

HOUSE BILL No. 5796

April 21, 2004, Introduced by Reps. Hardman, McConico, Hunter, Murphy, Hood, Accavitti, Smith, Tobocman, Wojno, Jamnick, Law, Waters and Reeves and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 451 (MCL 750.451), as amended by 2002 PA 44.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 451. (1) Except as otherwise provided in this section,
2 a person convicted of violating section 448, 449, 449a, 450, or
3 462 is guilty of a misdemeanor punishable by imprisonment for not
4 more than 93 days or a fine of not ~~more~~ **less** than \$500.00 **or**
5 **more than \$1,000.00**, or both.

6 (2) A person 16 years of age or older who is convicted of
7 violating section 448, 449, 449a, 450, or 462 and who has 1 prior
8 conviction is guilty of a misdemeanor punishable by imprisonment
9 for not more than 1 year or a fine of not **less than \$500.00 or**
10 more than ~~\$1,000.00~~ **\$2,000.00**, or both.

11 (3) A person convicted of violating section 448, 449, 449a,

1 450, or 462 and who has 2 or more prior convictions is guilty of
2 a felony punishable by imprisonment for not more than 2 years, or
3 a fine of not **less than \$500.00 or** more than ~~-\$2,000.00~~
4 **\$4,000.00**, or both.

5 (4) If the prosecuting attorney intends to seek an enhanced
6 sentence based upon the defendant having 1 or more prior
7 convictions, the prosecuting attorney shall include on the
8 complaint and information a statement listing the prior
9 conviction or convictions. The existence of the defendant's
10 prior conviction or convictions shall be determined by the court,
11 without a jury, at sentencing or at a separate hearing for that
12 purpose before sentencing. The existence of a prior conviction
13 may be established by any evidence relevant for that purpose,
14 including, but 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 (5) As used in this section, "prior conviction" means a
21 violation of section 448, 449, 449a, 450, or 462 or a violation
22 of a law of another state or of a political subdivision of this
23 state or another state substantially corresponding to
24 section 448, 449, 449a, 450, or 462.

25 Enacting section 1. This amendatory act takes effect 90
26 days after the date it is enacted.