

Act No. 431
Public Acts of 2008
Approved by the Governor
January 5, 2009
Filed with the Secretary of State
January 8, 2009
EFFECTIVE DATE: April 1, 2009

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Brown, Barcia, Kahn and Hardiman

ENROLLED SENATE BILL No. 1114

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 356 (MCL 750.356), as amended by 1998 PA 311.

The People of the State of Michigan enact:

Sec. 356. (1) A person who commits larceny by stealing any of the following property of another person is guilty of a crime as provided in this section:

- (a) Money, goods, or chattels.
- (b) A bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order, or certificate.
- (c) A book of accounts for or concerning money or goods due, to become due, or to be delivered.
- (d) A deed or writing containing a conveyance of land or other valuable contract in force.
- (e) A receipt, release, or defeasance.
- (f) A writ, process, or public record.
- (g) Nonferrous metal.

(2) If any of the following apply, the person 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 stolen, whichever is greater, or both imprisonment and a fine:

- (a) The property stolen has a value of \$20,000.00 or more.

(b) The person violates subsection (3)(a) and 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, the person 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 stolen, whichever is greater, or both imprisonment and a fine:

- (a) The property stolen has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (4)(a) and 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, the person 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 stolen, whichever is greater, or both imprisonment and a fine:

- (a) The property stolen has a value of \$200.00 or more but less than \$1,000.00.

(b) The person violates subsection (5) and 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 stolen has a value of less than \$200.00, the person 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 stolen, whichever is greater, or both imprisonment and a fine.

(6) If the property stolen is nonferrous metal, then, as used in this section, "the value of the property stolen" means the greatest of the following:

- (a) The replacement cost of the stolen nonferrous metal.
- (b) The cost of repairing the damage caused by the larceny of the nonferrous metal.
- (c) The sum of subdivisions (a) and (b).

(7) The values of property stolen 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 stolen.

(8) 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.

(9) 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 pursuant to 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.

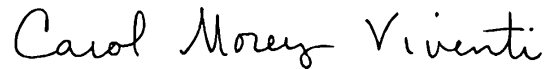
(10) As used in this section, "nonferrous metal" means a metal that does not contain significant quantities of ferrous metal but contains copper, brass, platinum-based metals, aluminum, bronze, lead, zinc, nickel, or alloys of those metals.

Enacting section 1. This amendatory act takes effect April 1, 2009.

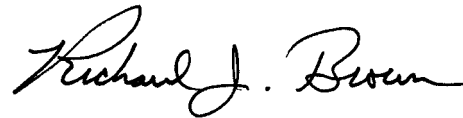
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 720.
- (b) Senate Bill No. 1571.
- (c) House Bill No. 5694.
- (d) House Bill No. 6181.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor