

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4325

(As amended by the Senate, February 13, 2002)

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           Sec. 451. (1) ~~Any~~ EXCEPT AS OTHERWISE PROVIDED IN THIS  
2 SECTION, A person ~~, male or female, who shall be adjudged guilty~~  
3 ~~of a violation of sections~~ CONVICTED OF VIOLATING SECTION 448,  
4 449, 449a, ~~or~~ 450, ~~shall be punished~~ OR 462 IS GUILTY OF A  
5 MISDEMEANOR PUNISHABLE by imprisonment ~~in the county jail~~ for  
6 not more than ~~90~~ 93 days or ~~by~~ a fine of not more than  
7 ~~\$100.00~~ \$500.00, or both. ~~Any~~  
8           (2) A person ~~, male or female, 17~~ 16 years of age or older  
9 ~~, who shall be adjudged guilty a second time of a violation of~~  
10 ~~sections~~ IS CONVICTED OF VIOLATING SECTION 448, 449, 449a, ~~or~~  
11 450, ~~the offense being charged as a second offense, shall be~~ OR

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1 462 AND WHO HAS 1 PRIOR CONVICTION IS guilty of a misdemeanor —  
2 punishable by imprisonment ~~in the county jail~~ for not more than  
3 1 year or ~~by~~ a fine of not more than ~~\$500.00~~ \$1,000.00, or both. ~~Any~~

4 (3) A person ~~, male or female, adjudged guilty a third or~~  
5 ~~any subsequent time of a violation of sections~~ CONVICTED OF VIO-  
6 LATING SECTION 448, 449, 449a, ~~or~~ 450, ~~the offense being~~  
7 ~~charged as a third or subsequent offense, shall be~~ OR 462 AND  
8 WHO HAS 2 OR MORE PRIOR CONVICTIONS IS guilty of a felony —  
9 punishable by imprisonment ~~in the state prison~~ for not more  
10 than 2 years, OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

11 (4) 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 (5) AS USED IN THIS SECTION, "PRIOR CONVICTION" MEANS A  
27 VIOLATION OF SECTION 448, 449, 449A, 450, OR 462 OR A VIOLATION

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1 OF A LAW OF ANOTHER STATE OR OF A POLITICAL SUBDIVISION OF THIS  
2 STATE OR ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO  
3 SECTION 448, 449, 449A, 450, OR 462.

4 Enacting section 1. This amendatory act takes effect  
5 June 1, 2002.

6 Enacting section 2. This amendatory act does not take  
7 effect unless all of the following bills of the 91st Legislature  
8 are enacted into law:

- 9 (a) Senate Bill No. 180.  
10 (b) Senate Bill No. 1029.  
11 (c) House Bill No. 5449.