

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4444

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 356, 356a, 356c, 356d, 362a, 377a, 380, 382, 387, 535, and 540g (MCL 750.356, 750.356a, 750.356c, 750.356d, 750.362a, 750.377a, 750.380, 750.382, 750.387, 750.535, and 750.540g), sections 356c and 356d as added by 1988 PA 20, section 382 as amended by 1980 PA 159, and section 540g as added by 1996 PA 328; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 356. (1) ~~Any~~ A person who ~~shall commit the offense~~  
2 ~~of~~ COMMITS larceny ~~,~~ by stealing ~~,~~ ANY of the FOLLOWING  
3 property of another ~~,~~ ~~any money~~ PERSON IS GUILTY OF A CRIME AS  
4 PROVIDED IN THIS SECTION:

5       (A) MONEY, goods, or chattels. ~~,~~ ~~or any~~

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1 (B) A bank note, bank bill, bond, promissory note, due bill,  
2 bill of exchange or other bill, draft, order, or certificate.  ~~,~~  
3  ~~or any~~

4 (C) A book of accounts for or concerning money or goods due,  
5  ~~or~~ to become due, or to be delivered.  ~~or any~~

6 (D) A deed or writing containing a conveyance of land  ~~, or~~  
7  ~~any~~ OR other valuable contract in force.  ~~, or any~~

8 (E) A receipt, release, or defeasance.  ~~, or any~~

9 (F) A writ, process, or public record.  ~~, if the property~~  
10  ~~stolen exceed the value of \$100.00, shall be~~

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

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

17 (B) THE PERSON VIOLATES SUBSECTION (3)(A) AND HAS 2 OR MORE  
18 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
19 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION,  
20 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
21 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
22 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE  
23 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
24 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

25 (3) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS guilty of a  
26 felony  ~~,~~ punishable by imprisonment  ~~in the state prison~~ FOR  
27 not more than 5 years or  ~~by~~ A fine of not more than

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1 ~~-\$2,500.00-~~ \$10,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY

2 STOLEN, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

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

5 (B) THE PERSON VIOLATES SUBSECTION (4)(A) AND HAS 1 OR MORE  
6 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
7 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION,  
8 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
9 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
10 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE  
11 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
12 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

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

18 (A) THE PROPERTY STOLEN HAS A VALUE OF \$200.00 OR MORE BUT  
19 LESS THAN \$1,000.00.

20 (B) THE PERSON VIOLATES SUBSECTION (5) AND HAS 1 OR MORE  
21 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
22 OFFENSE UNDER THIS CHAPTER OR A LOCAL ORDINANCE SUBSTANTIALLY  
23 CORRESPONDING TO AN OFFENSE UNDER THIS CHAPTER.

24 (5) If the property stolen ~~shall be of the~~ HAS A value of  
25 ~~-\$100.00 or~~ less THAN \$200.00, ~~such~~ THE person ~~shall be~~ IS  
26 guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
27 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE

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1 VALUE OF THE PROPERTY STOLEN, WHICHEVER IS GREATER, OR BOTH  
2 IMPRISONMENT AND A FINE.

3 (6) THE VALUES OF PROPERTY STOLEN IN SEPARATE INCIDENTS PUR-  
4 SUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY 12-MONTH PERIOD  
5 MAY BE AGGREGATED TO DETERMINE THE TOTAL VALUE OF PROPERTY  
6 STOLEN.

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

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

18 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
19 SENTENCING.

20 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

21 (D) THE DEFENDANT'S STATEMENT.

22 Sec. 356a. (1) ~~Any~~ A person who ~~shall commit the offense~~  
23 ~~of~~ COMMITS larceny by stealing or unlawfully removing or taking  
24 any wheel, tire, AIRBAG, radio, ~~heater or~~ STEREO, clock,  
TELEPHONE,  
25 COMPUTER, OR OTHER ELECTRONIC DEVICE in or on any motor vehicle,  
26 house trailer, trailer, or ~~semi-trailer, shall be~~ SEMITRAILER  
27 IS guilty of a felony ~~—~~ punishable by ~~a fine not to exceed~~

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

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

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

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

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

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

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1 (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
2 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A  
3 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE  
4 PROPERTY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

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

7 (ii) THE PERSON VIOLATES SUBDIVISION (B)(i) AND HAS 1 OR  
8 MORE PRIOR CONVICTIONS FOR VIOLATING OR ATTEMPTING TO VIOLATE  
9 THIS CHAPTER. FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A  
10 PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR COMMITTING OR  
11 ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXIMUM TERM OF  
12 IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE FOR WHICH THE  
13 MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY PRIOR CONVIC-  
14 TIONS IS NOT MORE THAN 1 YEAR.

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

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

20 (ii) THE PERSON VIOLATES SUBDIVISION (C)(i) AND HAS 2 OR  
21 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
22 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBPARAGRAPH,  
23 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
24 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
25 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE  
26 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
27 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

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1 (3) A person WHO VIOLATES SUBSECTION (2)(A) OR (B) AND WHO  
2 breaks, tears, cuts, or otherwise damages any part of ~~such~~ THE  
3 motor vehicle, house trailer, trailer, or ~~semi-trailer~~, shall  
4 ~~be~~ SEMITRAILER IS guilty of a felony ~~,~~ punishable by ~~a fine~~  
5 ~~not to exceed \$1,000.00, or by~~ imprisonment ~~in the state~~  
6 ~~prison~~ FOR not more than 5 years OR A FINE OF NOT MORE THAN  
7 \$10,000.00, OR BOTH, REGARDLESS OF THE VALUE OF THE PROPERTY.

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

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

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

23 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
24 SENTENCING.

25 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

26 (D) THE DEFENDANT'S STATEMENT.

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1       Sec. 356c. (1) A person who does any of the following in a  
2 store or in its immediate vicinity is guilty of retail fraud in  
3 the first degree, a felony punishable by imprisonment for not  
4 more than ~~2~~ 5 years ~~,~~ or a fine of not more than ~~\$1,000.00~~  
5 \$10,000.00 OR 3 TIMES THE VALUE OF THE DIFFERENCE IN PRICE, PROP-  
6 erty STOLEN, OR MONEY OR PROPERTY OBTAINED OR ATTEMPTED TO BE  
7 OBTAINED, WHICHEVER IS GREATER, or both IMPRISONMENT AND A FINE:

8       (a) While a store is open to the public, alters, transfers,  
9 removes and replaces, conceals, or otherwise misrepresents the  
10 price at which property is offered for sale, with the intent not  
11 to pay for the property or to pay less than the price at which  
12 the property is offered for sale, if the resulting difference in  
13 price is ~~more than \$100.00~~ \$1,000.00 OR MORE.

14       (b) While a store is open to the public, steals property of  
15 the store that is offered for sale at a price of ~~more than~~  
16 ~~\$100.00~~ \$1,000.00 OR MORE.

17       (c) With intent to defraud, obtains or attempts to obtain  
18 money or property from the store as a refund or exchange for  
19 property that was not paid for and belongs to the store, if the  
20 amount of money ~~,~~ or the value of the property ~~,~~ obtained or  
21 attempted to be obtained is ~~more than \$100.00~~ \$1,000.00 OR  
22 MORE.

23       (2) A person who violates section ~~356d~~ 356D(1) and WHO has  
24 1 or more prior convictions FOR COMMITTING OR ATTEMPTING TO  
25 COMMIT AN OFFENSE under this section ~~,~~ OR section 218, 356,  
26 ~~356d~~ 356D(1), or 360 ~~,~~ or a local ordinance substantially  
27 corresponding to this section or section 218, 356, ~~356d~~, or 360



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1 is guilty of retail fraud in the first degree. FOR PURPOSES OF  
2 THIS SUBSECTION, HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A  
3 CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR  
4 WHICH THE MAXIMUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS  
5 OR AN OFFENSE FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER  
6 ENHANCEMENT BY PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

7 (3) THE VALUES OF THE DIFFERENCE IN PRICE, PROPERTY STOLEN,  
8 OR MONEY OR PROPERTY OBTAINED OR ATTEMPTED TO BE OBTAINED IN SEP-  
9 ARATE INCIDENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN  
10 ANY 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL  
11 VALUE INVOLVED IN THE OFFENSE UNDER THIS SECTION.

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

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

23 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
24 SENTENCING.

25 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

26 (D) THE DEFENDANT'S STATEMENT.

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1       (5) ~~(3)~~ A person who commits ~~the crime of~~ retail fraud  
2 in the first degree shall not be prosecuted under ~~the felony~~  
3 ~~provision of section 356, or under section 218 or 360.~~ SECTION  
4 218(5) OR 356(2).

5       Sec. 356d. (1) A person who does any of the following in a  
6 store or in its immediate vicinity is guilty of retail fraud in  
7 the second degree, a misdemeanor punishable by imprisonment for  
8 not more than ~~93 days,~~ 1 YEAR or a fine of not more than  
9 ~~\$100.00~~ \$2,000.00 OR 3 TIMES THE VALUE OF THE DIFFERENCE IN  
10 PRICE, PROPERTY STOLEN, OR MONEY OR PROPERTY OBTAINED OR  
11 ATTEMPTED TO BE OBTAINED, WHICHEVER IS GREATER, or both  
12 IMPRISONMENT AND A FINE:

13       (a) While a store is open to the public, alters, transfers,  
14 removes and replaces, conceals, or otherwise misrepresents the  
15 price at which property is offered for sale ~~—~~ with the intent  
16 not to pay for the property or to pay less than the price at  
17 which the property is offered for sale IF THE RESULTING DIFFER-  
18 ENCE IN PRICE IS \$200.00 OR MORE BUT LESS THAN \$1,000.00.

19       (b) While a store is open to the public, steals property of  
20 the store that is offered for sale AT A PRICE OF \$200.00 OR MORE  
21 BUT LESS THAN \$1,000.00.

22       (c) With intent to defraud, obtains or attempts to obtain  
23 money or property from the store as a refund or exchange for  
24 property that was not paid for and belongs to the store IF THE  
25 AMOUNT OF MONEY OR THE VALUE OF THE PROPERTY OBTAINED OR  
26 ATTEMPTED TO BE OBTAINED IS \$200.00 OR MORE BUT LESS THAN  
27 \$1,000.00.

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1 (2) A PERSON WHO VIOLATES SUBSECTION (4) AND WHO HAS 1 OR  
2 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
3 OFFENSE UNDER THIS SECTION, SECTION 218, 356, 356C, OR 360, OR A  
4 LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO THIS SECTION OR  
5 SECTION 218, 356, 356C, OR 360 IS GUILTY OF RETAIL FRAUD IN THE  
6 SECOND DEGREE.

7 (3) ~~(2)~~ A person who commits ~~the crime of~~ retail fraud  
8 in the second degree shall not be prosecuted under ~~the felony~~  
9 ~~provision of section 356, or under~~ section ~~218 or~~ 360.

10 (4) A PERSON WHO DOES ANY OF THE FOLLOWING IN A STORE OR IN  
11 ITS IMMEDIATE VICINITY IS GUILTY OF RETAIL FRAUD IN THE THIRD  
12 DEGREE, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
13 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE  
14 VALUE OF THE DIFFERENCE IN PRICE, PROPERTY STOLEN, OR MONEY OR  
15 PROPERTY OBTAINED OR ATTEMPTED TO BE OBTAINED, WHICHEVER IS  
16 GREATER, OR BOTH IMPRISONMENT AND A FINE:

17 (A) WHILE A STORE IS OPEN TO THE PUBLIC, ALTERS, TRANSFERS,  
18 REMOVES AND REPLACES, CONCEALS, OR OTHERWISE MISREPRESENTS THE  
19 PRICE AT WHICH PROPERTY IS OFFERED FOR SALE, WITH THE INTENT NOT  
20 TO PAY FOR THE PROPERTY OR TO PAY LESS THAN THE PRICE AT WHICH  
21 THE PROPERTY IS OFFERED FOR SALE, IF THE RESULTING DIFFERENCE IN  
22 PRICE IS LESS THAN \$200.00.

23 (B) WHILE A STORE IS OPEN TO THE PUBLIC, STEALS PROPERTY OF  
24 THE STORE THAT IS OFFERED FOR SALE AT A PRICE OF LESS THAN  
25 \$200.00.

26 (C) WITH INTENT TO DEFRAUD, OBTAINS OR ATTEMPTS TO OBTAIN  
27 MONEY OR PROPERTY FROM THE STORE AS A REFUND OR EXCHANGE FOR

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1 PROPERTY THAT WAS NOT PAID FOR AND BELONGS TO THE STORE, IF THE  
2 AMOUNT OF MONEY, OR THE VALUE OF THE PROPERTY, OBTAINED OR  
3 ATTEMPTED TO BE OBTAINED IS LESS THAN \$200.00.

4 (5) A PERSON WHO COMMITS RETAIL FRAUD IN THE THIRD DEGREE  
5 SHALL NOT BE PROSECUTED UNDER SECTION 360.

6 (6) THE VALUES OF THE DIFFERENCE IN PRICE, PROPERTY STOLEN,  
7 OR MONEY OR PROPERTY OBTAINED OR ATTEMPTED TO BE OBTAINED IN SEP-  
8 ARATE INCIDENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN  
9 ANY 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL  
10 VALUE INVOLVED IN THE OFFENSE UNDER THIS SECTION.

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

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

22 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
23 SENTENCING.

24 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

25 (D) THE DEFENDANT'S STATEMENT.

26 Sec. 362a. (1) ~~Any~~ A person to whom a motor vehicle,  
27 trailer, or other tangible property is delivered on a rental or

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1 lease basis under ~~any~~ A WRITTEN agreement ~~in writing~~  
2 providing for its return to a particular place at a particular  
3 time who WITH INTENT TO DEFRAUD THE LESSOR refuses or ~~wilfully~~  
4 WILLFULLY neglects to return ~~such~~ THE vehicle, trailer, or  
5 other tangible property ~~,~~ after ~~the~~ expiration of the time  
6 stated in a WRITTEN notice ~~in writing proved to have been duly~~  
7 mailed by registered or certified mail addressed to ~~the~~ THAT  
8 PERSON'S last known address ~~of the person who rented or leased~~  
9 ~~the motor vehicle, trailer or other tangible property, and with~~  
10 ~~intent to defraud the lessor,~~ is guilty of larceny, PUNISHABLE  
11 AS PROVIDED IN THIS SECTION.

12 (2) If ~~the vehicle, trailer or other tangible property~~  
13 ~~exceeds the value of \$100.00 he shall be~~ ANY OF THE FOLLOWING  
14 APPLY, THE PERSON IS guilty of a felony punishable by imprison-  
15 ment for not more than ~~2~~ 10 years or ~~by~~ a fine of not more  
16 than ~~\$1,000.00~~ \$15,000.00 OR 3 TIMES THE VALUE OF THE VEHICLE,  
17 TRAILER, OR OTHER TANGIBLE PROPERTY, WHICHEVER IS GREATER, or  
18 both ~~—~~ IMPRISONMENT AND A FINE:

19 (A) THE VEHICLE, TRAILER, OR OTHER TANGIBLE PROPERTY HAS A  
20 VALUE OF \$20,000.00 OR MORE.

21 (B) THE PERSON VIOLATES SUBSECTION (3)(A) AND HAS 2 OR MORE  
22 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
23 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION,  
24 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
25 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
26 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE

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1 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
2 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

3 (3) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
4 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A  
5 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE  
6 VEHICLE, TRAILER, OR OTHER TANGIBLE PROPERTY, WHICHEVER IS GREAT-  
7 ER, OR BOTH IMPRISONMENT AND A FINE:

8 (A) THE VEHICLE, TRAILER, OR OTHER TANGIBLE PROPERTY HAS A  
9 VALUE OF \$1,000.00 OR MORE BUT LESS THAN \$20,000.00.

10 (B) THE PERSON VIOLATES SUBSECTION (4)(A) AND HAS 1 OR MORE  
11 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
12 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION,  
13 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
14 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
15 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE  
16 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
17 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

18 (4) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
19 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR  
20 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE  
21 VEHICLE, TRAILER, OR OTHER TANGIBLE PROPERTY, WHICHEVER IS GREAT-  
22 ER, OR BOTH IMPRISONMENT AND A FINE:

23 (A) THE VEHICLE, TRAILER, OR OTHER TANGIBLE PROPERTY HAS A  
24 VALUE OF \$200.00 OR MORE BUT LESS THAN \$1,000.00.

25 (B) THE PERSON VIOLATES SUBSECTION (5) AND HAS 1 OR MORE  
26 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN

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1 OFFENSE UNDER THIS CHAPTER OR A LOCAL ORDINANCE SUBSTANTIALLY  
2 CORRESPONDING TO AN OFFENSE UNDER THIS CHAPTER.

3 (5) If the vehicle, trailer, or other tangible property ~~is~~  
4 ~~of the~~ HAS A value of ~~-\$100.00 or~~ less THAN \$200.00, ~~he shall~~  
5 ~~be~~ THE PERSON IS guilty of a misdemeanor PUNISHABLE BY IMPRISON-  
6 MENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00  
7 OR 3 TIMES THE VALUE OF THE VEHICLE, TRAILER, OR OTHER TANGIBLE  
8 PROPERTY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

9 (6) THE VALUES OF PROPERTY NOT RETURNED IN SEPARATE INCI-  
10 DENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY  
11 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL VALUE OF  
12 PROPERTY NOT RETURNED.

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

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

24 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
25 SENTENCING.

26 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

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1 (D) THE DEFENDANT'S STATEMENT.

2 Sec. 377a. (1) ~~Any~~ A person who ~~shall wilfully~~  
3 WILLFULLY and maliciously ~~destroy or injure~~ DESTROYS OR INJURES  
4 the personal property of another ~~, by any means not particularly~~  
5 ~~mentioned or described in the preceding section, if the damage~~  
6 ~~resulting from such injury shall exceed \$100.00, shall be~~ PERSON  
7 IS GUILTY OF A CRIME AS FOLLOWS:

8 (A) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS guilty of a  
9 felony ~~—~~ PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS  
10 OR A FINE OF NOT MORE THAN \$15,000.00 OR 3 TIMES THE AMOUNT OF  
11 THE DESTRUCTION OR INJURY, WHICHEVER IS GREATER, OR BOTH IMPRIS-  
12 ONMENT AND A FINE:

13 (i) THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$20,000.00 OR  
14 MORE.

15 (ii) THE PERSON VIOLATES SUBDIVISION (B)(i) AND HAS 2 OR  
16 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
17 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBPARAGRAPH,  
18 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
19 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
20 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE  
21 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
22 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

23 (B) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
24 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A  
25 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE AMOUNT OF THE  
26 DESTRUCTION OR INJURY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT  
27 AND A FINE:



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1       (i) THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$1,000.00 OR  
2 MORE BUT LESS THAN \$20,000.00.

3       (ii) THE PERSON VIOLATES SUBDIVISION (C)(i) AND HAS 1 OR  
4 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
5 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBPARAGRAPH,  
6 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
7 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
8 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE  
9 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
10 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

11       (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
12 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR  
13 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE AMOUNT OF THE  
14 DESTRUCTION OR INJURY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT  
15 AND A FINE:

16       (i) THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$200.00 OR  
17 MORE BUT LESS THAN \$1,000.00.

18       (ii) THE PERSON VIOLATES SUBDIVISION (D) AND HAS 1 OR MORE  
19 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
20 OFFENSE UNDER THIS CHAPTER OR A LOCAL ORDINANCE SUBSTANTIALLY  
21 CORRESPONDING TO AN OFFENSE UNDER THIS CHAPTER.

22       (D) If the ~~damage done shall be \$100.00 or~~ AMOUNT OF THE  
23 DESTRUCTION OR INJURY IS less THAN \$200.00, ~~such~~ THE person  
24 ~~shall be~~ IS guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT  
25 FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3  
26 TIMES THE AMOUNT OF THE DESTRUCTION OR INJURY, WHICHEVER IS  
27 GREATER, OR BOTH IMPRISONMENT AND A FINE.

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1 (2) THE AMOUNTS OF DESTRUCTION OR INJURY IN SEPARATE  
2 INCIDENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY  
3 12-MONTH PERIOD MAY BE AGGREGATED IN DETERMINING THE TOTAL AMOUNT  
4 OF THE DESTRUCTION OR INJURY.

5 (3) 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 Sec. 380. (1) ~~Any~~ A person ~~who~~ shall ~~wilfully~~ NOT  
21 WILLFULLY and maliciously destroy or injure ~~any~~ ANOTHER  
22 PERSON'S house, barn, or other building ~~of another,~~ or ~~the~~  
23 ITS appurtenances. ~~thereof, if the damage resulting from such~~  
24 ~~injury shall exceed \$100.00, shall be guilty of a felony. If the~~  
25 ~~damage done shall be \$100.00 or~~

26 (2) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES  
27 SUBSECTION (1) IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT

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1 FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN \$15,000.00  
2 OR 3 TIMES THE AMOUNT OF THE DESTRUCTION OR INJURY, WHICHEVER IS  
3 GREATER, OR BOTH IMPRISONMENT AND A FINE:

4 (A) THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$20,000.00 OR  
5 MORE.

6 (B) THE PERSON VIOLATES SUBSECTION (3)(A) AND HAS 2 OR MORE  
7 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
8 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION,  
9 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
10 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
11 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE  
12 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
13 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

14 (3) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES  
15 SUBSECTION (1) IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT  
16 FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$10,000.00  
17 OR 3 TIMES THE AMOUNT OF THE DESTRUCTION OR INJURY, WHICHEVER IS  
18 GREATER, OR BOTH IMPRISONMENT AND A FINE:

19 (A) THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$1,000.00 OR  
20 MORE BUT LESS THAN \$20,000.00.

21 (B) THE PERSON VIOLATES SUBSECTION (4)(A) AND HAS 1 OR MORE  
22 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
23 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION,  
24 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
25 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
26 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE

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20

1 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
2 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

3 (4) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES  
4 SUBSECTION (1) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISON-  
5 MENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN  
6 \$2,000.00 OR 3 TIMES THE AMOUNT OF THE DESTRUCTION OR INJURY,  
7 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

8 (A) THE AMOUNT OF THE DESTRUCTION OR INJURY IS \$200.00 OR  
9 MORE BUT LESS THAN \$1,000.00.

10 (B) THE PERSON VIOLATES SUBSECTION (5) AND HAS 1 OR MORE  
11 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
12 OFFENSE UNDER THIS CHAPTER OR A LOCAL ORDINANCE SUBSTANTIALLY  
13 CORRESPONDING TO AN OFFENSE UNDER THIS CHAPTER.

14 (5) IF THE AMOUNT OF THE DESTRUCTION OR INJURY IS less THAN  
15 \$200.00, ~~he shall be~~ A PERSON WHO VIOLATES SUBSECTION (1) IS  
16 guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
17 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE  
18 AMOUNT OF THE DESTRUCTION OR INJURY, WHICHEVER IS GREATER, OR  
19 BOTH IMPRISONMENT AND A FINE.

20 (6) THE AMOUNTS OF THE DESTRUCTION OR INJURY IN SEPARATE  
21 INCIDENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY  
22 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL AMOUNT  
23 OF THE DESTRUCTION OR INJURY.

24 (7) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED  
25 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-  
26 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT  
27 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR

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1 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION  
2 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,  
3 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE  
4 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTAB-  
5 LISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT  
6 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

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

8 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
9 SENTENCING.

10 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

11 (D) THE DEFENDANT'S STATEMENT.

12 Sec. 382. (1) A person who ~~wilfully~~ WILLFULLY and mali-  
13 ciously, or wantonly and without cause, cuts down, destroys, or  
14 injures any tree, shrub, grass, turf, plants, crops, or soil of  
15 another that is standing, growing, or located on the land of  
16 another is guilty of a ~~misdemeanor, punishable by imprisonment~~  
17 ~~for not more than 90 days, a fine of not more than \$100.00, or~~  
18 ~~both. A person convicted under this subsection shall be required~~  
19 ~~to make restitution for any damage done.~~ CRIME AS FOLLOWS:

20 (A) IF THE VALUE OF THE TREES, SHRUBS, GRASS, TURF, PLANTS,  
21 CROPS, OR SOIL CUT DOWN, DESTROYED, OR INJURED IS LESS THAN  
22 \$200.00, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
23 IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN  
24 \$500.00 OR 3 TIMES THE VALUE OF THE TREES, SHRUBS, GRASS, TURF,  
25 PLANTS, CROPS, OR SOIL, WHICHEVER IS GREATER, OR BOTH IMPRISON-  
26 MENT AND A FINE.

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1 (B) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
2 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR  
3 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE  
4 TREES, SHRUBS, GRASS, TURF, PLANTS, CROPS, OR SOIL, WHICHEVER IS  
5 GREATER, OR BOTH IMPRISONMENT AND A FINE:

6 (i) THE VALUE OF THE TREES, SHRUBS, GRASS, TURF, PLANTS, OR  
7 SOIL CUT DOWN, DESTROYED, OR INJURED IS \$200.00 OR MORE BUT LESS  
8 THAN \$1,000.00.

9 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 1 OR MORE  
10 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
11 OFFENSE UNDER THIS CHAPTER OR A LOCAL ORDINANCE SUBSTANTIALLY  
12 CORRESPONDING TO AN OFFENSE UNDER THIS CHAPTER.

13 (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
14 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A  
15 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE  
16 TREES, SHRUBS, GRASS, TURF, PLANTS, CROPS, OR SOIL, WHICHEVER IS  
17 GREATER, OR BOTH IMPRISONMENT AND A FINE:

18 (i) THE VALUE OF THE TREES, SHRUBS, GRASS, TURF, PLANTS,  
19 CROPS, OR SOIL CUT DOWN, DESTROYED, OR INJURED IS \$1,000.00 OR  
20 MORE BUT LESS THAN \$20,000.00.

21 (ii) THE PERSON VIOLATES SUBDIVISION (B)(i) AND HAS 1 OR  
22 MORE PRIOR CONVICTIONS FOR VIOLATING OR ATTEMPTING TO VIOLATE  
23 THIS CHAPTER. FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A  
24 PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR COMMITTING OR  
25 ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXIMUM TERM OF  
26 IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE FOR WHICH THE

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23

1 MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY PRIOR  
2 CONVICTIONS IS NOT MORE THAN 1 YEAR.

3 (D) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
4 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A  
5 FINE OF NOT MORE THAN \$15,000.00 OR 3 TIMES THE VALUE OF THE  
6 TREES, SHRUBS, GRASS, TURF, PLANTS, CROPS, OR SOIL, WHICHEVER IS  
7 GREATER, OR BOTH IMPRISONMENT AND A FINE:

8 (i) THE VALUE OF THE TREES, SHRUBS, GRASS, TURF, PLANTS,  
9 CROPS, OR SOIL CUT DOWN, DESTROYED, OR INJURED IS \$20,000.00 OR  
10 MORE.

11 (ii) THE PERSON VIOLATES SUBDIVISION (C)(i) AND HAS 2 OR  
12 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
13 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBPARAGRAPH,  
14 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
15 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
16 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE  
17 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
18 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

19 (2) A person convicted under subsection (1) who committed  
20 the offense with a vehicle ~~—~~, as defined in section 79 of ~~Act~~  
21 ~~No. 300 of the Public Acts of 1949, being section 257.79 of the~~  
22 ~~Michigan Compiled Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300,  
23 MCL 257.79, may have his or her OPERATOR'S OR CHAUFFEUR'S license  
24 ~~to operate a vehicle in this state~~ suspended for ~~up to~~ NOT  
25 MORE THAN 1 year in addition to a penalty imposed under subsec-  
26 tion (1).

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1 (3) THE VALUES OF TREES, SHRUBS, GRASS, TURF, PLANTS, CROPS,  
2 OR SOIL CUT DOWN, DESTROYED, OR INJURED IN SEPARATE INCIDENTS  
3 PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY 12-MONTH  
4 PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL VALUE OF TREES,  
5 SHRUBS, GRASS, TURF, PLANTS, CROPS, OR SOIL CUT DOWN, DESTROYED,  
6 OR INJURED.

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

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

18 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
19 SENTENCING.

20 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

21 (D) THE DEFENDANT'S STATEMENT.

22 Sec. 387. (1) ~~Any~~ A person, other than the burial right  
23 owner or his OR HER representative, heir at law, or a person  
24 having care, custody, or control of a cemetery ~~by virtue of~~  
25 PURSUANT TO law, A contract, or other legal right, ~~who~~ shall  
26 ~~wilfully~~ NOT WILLFULLY destroy, mutilate, deface, injure, or  
27 remove ~~any~~ A tomb, monument, gravestone, or other structure or



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1 thing placed or designed for a memorial of the dead, or ~~any~~ A  
2 fence, railing, curb, or other thing intended for the protection  
3 or for the ornament of any tomb, monument, gravestone, or other  
4 structure ~~mentioned~~ DESCRIBED in this subsection ~~,~~ or ~~of~~  
5 any OTHER enclosure for the burial of the dead ~~,~~ or ~~who shall~~  
6 ~~wilfully~~ AND SHALL NOT WILLFULLY destroy, mutilate, remove, cut,  
7 break, or injure any tree, shrub, or plant, placed or being  
8 within ~~any~~ such AN enclosure. ~~,~~ ~~is guilty of a misdemeanor.~~

9 (2) Prosecution under ~~this~~ subsection (1) may commence  
10 upon complaint by the burial right owner or his OR HER represen-  
11 tative, heir at law, or person having care, custody, or control  
12 of a cemetery, tomb, monument, gravestone, or other structure or  
13 thing ~~placed or designed for a memorial of the dead, or any~~  
14 ~~fence, railing, curb, or other thing intended for the protection~~  
15 ~~or for the ornament of any tomb, monument, gravestone, or other~~  
16 ~~structure mentioned~~ DESCRIBED in ~~this~~ subsection (1). ~~,~~ or  
17 ~~of any enclosure for the burial of the dead, or tree, shrub, or~~  
18 ~~plant.~~

19 (3) IF THE TOTAL AMOUNT OF DAMAGE IS LESS THAN \$200.00, A  
20 PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A MISDEMEANOR  
21 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF  
22 NOT MORE THAN \$500.00 OR 3 TIMES THE AMOUNT OF DAMAGE, WHICHEVER  
23 IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

24 (4) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES  
25 SUBSECTION (1) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISON-  
26 MENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN

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1 \$2,000.00 OR 3 TIMES THE AMOUNT OF DAMAGE, WHICHEVER IS GREATER,  
2 OR BOTH IMPRISONMENT AND A FINE:

3 (A) THE TOTAL AMOUNT OF DAMAGE IS \$200.00 OR MORE BUT LESS  
4 THAN \$1,000.00.

5 (B) THE TOTAL AMOUNT OF DAMAGE IS LESS THAN \$200.00 AND THE  
6 PERSON HAS 1 OR MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPT-  
7 ING TO COMMIT AN OFFENSE UNDER THIS CHAPTER OR A LOCAL ORDINANCE  
8 SUBSTANTIALLY CORRESPONDING TO AN OFFENSE UNDER THIS CHAPTER.

9 (5) ~~(2) A~~ IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIO-  
10 LATES SUBSECTION (1) IS GUILTY OF A FELONY PUNISHABLE BY IMPRIS-  
11 ONMENT FOR NOT MORE THAN 5 YEARS OR ~~BY~~ A FINE OF NOT MORE THAN  
12 ~~-\$2,500.00-~~ \$10,000.00 OR 3 TIMES THE AMOUNT OF DAMAGE, WHICHEVER  
13 IS GREATER, OR BOTH ~~, IF THE PERSON DOES EITHER OF THE~~  
14 ~~following~~ IMPRISONMENT AND A FINE:

15 (a) ~~Does any act described in subsection (1) which causes~~  
16 ~~damage in excess of \$100.00-~~ THE TOTAL AMOUNT OF DAMAGE IS  
17 \$1,000.00 OR MORE BUT LESS THAN \$20,000.00.

18 (b) ~~Does any act described in subsection (1) which is~~  
19 ~~directed against 2 or more separate burial rights or places in~~  
20 ~~whatever form for tombs or for the memorial of the dead-~~ THE  
21 TOTAL AMOUNT OF DAMAGE IS \$200.00 OR MORE BUT LESS THAN \$1,000  
22 AND THE PERSON HAS 1 OR MORE PRIOR CONVICTIONS FOR COMMITTING OR  
23 ATTEMPTING TO COMMIT AN OFFENSE UNDER THIS CHAPTER. FOR PURPOSES  
24 OF THIS SUBDIVISION, HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE  
25 A CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE  
26 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT IS NOT MORE THAN 93

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27

1 DAYS OR AN OFFENSE FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT  
2 AFTER ENHANCEMENT BY PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

3 (6) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES  
4 SUBSECTION (1) IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT  
5 FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN \$15,000.00  
6 OR 3 TIMES THE AMOUNT OF DAMAGE, WHICHEVER IS GREATER, OR BOTH  
7 IMPRISONMENT AND A FINE:

8 (A) THE TOTAL AMOUNT OF DAMAGE IS \$20,000.00 OR MORE.

9 (B) THE TOTAL AMOUNT OF DAMAGE IS \$1,000.00 OR MORE BUT LESS  
10 THAN \$20,000.00 AND THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS  
11 FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE UNDER THIS  
12 CHAPTER. FOR PURPOSES OF THIS SUBDIVISION, HOWEVER, A PRIOR CON-  
13 VICTION DOES NOT INCLUDE A CONVICTION FOR COMMITTING OR ATTEMPT-  
14 ING TO COMMIT AN OFFENSE FOR WHICH THE MAXIMUM TERM OF IMPRISON-  
15 MENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE FOR WHICH THE MAXIMUM  
16 TERM OF IMPRISONMENT AFTER ENHANCEMENT BY PRIOR CONVICTIONS IS  
17 NOT MORE THAN 1 YEAR.

18 (7) THE AMOUNTS OF DAMAGE IN SEPARATE INCIDENTS PURSUANT TO  
19 A SCHEME OR COURSE OF CONDUCT WITHIN ANY 12-MONTH PERIOD MAY BE  
20 AGGREGATED IN DETERMINING THE TOTAL AMOUNT OF DAMAGE.

21 (8) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED  
22 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-  
23 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT  
24 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR  
25 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION  
26 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,  
27 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE

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1 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE  
2 ESTABLISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING,  
3 BUT NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

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

5 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
6 SENTENCING.

7 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

8 (D) THE DEFENDANT'S STATEMENT.

9 Sec. 535. (1) A person ~~who buys, receives, possesses, con-~~  
10 ~~ceals, or aids~~ SHALL NOT BUY, RECEIVE, POSSESS, CONCEAL, OR AID  
11 in the concealment of stolen, embezzled, or converted money,  
12 goods, or property knowing the money, goods, or property ~~to be~~  
13 IS stolen, embezzled, or converted. ~~, if the property purchased,~~  
14 ~~received, possessed, or concealed exceeds the value of \$100.00,~~

15 (2) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES  
16 SUBSECTION (1) IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT  
17 FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN \$15,000.00  
18 OR 3 TIMES THE VALUE OF THE PROPERTY PURCHASED, RECEIVED, POS-  
19 SSESSED, OR CONCEALED, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT  
20 AND A FINE:

21 (A) THE PROPERTY PURCHASED, RECEIVED, POSSESSED, OR CON-  
22 CEALED HAS A VALUE OF \$20,000.00 OR MORE.

23 (B) THE PERSON VIOLATES SUBSECTION (3)(A) AND HAS 2 OR MORE  
24 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
25 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION,  
26 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
27 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE

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1 MAXIMUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN  
2 OFFENSE FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCE-  
3 MENT BY PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

4 (3) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES  
5 SUBSECTION (1) IS GUILTY OF A FELONY ~~—~~ PUNISHABLE BY IMPRISON-  
6 MENT FOR NOT MORE THAN 5 YEARS ~~,~~ OR ~~by~~ A FINE OF NOT MORE  
7 THAN ~~\$2,500.00.~~ \$10,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY  
8 PURCHASED, RECEIVED, POSSESSED, OR CONCEALED, WHICHEVER IS  
9 GREATER, OR BOTH IMPRISONMENT AND A FINE:

10 (A) THE PROPERTY PURCHASED, RECEIVED, POSSESSED, OR CON-  
11 CEALED HAS A VALUE OF \$1,000.00 OR MORE BUT LESS THAN  
12 \$20,000.00.

13 (B) THE PERSON VIOLATES SUBSECTION (4)(A) AND HAS 1 OR MORE  
14 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
15 OFFENSE UNDER THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION,  
16 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR  
17 COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE FOR WHICH THE MAXI-  
18 MUM TERM OF IMPRISONMENT IS NOT MORE THAN 93 DAYS OR AN OFFENSE  
19 FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT AFTER ENHANCEMENT BY  
20 PRIOR CONVICTIONS IS NOT MORE THAN 1 YEAR.

21 (4) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES  
22 SUBSECTION (1) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISON-  
23 MENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN  
24 \$2,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY PURCHASED,  
25 RECEIVED, POSSESSED, OR CONCEALED, WHICHEVER IS GREATER, OR BOTH  
26 IMPRISONMENT AND A FINE:

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1 (A) THE PROPERTY PURCHASED, RECEIVED, POSSESSED, OR  
2 CONCEALED HAS A VALUE OF \$200.00 OR MORE BUT LESS THAN  
3 \$1,000.00.

4 (B) THE PERSON VIOLATES SUBSECTION (5) AND HAS 1 OR MORE  
5 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
6 OFFENSE UNDER THIS CHAPTER OR A LOCAL ORDINANCE SUBSTANTIALLY  
7 CORRESPONDING TO AN OFFENSE UNDER THIS CHAPTER.

8 (5) If the property purchased, received, possessed, or con-  
9 cealed ~~is of~~ HAS a value of ~~-\$100.00 or~~ less THAN \$200.00,  
10 ~~the~~ A person WHO VIOLATES SUBSECTION (1) is guilty of a misde-  
11 meanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A  
12 FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE VALUE OF THE PROP-  
13 ERTY PURCHASED, RECEIVED, POSSESSED, OR CONCEALED, WHICHEVER IS  
14 GREATER, OR BOTH IMPRISONMENT AND A FINE. ~~On a third or subse-~~  
15 ~~quent conviction under this section the person is guilty of a~~  
16 ~~felony, punishable by imprisonment for not more than 5 years, or~~  
17 ~~by a fine of not more than \$2,500.00, or both, although the value~~  
18 ~~of the property purchased, received, possessed, or concealed does~~  
19 ~~not exceed \$100.00.~~

20 (6) THE VALUES OF PROPERTY PURCHASED, RECEIVED, POSSESSED,  
21 OR CONCEALED IN SEPARATE INCIDENTS PURSUANT TO A SCHEME OR COURSE  
22 OF CONDUCT WITHIN ANY 12-MONTH PERIOD MAY BE AGGREGATED TO DETER-  
23 MINE THE TOTAL VALUE OF PROPERTY PURCHASED, RECEIVED, POSSESSED,  
24 OR CONCEALED.

25 (7) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED  
26 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR  
27 CONVICTIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE

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1 COMPLAINT AND INFORMATION A STATEMENT LISTING THE PRIOR  
2 CONVICTION OR CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S  
3 PRIOR CONVICTION OR CONVICTIONS SHALL BE DETERMINED BY THE COURT,  
4 WITHOUT A JURY, AT SENTENCING OR AT A SEPARATE HEARING FOR THAT  
5 PURPOSE BEFORE SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION  
6 MAY BE ESTABLISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE,  
7 INCLUDING, BUT NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

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

9 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR  
10 SENTENCING.

11 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

12 (D) THE DEFENDANT'S STATEMENT.

13 (8) ~~-(2)-~~ A person who is a dealer in or collector of mer-  
14 chandise or personal property, or the agent, employee, or repre-  
15 sentative of a dealer or collector OF MERCHANDISE OR PERSONAL  
16 PROPERTY who fails to ~~make reasonable inquiry that~~ REASONABLY  
17 INQUIRE WHETHER the person selling or delivering the stolen,  
18 embezzled, or converted property to the dealer or collector has a  
19 legal right to do so or who buys or receives stolen, embezzled,  
20 or converted property ~~which~~ THAT has a registration, serial, or  
21 other identifying number altered or obliterated on an external  
22 surface of the property, ~~shall be~~ IS presumed to have bought or  
23 received the property knowing the property ~~to be~~ IS stolen,  
24 embezzled, or converted. This presumption ~~may be rebutted by~~  
25 ~~proof~~ IS REBUTTABLE.

26 Sec. 540g. (1) An officer, shareholder, partner, employee,  
27 agent, or independent contractor of a telecommunications service

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1 provider who knowingly and without authority uses or diverts  
2 telecommunications services for his or her own benefit or to the  
3 benefit of another person is guilty of a crime as follows:

4 (a) If the total value of the telecommunications service  
5 used or diverted is less than \$200.00, the person is guilty of a  
6 misdemeanor punishable by imprisonment for not more than 93 days  
7 or a fine of not more than \$500.00 or 3 times the total value of  
8 the telecommunications service used or diverted, whichever is  
9 greater, or both imprisonment and a fine.

10 (b) If any of the following apply, the person is guilty of a  
11 misdemeanor punishable by imprisonment for not more than 1 year  
12 or a fine of not more than \$2,000.00 or 3 times the total value  
13 of the telecommunications service used or diverted, whichever is  
14 greater, or both imprisonment and a fine:

15 (i) The total value of the telecommunications service used  
16 or diverted is \$200.00 or more but less than \$1,000.00.

17 (ii) The person violates subdivision (a) and has ~~a~~ 1 OR  
18 MORE prior ~~conviction~~ CONVICTIONS for committing or attempting  
19 to commit an offense under this section, SECTION 219A, OR FORMER  
20 SECTION 219C OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO  
21 THIS SECTION, SECTION 219A, OR FORMER SECTION 219C.

22 (c) If any of the following apply, the person is guilty of a  
23 felony punishable by imprisonment for not more than 5 years or a  
24 fine of not more than \$10,000.00 or 3 times the total value of  
25 the telecommunications service used or diverted, whichever is  
26 greater, or both imprisonment and a fine:



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1       (i) The total value of the telecommunications service used  
2 or diverted is \$1,000.00 or more but less than \$20,000.00.

3       (ii) The person violates subdivision ~~-(a)-~~ (B)(i) and has  
4 ~~-2-~~ 1 OR MORE prior convictions for committing or attempting to  
5 commit an offense under this section OR SECTION 219A. FOR PUR-  
6 POSES OF THIS SUBPARAGRAPH, HOWEVER, A PRIOR CONVICTION DOES NOT  
7 INCLUDE A CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
8 OFFENSE FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT IS NOT MORE  
9 THAN 93 DAYS OR AN OFFENSE FOR WHICH THE MAXIMUM TERM OF IMPRIS-  
10 ONMENT AFTER ENHANCEMENT BY PRIOR CONVICTIONS IS NOT MORE THAN 1  
11 YEAR.

12       ~~-(iii) The person violates subdivision (b) and has a prior~~  
13 ~~conviction for committing or attempting to commit an offense~~  
14 ~~under this section.~~

15       (d) If any of the following apply, the person is guilty of a  
16 felony punishable by imprisonment for not more than 10 years or a  
17 fine of not more than \$15,000.00 OR 3 times the value of the  
18 telecommunications service used or diverted, WHICHEVER IS  
19 GREATER, or both IMPRISONMENT AND A FINE:

20       (i) The total value of the telecommunications service used  
21 or diverted is \$20,000.00 or more.

22       (ii) The person violates subdivision ~~-(a)-~~ (C)(i) and has  
23 ~~-3-~~ 2 or more prior convictions for committing or attempting to  
24 commit an offense under this section OR SECTION 219A. FOR PUR-  
25 POSES OF THIS SUBPARAGRAPH, HOWEVER, A PRIOR CONVICTION DOES NOT  
26 INCLUDE A CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
27 OFFENSE FOR WHICH THE MAXIMUM TERM OF IMPRISONMENT IS NOT MORE

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1 THAN 93 DAYS OR AN OFFENSE FOR WHICH THE MAXIMUM TERM OF  
2 IMPRISONMENT AFTER ENHANCEMENT BY PRIOR CONVICTIONS IS NOT MORE  
3 THAN 1 YEAR.

4 ~~(iii) The person violates subdivision (b) and has 2 or more~~  
5 ~~prior convictions for committing or attempting to commit an~~  
6 ~~offense under this section.~~

7 ~~(iv) The person violates subdivision (c) and has a prior~~  
8 ~~conviction for committing or attempting to commit an offense~~  
9 ~~under this section.~~

10 (2) The values of telecommunications service used or  
11 diverted in separate incidents pursuant to a scheme or course of  
12 conduct within ~~1 year~~ ANY 12-MONTH PERIOD may be aggregated to  
13 determine the total value of the telecommunications service used  
14 or diverted.

15 (3) If the prosecuting attorney intends to seek an enhanced  
16 sentence based upon the defendant having ~~a~~ 1 OR MORE prior  
17 ~~conviction~~ CONVICTIONS, the prosecuting attorney shall include  
18 on the complaint and information a statement listing ~~that~~ THE  
19 prior conviction OR CONVICTIONS. The existence of the  
20 defendant's prior conviction OR CONVICTIONS shall be determined  
21 by the court, without a jury, at sentencing OR AT A SEPARATE  
22 HEARING FOR THAT PURPOSE BEFORE SENTENCING. The existence of a  
23 prior conviction may be established by any evidence relevant for  
24 that purpose, including, but not limited to, 1 or more of the  
25 following:

26 (a) A copy of the judgment of conviction.

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1 (b) A transcript of a prior trial, plea-taking, or  
2 sentencing.

3 (c) Information contained in a presentence report.

4 (d) The defendant's statement.

5 Enacting section 1. 1867 PA 165, MCL 752.701 to 752.703, is  
6 repealed.

7 Enacting section 2. This amendatory act takes effect  
8 January 1, 1999.

9 Enacting section 3. This amendatory act does not take  
10 effect unless all of the following bills of the 89th Legislature  
11 are enacted into law:

12 (a) House Bill No. 4445.

13 (b) House Bill No. 4446.