found, notice may be served by
16 publishing notice of the forfeiture hearing not less than 10 days
17 before the date of the hearing in a newspaper of general circula-
18 tion in the county where the hearing is to be held. The notice
19 shall contain a general description of the property and any
20 serial or registration numbers on the property.

21 (15) IF PROPERTY IS SEIZED UNDER SUBSECTION (11), FORFEITURE
22 PROCEEDINGS SHALL BE INSTITUTED PROMPTLY. IF SEIZURE IS MADE
23 WITHOUT PROCESS AS PROVIDED UNDER SUBSECTION (11) AND THE TOTAL
24 VALUE OF THE PROPERTY SEIZED DOES NOT EXCEED \$100,000.00, THE
25 FOLLOWING PROCEDURE SHALL BE USED:

26 (A) THE LOCAL UNIT OF GOVERNMENT SEIZING THE PROPERTY OR, IF
27 THE PROPERTY IS SEIZED BY THE STATE, THE STATE SHALL CAUSE NOTICE

1 OF THE SEIZURE AND THE INTENTION TO FORFEIT AND DISPOSE OF THE
2 PROPERTY ACCORDING TO THIS SECTION TO BE GIVEN TO THE PROPERTY'S
3 OWNER BY DELIVERING THE NOTICE TO THE OWNER OR SENDING THE NOTICE
4 TO THE OWNER BY CERTIFIED MAIL. IF THE OWNER'S NAME AND ADDRESS
5 ARE NOT REASONABLY ASCERTAINABLE, OR DELIVERY OF THE NOTICE
6 CANNOT REASONABLY BE ACCOMPLISHED, THE NOTICE SHALL BE PUBLISHED
7 IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE
8 PROPERTY WAS SEIZED FOR 10 SUCCESSIVE PUBLISHING DAYS.

9 (B) WITHIN 20 DAYS AFTER RECEIVING THE NOTICE OR OF THE DATE
10 OF THE FIRST PUBLICATION OF THE NOTICE, A PERSON CLAIMING AN
11 INTEREST IN PROPERTY THAT IS THE SUBJECT OF THE NOTICE MAY FILE A
12 CLAIM WITH THE LOCAL UNIT OF GOVERNMENT OR THE STATE EXPRESSING
13 HIS OR HER INTEREST IN THE PROPERTY. AFTER A PERSON FILES A
14 CLAIM AND POSTS A BOND FOR \$250.00 TO THE LOCAL UNIT OF GOVERN-
15 MENT OR THE STATE WITH SURETIES APPROVED BY THE LOCAL UNIT OF
16 GOVERNMENT OR THE STATE AND CONDITIONED THAT, IF THE COURT ORDERS
17 THE PROPERTY FORFEITED, THE OBLIGOR SHALL PAY ALL COSTS AND
18 EXPENSES OF THE FORFEITURE PROCEEDINGS, THE LOCAL UNIT OF GOVERN-
19 MENT OR THE STATE SHALL TRANSMIT THE CLAIM AND BOND WITH A LIST
20 AND DESCRIPTION OF THE PROPERTY SEIZED TO THE ATTORNEY GENERAL,
21 THE PROSECUTING ATTORNEY FOR THE COUNTY, OR THE ATTORNEY FOR THE
22 LOCAL UNIT OF GOVERNMENT IN WHICH THE SEIZURE WAS MADE. THE
23 ATTORNEY GENERAL, PROSECUTING ATTORNEY, OR ATTORNEY FOR THE LOCAL
24 UNIT OF GOVERNMENT SHALL PROMPTLY INSTITUTE FORFEITURE PROCEED-
25 INGS AFTER THE 20-DAY PERIOD EXPIRES.

26 (C) IF NO CLAIM IS FILED OR NO BOND IS GIVEN WITHIN THE
27 20-DAY PERIOD AS DESCRIBED IN SUBDIVISION (B), THE LOCAL UNIT OF

1 GOVERNMENT OR THE STATE SHALL DECLARE THE PROPERTY FORFEITED AND
2 SHALL DISPOSE OF THE PROPERTY ACCORDING TO SUBSECTIONS (17) AND
3 (18).

4 (16) ~~-(11)-~~ A forfeiture of property encumbered by a bona
5 fide security interest is subject to the interest of the secured
6 party who neither had knowledge of nor consented to the act or
7 omission in violation of this section.

8 (17) ~~-(12)-~~ Any STOLEN property seized under subsection ~~-(6)-~~
9 ~~that was stolen~~ (11) shall be returned to its rightful owner if
10 that ownership can be established to the satisfaction of the
11 seizing law enforcement agency. Any stolen property ~~that is~~
12 unclaimed after seizure may be sold pursuant to law.

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

25 (19) ~~-(14)-~~ This section does not apply to a person who is a
26 bona fide purchaser for value of the motor vehicle or major
27 component parts. ~~described in subsection (1).~~

1 SEC. 535C. (1) A PERSON WHO KNOWS THAT A MOTOR VEHICLE IS
2 STOLEN OR HAS 1 OR MORE STOLEN OR CONVERTED MAJOR COMPONENT PARTS
3 AND WHO BUYS, RECEIVES, POSSESSES, CONCEALS, OR AIDS IN THE CON-
4 CEALMENT OF THAT MOTOR VEHICLE IS GUILTY OF A FELONY PUNISHABLE
5 BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE
6 THAN \$5,000.00, OR BOTH.

7 (2) A SECOND CONVICTION UNDER THIS SECTION IS PUNISHABLE BY
8 IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN
9 \$10,000.00, OR BOTH.

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

15 (4) THE COURT SHALL ORDER A PERSON CONVICTED OF A SECOND OR
16 SUBSEQUENT VIOLATION UNDER THIS SECTION TO SURRENDER HIS OR HER
17 OPERATOR'S OR CHAUFFEUR'S LICENSE TO THE COURT. THE COURT SHALL
18 IMMEDIATELY FORWARD THE LICENSE AND AN ABSTRACT OF CONVICTION TO
19 THE SECRETARY OF STATE. UPON RECEIVING THE ABSTRACT OF CONVIC-
20 TION, THE SECRETARY OF STATE SHALL REVOKE THE PERSON'S OPERATOR'S
21 OR CHAUFFEUR'S LICENSE. THE SECRETARY OF STATE SHALL NOT ISSUE
22 AN OPERATOR'S OR CHAUFFEUR'S LICENSE TO THE PERSON UNTIL THE
23 EXPIRATION OF NOT LESS THAN 2 YEARS AFTER THE REVOCATION.

24 (5) IF A PERSON CONVICTED UNDER THIS SECTION HAS 1 OR MORE
25 PRIOR CONVICTIONS FOR VIOLATIONS OR ATTEMPTED VIOLATIONS OF THIS
26 SECTION OR SECTION 413, 414, 415, 535, OR 535A, ALL OF THE
27 FOLLOWING APPLY:

01082'97

1 (A) IF THE PERSON OR AN ENTITY OWNED IN WHOLE OR IN PART BY
2 THE PERSON HOLDS A DEALER LICENSE ISSUED BY THE SECRETARY OF
3 STATE UNDER SECTION 248 OF THE MICHIGAN VEHICLE CODE, 1949 PA
4 300, MCL 257.248, OR A MOTOR VEHICLE REPAIR FACILITY REGISTRATION
5 OR MECHANIC'S CERTIFICATE ISSUED BY THE SECRETARY OF STATE UNDER
6 THE MOTOR VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL
7 257.1301 TO 257.1340, THE COURT SHALL ORDER THE PERSON TO SURREN-
8 DER TO THE COURT THE LICENSE, REGISTRATION, OR CERTIFICATE. THE
9 COURT SHALL IMMEDIATELY FORWARD THE LICENSE, REGISTRATION, OR
10 CERTIFICATE AND THE ABSTRACT OF CONVICTION TO THE SECRETARY OF
11 STATE. UPON RECEIVING THE ABSTRACT OF CONVICTION, THE SECRETARY
12 OF STATE SHALL REVOKE THE DEALER LICENSE, MOTOR VEHICLE REPAIR
13 FACILITY REGISTRATION, OR MECHANIC'S CERTIFICATE OF THE PERSON
14 CONVICTED OR OF THE ENTITY OWNED IN WHOLE OR IN PART BY THE
15 PERSON.

16 (B) EXCEPT AS OTHERWISE PROVIDED, THE SECRETARY OF STATE
17 SHALL NOT ISSUE A DEALER LICENSE, MOTOR VEHICLE REPAIR FACILITY
18 REGISTRATION, OR MECHANIC'S CERTIFICATE TO THE PERSON CONVICTED
19 OR TO AN ENTITY OWNED IN WHOLE OR IN PART BY THE PERSON UNTIL THE
20 EXPIRATION OF NOT LESS THAN 5 YEARS AFTER THE DATE OF THE
21 CONVICTION. IF THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS UNDER
22 THIS SECTION, THE SECRETARY OF STATE SHALL NOT ISSUE A DEALER
23 LICENSE OR MOTOR VEHICLE REPAIR FACILITY REGISTRATION TO THE
24 PERSON CONVICTED OR TO AN ENTITY OWNED IN WHOLE OR IN PART BY THE
25 PERSON.

26 SEC. 535D. (1) THE PROSECUTING ATTORNEY MAY PETITION THE
27 CIRCUIT COURT FOR EQUITABLE RELIEF IN THE NAME OF THIS STATE TO

1 ABATE THE OPERATION OF A CHOP SHOP OR TO PERPETUALLY ENJOIN A
2 PERSON OR AN AGENT OR EMPLOYEE OF PERSON WHO OWNS, LEASES, OR
3 MAINTAINS A BUILDING OR PLACE FROM USING OR PERMITTING THE USE OF
4 THE BUILDING FOR THE OPERATION OF A CHOP SHOP. IF AN INJUNCTION
5 IS GRANTED, IT IS BINDING ON THE DEFENDANT THROUGHOUT THIS
6 STATE.

7 (2) FOR PURPOSES OF THIS SECTION, THE PERSON WHO OWNS A
8 BUILDING OR PLACE IS CONSIDERED TO BE THE GRANTEE OR VENDEE OF
9 THE LAST RECORDED DEED OR CONTRACT THAT DESCRIBES THE BUILDING OR
10 PLACE, OR ANY PART OF THE BUILDING OR PLACE, UPON WHICH A CHOP
11 SHOP EXISTS. IF THIS PERSON IS NAMED AS A PARTY DEFENDANT, THE
12 COURT MAY ABATE THE NUISANCE BY CLOSING THE BUILDING OR PLACE AND
13 THE DEFENDANT IS SUBJECT TO THE ORDER AND JUDGMENT OF THE COURT.

14 (3) IN AN ACTION BROUGHT UNDER SUBSECTION (1), EVIDENCE OF
15 THE GENERAL REPUTATION OF THE BUILDING OR PLACE AS A CHOP SHOP IS
16 ADMISSIBLE TO PROVE THE CHOP SHOP'S EXISTENCE. PROOF THAT THE
17 DEFENDANT KNEW THE CHOP SHOP EXISTED IS NOT REQUIRED. THE COURT
18 NEED NOT FIND THAT THE PROPERTY INVOLVED IS BEING USED FOR THE
19 OPERATION OF A CHOP SHOP AT THE TIME OF THE HEARING OR FOR THE
20 PLAINTIFF TO PROVE THAT THE CHOP SHOP WAS CONTINUING WHEN THE
21 PETITION WAS FILED IF THE PETITION WAS FILED WITHIN 60 DAYS AFTER
22 THE EXISTENCE OF THE CHOP SHOP BECAME KNOWN TO THE PLAINTIFF.

23 (4) IF THE EXISTENCE OF A CHOP SHOP IS ESTABLISHED IN AN
24 ACTION BROUGHT UNDER SUBSECTION (1), THE COURT SHALL ENTER AN
25 ORDER OF ABATEMENT OR AN INJUNCTION AS PART OF THE JUDGMENT IN
26 THE CASE. THE ORDER SHALL DIRECT THE REMOVAL OF ALL FURNITURE,
27 FIXTURES, AND CONTENTS FROM THE BUILDING OR PLACE AND SHALL

1 DIRECT THE SALE OF THE FURNITURE, FIXTURES, AND CONTENTS IN THE
2 MANNER PROVIDED FOR THE SALE OF CHATTELS UNDER EXECUTION. THE
3 ORDER SHALL ALSO DIRECT THE CLOSING OF THE BUILDING OR PLACE
4 AGAINST ITS USE FOR ANY PURPOSE FOR 1 YEAR, UNLESS THE BUILDING
5 OR PLACE IS RELEASED SOONER AS PROVIDED IN THIS SECTION.

6 (5) A PERSON WHO VIOLATES AN ORDER OF ABATEMENT OR INJUNC-
7 TION GRANTED UNDER THIS SECTION OR USES A BUILDING OR PLACE
8 DIRECTED TO BE CLOSED UNDER SUBSECTION (4) KNOWING IT IS CLOSED
9 BY COURT ORDER IS GUILTY OF CRIMINAL CONTEMPT. A PERSON WHO VIO-
10 LATES AN ORDER OF ABATEMENT OR INJUNCTION GRANTED UNDER THIS SEC-
11 TION MAY BE PUNISHED BY IMPRISONMENT FOR NOT MORE THAN 6 MONTHS
12 OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH. THE VIOLATION
13 SHALL BE CHARGED BY A MOTION SUPPORTED BY AN AFFIDAVIT. IF THE
14 COURT DETERMINES THE MOTION AND AFFIDAVIT ARE SUFFICIENT, THE
15 COURT MAY ISSUE A BENCH WARRANT FOR THE ARREST OF THE OFFENDER TO
16 BRING HIM OR HER BEFORE THE COURT TO ANSWER FOR THE VIOLATION.
17 THE COURT MAY PERMIT THE PERSON ARRESTED TO POST BAIL AND MAY FIX
18 THE AMOUNT OF BAIL PENDING A HEARING OF THE MATTERS CHARGED IN
19 THE MOTION.

20 (6) UPON THE SALE OF THE FURNITURE, FIXTURES, OR CONTENTS OF
21 A BUILDING OR PLACE AS PROVIDED IN SUBSECTION (4), THE OFFICER
22 EXECUTING THE ORDER OF THE COURT SHALL, AFTER DEDUCTING THE
23 EXPENSES OF MAINTAINING THE PROPERTY AND THE COSTS OF THE SALE,
24 PAY ALL LIENS ACCORDING TO THEIR PRIORITIES THAT ARE ESTABLISHED
25 BY INTERVENTION OR OTHERWISE AT THE HEARING OR IN OTHER PROCEED-
26 INGS BROUGHT FOR THAT PURPOSE AS BEING BONA FIDE AND AS HAVING
27 BEEN CREATED WITHOUT THE LIEN HOLDER HAVING ANY NOTICE THAT THE

1 PROPERTY WAS BEING USED OR WAS TO BE USED IN THE OPERATION OF A
2 CHOP SHOP. THE OFFICER SHALL DISTRIBUTE ANY REMAINING PROCEEDS
3 OF THE SALE PURSUANT TO SECTION 535A(18).

4 (7) FOR REMOVING AND SELLING THE PROPERTY AS PROVIDED IN
5 SUBSECTION (4), THE OFFICER MAY CHARGE AND RECEIVE THE SAME FEES
6 AS HE OR SHE WOULD FOR LEVYING UPON AND SELLING LIKE PROPERTY
7 UPON EXECUTION. FOR CLOSING THE BUILDING OR PLACE AND KEEPING IT
8 CLOSED AS PROVIDED IN SUBSECTION (4), THE COURT SHALL ALLOW PAY-
9 MENT OF A REASONABLE AMOUNT.

10 (8) A PERSON AGAINST WHOM AN ORDER OR JUDGMENT IS ISSUED
11 UNDER THIS SECTION SHALL FORFEIT THE BENEFIT OF ALL PROPERTY
12 EXEMPTIONS IF REQUIRED FOR SATISFACTION OF THE ORDER OR
13 JUDGMENT.

14 (9) TAKING AND DISPOSING OF ANY OF THE DEFENDANT'S PROPERTY
15 PURSUANT TO AN ORDER OR JUDGMENT ISSUED UNDER THIS SECTION BY AN
16 OFFICER DIRECTED TO EXECUTE THE ORDER OR JUDGMENT IS NOT A
17 TRESPASS. THE OFFICER IS NOT CIVILLY OR CRIMINALLY LIABLE FOR
18 TAKING AND DISPOSING OF THE PROPERTY.

19 (10) IF THE OWNER OF A BUILDING OR PLACE AGAINST WHOM AN
20 ACTION IS BROUGHT UNDER SUBSECTION (1) PAYS ALL COSTS OF THE PRO-
21 CEEDING AND FILES A BOND WITH SURETIES APPROVED BY THE CIRCUIT
22 JUDGE IN THE PENAL SUM OF NOT LESS THAN \$5,000.00 OR MORE THAN
23 \$100,000.00 CONDITIONED THAT HE OR SHE WILL IMMEDIATELY ABATE THE
24 CHOP SHOP AND PREVENT IT FROM BEING ESTABLISHED OR OPERATED
25 WITHIN 1 YEAR AFTER THE DATE OF THE JUDGMENT, THE COURT MAY ORDER
26 THE BUILDING OR PLACE TO BE DELIVERED TO THE OWNER. IF THE BOND
27 IS GIVEN AND COSTS PAID BEFORE THE ORDER OF ABATEMENT IS ISSUED,

1 THE ACTION IS ABATED AS TO THAT BUILDING OR PLACE ONLY. IF THE
2 COURT DETERMINES THAT THE BOND CONDITIONS HAVE BEEN VIOLATED, THE
3 PRINCIPAL AND SURETIES ON THE BOND ARE LIABLE FOR THE FULL PEN-
4 ALTY OF THE BOND IN AN ACTION BROUGHT IN THE NAME OF THE STATE OR
5 UPON MOTION IN THE ACTION IN WHICH THE BOND WAS GIVEN.

6 (11) IF THE DEFENDANT APPEALS THE ORDER OR JUDGMENT
7 RENDERED, THE INJUNCTION OR ORDER OF ABATEMENT IS NOT STAYED
8 PENDING APPEAL, EXCEPT THAT A STAY MAY BE GRANTED OR THE ORDER OF
9 ABATEMENT MAY BE MODIFIED BY THE COURT OF APPEALS PENDING THE
10 APPEAL.

11 Enacting section 1. This amendatory act does not take
12 effect unless all of the following bills of the 89th Legislature
13 are enacted into law:

14 (a) Senate Bill No. _____ or House Bill No. _____ (request
15 no. 01082'97 a).

16 (b) Senate Bill No. _____ or House Bill No. _____ (request
17 no. 01082'97 b).