

HOUSE BILL No. 4444

March 5, 1997, Introduced by Reps. Curtis, Nye, Profit, Dalman, Green, Kukuk and Walberg and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 356, 356a, 356c, 356d, 362a, 377a, 380, 387, and 535 (MCL 750.356, 750.356a, 750.356c, 750.356d, 750.362a, 750.377a, 750.380, 750.387, and 750.535), sections 356c and 356d as added by 1988 PA 20.

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~~

6 (B) A bank note, bank bill, bond, promissory note, due bill,
7 bill of exchange or other bill, draft, order, or certificate. ~~,~~
8 ~~or any~~

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

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

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

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

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

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

14 (B) THE PERSON VIOLATES SUBSECTION (3)(A) AND HAS 2 OR MORE
15 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
16 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBDIVISION,
17 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
18 VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION (4)(B) OR (5).

19 (3) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS guilty of a
20 felony ~~, punishable by imprisonment in the state prison~~ FOR
21 not more than 5 years or ~~by~~ A fine of not more than
22 ~~\$2,500.00.~~ \$10,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY
23 STOLEN, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

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

26 (B) THE PERSON VIOLATES SUBSECTION (4)(A) AND HAS 1 OR MORE
27 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN

1 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBDIVISION,
2 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
3 VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION (4)(B) OR (5).

4 (4) If any of the following apply, the person is guilty of a
5 misdemeanor punishable by imprisonment for not more than 1 year
6 or a fine of not more than \$2,000.00 or 3 times the value of the
7 property stolen, whichever is greater, or both imprisonment and a
8 fine:

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

11 (b) The person violates subsection (5) and has 1 or more
12 prior convictions for committing or attempting to commit an
13 offense under this section or a local ordinance substantially
14 corresponding to this section.

15 (5) If the property stolen ~~shall be of the~~ HAS A value of
16 ~~\$100.00 or~~ less THAN \$200.00, ~~such~~ THE person ~~shall be~~ IS
17 guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE
18 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE
19 VALUE OF THE PROPERTY STOLEN, WHICHEVER IS GREATER, OR BOTH
20 IMPRISONMENT AND A FINE.

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

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

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

21 (2) ~~Any~~ EXCEPT AS PROVIDED IN SUBSECTION (3), A person who
22 ~~shall enter~~ ENTERS or ~~break~~ BREAKS into ~~any~~ A motor vehi-
23 cle, house trailer, trailer, or semi-trailer ~~, for the purpose~~
24 ~~of stealing~~ TO STEAL or unlawfully ~~removing therefrom any~~
25 goods, chattels or REMOVE property ~~of the value of not less~~
26 than \$5.00, or who shall break or enter into any motor vehicle,
27 house trailer, trailer or semi-trailer, for the purpose of

~~1 stealing or unlawfully removing therefrom any goods, chattels or~~
~~2 property regardless of the value thereof if in so doing such~~
3 FROM IT IS GUILTY OF A CRIME AS FOLLOWS:

4 (A) IF THE VALUE OF THE PROPERTY IS LESS THAN \$200.00, THE
5 PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR
6 NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3
7 TIMES THE VALUE OF THE PROPERTY, WHICHEVER IS GREATER, OR BOTH
8 IMPRISONMENT AND A FINE.

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

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

15 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 1 OR MORE
16 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
17 OFFENSE UNDER THIS SECTION OR A LOCAL ORDINANCE SUBSTANTIALLY
18 CORRESPONDING TO THIS SECTION.

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

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

25 (ii) THE PERSON VIOLATES SUBDIVISION (B)(i) AND HAS 1 OR
26 MORE PRIOR CONVICTIONS FOR VIOLATING OR ATTEMPTING TO VIOLATE
27 THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A

1 PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A VIOLATION OR
2 ATTEMPTED VIOLATION OF SUBDIVISION (A) OR (B)(ii).

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 PROPERTY, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

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

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

13 (3) A person WHO VIOLATES SUBSECTION (2)(A) OR (B) AND WHO
14 breaks, tears, cuts, or otherwise damages any part of ~~such~~ THE
15 motor vehicle, house trailer, trailer, or semi-trailer ~~, shall~~
16 ~~be~~ IS guilty of a felony ~~,~~ punishable by ~~a fine not to exceed~~
17 ~~\$1,000.00, or by~~ imprisonment ~~in the state prison~~ FOR not more
18 than 5 years OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH,
19 REGARDLESS OF THE VALUE OF THE PROPERTY.

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

24 (5) 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

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. 356c. (1) A person who does any of the following in a
13 store or in its immediate vicinity is guilty of retail fraud in
14 the first degree, a felony punishable by imprisonment for not
15 more than ~~2~~ 5 years ~~—~~ or a fine of not more than ~~—\$1,000.00—~~
16 \$10,000.00 OR 3 TIMES THE VALUE OF THE DIFFERENCE IN PRICE, PROP-
17 erty STOLEN, OR MONEY OR PROPERTY OBTAINED OR ATTEMPTED TO BE
18 OBTAINED, WHICHEVER IS GREATER, or both IMPRISONMENT AND A FINE:

19 (a) While a store is open to the public, alters, transfers,
20 removes and replaces, conceals, or otherwise misrepresents the
21 price at which property is offered for sale, with the intent not
22 to pay for the property or to pay less than the price at which
23 the property is offered for sale, if the resulting difference in
24 price is ~~more than \$100.00~~ \$1,000.00 OR MORE.

25 (b) While a store is open to the public, steals property of
26 the store that is offered for sale at a price of ~~more than~~
27 ~~\$100.00~~ \$1,000.00 OR MORE.

1 (c) With intent to defraud, obtains or attempts to obtain
2 money or property from the store as a refund or exchange for
3 property that was not paid for and belongs to the store, if the
4 amount of money ~~—~~ or the value of the property ~~—~~ obtained or
5 attempted to be obtained is ~~more than \$100.00~~ \$1,000.00 OR
6 MORE.

7 (2) A person who violates section ~~356d~~ 356(D)(1) and WHO
8 has 1 or more prior convictions FOR COMMITTING OR ATTEMPTING TO
9 COMMIT AN OFFENSE under this section ~~—~~ OR section 218, 356,
10 ~~356d~~ 356D(1), or 360 ~~—, or a local ordinance substantially cor-~~
11 ~~responding to this section or section 218, 356, 356d, or 360~~ is
12 guilty of retail fraud in the first degree. FOR PURPOSES OF THIS
13 SUBSECTION, HOWEVER, PRIOR CONVICTION DOES NOT INCLUDE A CONVIC-
14 TION FOR A VIOLATION OR ATTEMPTED VIOLATION OF SECTION 218(2) OR
15 (3)(B) OR SECTION 356(4)(B) OR (5).

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

21 (4) 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

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 (5) ~~(3)~~ A person who commits ~~the crime of~~ retail fraud
10 in the first degree shall not be prosecuted under ~~the felony~~
11 ~~provision of section 356, or under section 218 or 360.~~ SECTION
12 218(5) OR 356(2).

13 Sec. 356d. (1) A person who does any of the following in a
14 store or in its immediate vicinity is guilty of retail fraud in
15 the second degree, a misdemeanor punishable by imprisonment for
16 not more than ~~93 days,~~ 1 YEAR or a fine of not more than
17 ~~\$100.00~~ \$2,000.00 OR 3 TIMES THE VALUE OF THE DIFFERENCE IN
18 PRICE, PROPERTY STOLEN, OR MONEY OR PROPERTY OBTAINED OR
19 ATTEMPTED TO BE OBTAINED, WHICHEVER IS GREATER, or both
20 IMPRISONMENT AND A FINE:

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

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

4 (c) With intent to defraud, obtains or attempts to obtain
5 money or property from the store as a refund or exchange for
6 property that was not paid for and belongs to the store IF THE
7 AMOUNT OF MONEY OR THE VALUE OF THE PROPERTY OBTAINED OR
8 ATTEMPTED TO BE OBTAINED IS \$200.00 OR MORE BUT LESS THAN
9 \$1,000.00.

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

16 (3) ~~(2)~~ A person who commits ~~the crime of~~ retail fraud
17 in the second degree shall not be prosecuted under ~~the felony~~
18 ~~provision of section 356, or under~~ section ~~218 or~~ 360.

19 (4) A PERSON WHO DOES ANY OF THE FOLLOWING IN A STORE OR IN
20 ITS IMMEDIATE VICINITY IS GUILTY OF RETAIL FRAUD IN THE THIRD
21 DEGREE, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
22 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE
23 VALUE OF THE DIFFERENCE IN PRICE, PROPERTY STOLEN, OR MONEY OR
24 PROPERTY OBTAINED OR ATTEMPTED TO BE OBTAINED, WHICHEVER IS
25 GREATER, OR BOTH IMPRISONMENT AND A FINE:

26 (A) WHILE A STORE IS OPEN TO THE PUBLIC, ALTERS, TRANSFERS,
27 REMOVES AND REPLACES, CONCEALS, OR OTHERWISE MISREPRESENTS THE

1 PRICE AT WHICH PROPERTY IS OFFERED FOR SALE, WITH THE INTENT NOT
2 TO PAY FOR THE PROPERTY OR TO PAY LESS THAN THE PRICE AT WHICH
3 THE PROPERTY IS OFFERED FOR SALE, IF THE RESULTING DIFFERENCE IN
4 PRICE IS LESS THAN \$200.00.

5 (B) WHILE A STORE IS OPEN TO THE PUBLIC, STEALS PROPERTY OF
6 THE STORE THAT IS OFFERED FOR SALE AT A PRICE OF LESS THAN
7 \$200.00.

8 (C) WITH INTENT TO DEFRAUD, OBTAINS OR ATTEMPTS TO OBTAIN
9 MONEY OR PROPERTY FROM THE STORE AS A REFUND OR EXCHANGE FOR
10 PROPERTY THAT WAS NOT PAID FOR AND BELONGS TO THE STORE, IF THE
11 AMOUNT OF MONEY, OR THE VALUE OF THE PROPERTY, OBTAINED OR
12 ATTEMPTED TO BE OBTAINED IS LESS THAN \$200.00.

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

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

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

1 ESTABLISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING,
2 BUT NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

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

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

6 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

7 (D) THE DEFENDANT'S STATEMENT.

8 Sec. 362a. (1) ~~Any~~ A person to whom a motor vehicle,
9 trailer, or other tangible property is delivered on a rental or
10 lease basis under ~~any~~ A WRITTEN agreement ~~in writing~~ provid-
11 ing for its return to a particular place at a particular time who
12 WITH INTENT TO DEFRAUD THE LESSOR refuses or ~~wilfully~~ WILLFULLY
13 neglects to return ~~such~~ THE vehicle, trailer, or other tangible
14 property ~~,~~ after ~~the~~ expiration of the time stated in a
15 WRITTEN notice ~~in writing proved to have been duly~~ mailed by
16 registered or certified mail addressed to ~~the~~ THAT PERSON'S
17 last known address ~~of the person who rented or leased the motor~~
18 ~~vehicle, trailer or other tangible property, and with intent to~~
19 ~~defraud the lessor,~~ is guilty of larceny, PUNISHABLE AS PROVIDED
20 IN THIS SECTION.

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

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

3 (B) THE PERSON VIOLATES SUBSECTION (3)(A) AND HAS 2 OR MORE
4 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
5 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBDIVISION,
6 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
7 VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION (4)(B) OR (5).

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

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

15 (B) THE PERSON VIOLATES SUBSECTION (4)(A) AND HAS 1 OR MORE
16 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
17 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBDIVISION,
18 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
19 VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION (4)(B) OR (5).

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

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

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

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

11 (6) THE VALUES OF PROPERTY NOT RETURNED IN SEPARATE INCI-
12 DENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY
13 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL VALUE OF
14 PROPERTY NOT RETURNED.

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

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

26 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
27 SENTENCING.

1 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

2 (D) THE DEFENDANT'S STATEMENT.

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

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

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

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

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

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

1 (ii) THE PERSON VIOLATES SUBDIVISION (C)(i) AND HAS 1 OR
2 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
3 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH,
4 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
5 VIOLATION OR ATTEMPTED VIOLATION OF SUBDIVISION (C)(ii) OR (D).

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

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

13 (ii) THE PERSON VIOLATES SUBDIVISION (D) AND HAS 1 OR MORE
14 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
15 OFFENSE UNDER THIS SECTION OR A LOCAL ORDINANCE SUBSTANTIALLY
16 CORRESPONDING TO THIS SECTION.

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

23 (2) THE AMOUNTS OF DESTRUCTION OR INJURY IN SEPARATE INCI-
24 DENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY
25 12-MONTH PERIOD MAY BE AGGREGATED IN DETERMINING THE TOTAL AMOUNT
26 OF THE DESTRUCTION OR INJURY.

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

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

12 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
13 SENTENCING.

14 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

15 (D) THE DEFENDANT'S STATEMENT.

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

22 (2) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES
23 SUBSECTION (1) IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT
24 FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT MORE THAN \$15,000.00
25 OR 3 TIMES THE AMOUNT OF THE DESTRUCTION OR INJURY, WHICHEVER IS
26 GREATER, OR BOTH IMPRISONMENT AND A FINE:

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

3 (B) THE PERSON VIOLATES SUBSECTION (3)(A) AND HAS 2 OR MORE
4 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
5 OFFENSE UNDER THIS SECTION. FOR PURPOSE OF THIS SUBDIVISION,
6 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
7 VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION (4)(B) OR (5).

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

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

15 (B) THE PERSON VIOLATES SUBSECTION (4)(A) AND HAS 1 OR MORE
16 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
17 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBDIVISION,
18 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
19 VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION (4)(B) OR (5).

20 (4) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES
21 SUBSECTION (1) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISON-
22 MENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
23 \$2,000.00 OR 3 TIMES THE AMOUNT OF THE DESTRUCTION OR INJURY,
24 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

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

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

5 (5) IF THE AMOUNT OF THE DESTRUCTION OR INJURY IS less THAN
6 \$200.00, ~~he shall be~~ A PERSON WHO VIOLATES SUBSECTION (1) IS
7 guilty of a misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE
8 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE
9 AMOUNT OF THE DESTRUCTION OR INJURY, WHICHEVER IS GREATER, OR
10 BOTH IMPRISONMENT AND A FINE.

11 (6) THE AMOUNTS OF THE DESTRUCTION OR INJURY IN SEPARATE
12 INCIDENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY
13 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL AMOUNT
14 OF THE DESTRUCTION OR INJURY.

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

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

26 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
27 SENTENCING.

1 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

2 (D) THE DEFENDANT'S STATEMENT.

3 Sec. 387. (1) ~~Any~~ A person, other than the burial right
4 owner or his OR HER representative, heir at law, or a person
5 having care, custody, or control of a cemetery ~~by virtue of~~
6 PURSUANT TO law, A contract, or other legal right, ~~who~~ shall
7 ~~wilfully~~ NOT WILLFULLY destroy, mutilate, deface, injure, or
8 remove ~~any~~ A tomb, monument, gravestone, or other structure or
9 thing placed or designed for a memorial of the dead, or ~~any~~ A
10 fence, railing, curb, or other thing intended for the protection
11 or for the ornament of any tomb, monument, gravestone, or other
12 structure ~~mentioned~~ DESCRIBED in this subsection ~~,~~ or ~~of~~
13 any OTHER enclosure for the burial of the dead ~~,~~ or ~~who shall~~
14 ~~wilfully~~ AND SHALL NOT WILLFULLY destroy, mutilate, remove, cut,
15 break, or injure any tree, shrub, or plant, placed or being
16 within ~~any~~ such AN enclosure. ~~,~~ ~~is guilty of a misdemeanor.~~

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

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

6 (4) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES
7 SUBSECTION (1) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISON-
8 MENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
9 \$2,000.00 OR 3 TIMES THE AMOUNT OF DAMAGE, WHICHEVER IS GREATER,
10 OR BOTH IMPRISONMENT AND A FINE:

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

13 (B) THE TOTAL AMOUNT OF DAMAGE IS LESS THAN \$200.00 AND THE
14 PERSON HAS 1 OR MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPT-
15 ING TO COMMIT AN OFFENSE UNDER THIS SECTION OR A LOCAL ORDINANCE
16 SUBSTANTIALLY CORRESPONDING TO THIS SECTION.

17 (5) ~~-(2)-A~~ IF ANY OF THE FOLLOWING APPLY, A person WHO VIO-
18 LATES SUBSECTION (1) is guilty of a felony punishable by impris-
19 onment for not more than 5 years or ~~by~~ a fine of not more than
20 ~~-\$2,500.00-~~ \$10,000.00 OR 3 TIMES THE AMOUNT OF DAMAGE, WHICHEVER
21 IS GREATER, or both ~~, if the person does either of the~~
22 ~~following~~ IMPRISONMENT AND A FINE:

23 (a) ~~Does any act described in subsection (1) which causes~~
24 ~~damage in excess of \$100.00-~~ THE TOTAL AMOUNT OF DAMAGE IS
25 \$1,000.00 OR MORE BUT LESS THAN \$20,000.00.

26 (b) ~~Does any act described in subsection (1) which is~~
27 ~~directed against 2 or more separate burial rights or places in~~

1 ~~whatever form for tombs or for the memorial of the dead~~ THE
2 TOTAL AMOUNT OF DAMAGE IS \$200.00 OR MORE BUT LESS THAN \$1,000
3 AND THE PERSON HAS 1 OR MORE PRIOR CONVICTIONS FOR COMMITTING OR
4 ATTEMPTING TO COMMIT AN OFFENSE UNDER THIS SECTION. FOR PURPOSES
5 OF THIS SUBDIVISION, HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE
6 A CONVICTION FOR A VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION
7 (3) OR (4)(B).

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

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

14 (B) THE TOTAL AMOUNT OF DAMAGE IS \$1,000.00 OR MORE BUT LESS
15 THAN \$20,000.00 AND THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS
16 FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE UNDER THIS
17 SECTION. FOR PURPOSES OF THIS SUBDIVISION, HOWEVER, A PRIOR CON-
18 VICTION DOES NOT INCLUDE A CONVICTION FOR A VIOLATION OR
19 ATTEMPTED VIOLATION OF SUBSECTION (3) OR (4)(B).

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

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

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

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

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

9 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

10 (D) THE DEFENDANT'S STATEMENT.

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

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

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

25 (B) THE PERSON VIOLATES SUBSECTION (3)(A) AND HAS 2 OR MORE
26 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
27 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBDIVISION,

1 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
2 VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION (4)(B) OR (5).

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

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

12 (B) THE PERSON VIOLATES SUBSECTION (4)(A) AND HAS 1 OR MORE
13 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
14 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBDIVISION,
15 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR A
16 VIOLATION OR ATTEMPTED VIOLATION OF SUBSECTION (4)(B) OR (5).

17 (4) IF ANY OF THE FOLLOWING APPLY, A PERSON WHO VIOLATES
18 SUBSECTION (1) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISON-
19 MENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
20 \$2,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY PURCHASED,
21 RECEIVED, POSSESSED, OR CONCEALED, WHICHEVER IS GREATER, OR BOTH
22 IMPRISONMENT AND A FINE:

23 (A) THE PROPERTY PURCHASED, RECEIVED, POSSESSED, OR CON-
24 CEALED HAS A 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

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

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

15 (6) THE VALUES OF PROPERTY PURCHASED, RECEIVED, POSSESSED,
16 OR CONCEALED IN SEPARATE INCIDENTS PURSUANT TO A SCHEME OR COURSE
17 OF CONDUCT WITHIN ANY 12-MONTH PERIOD MAY BE AGGREGATED TO DETER-
18 MINE THE TOTAL VALUE OF PROPERTY PURCHASED, RECEIVED, POSSESSED,
19 OR CONCEALED.

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

1 ESTABLISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING,
2 BUT NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

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

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

6 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

7 (D) THE DEFENDANT'S STATEMENT.

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

21 Enacting section 1. This amendatory act takes effect
22 January 1, 1998.

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

26 (a) Senate Bill No. _____ or House Bill No. _____
27 (request no. 01763'97).

1 (b) Senate Bill No. _____ House Bill No. _____ (request
2 no. 01764'97).