

SENATE BILL No. 1180

November 29, 2016, Introduced by Senators PROOS, HANSEN, JONES, KOWALL, MARLEAU, PAVLOV, MACGREGOR, EMMONS and KNOLLENBERG and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 535 (MCL 750.535), as amended by 2014 PA 221.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 535. (1) A person shall not buy, receive, possess,
2 conceal, or aid in the concealment of stolen, embezzled, or
3 converted money, goods, **VETERAN MEMORIAL TOMBSTONES OR OTHER**
4 **VETERAN CEMETERY MARKERS**, or **ANY OTHER** property knowing, or having
5 reason to know or reason to believe, that ~~the money, goods, or~~
6 ~~property~~ **IT** is stolen, embezzled, or converted.

7 (2) If any of the following apply, a person who violates
8 subsection (1) is guilty of a felony punishable by imprisonment for
9 not more than 10 years or a fine of not more than \$15,000.00 or 3

1 times the value of the property purchased, received, possessed, or
2 concealed, whichever is greater, or both imprisonment and a fine:

3 (a) The property purchased, received, possessed, or concealed
4 has a value of \$20,000.00 or more.

5 (b) The property purchased, received, possessed, or concealed
6 has a value of \$1,000.00 or more but less than \$20,000.00, and the
7 person has 2 or more prior convictions for committing or attempting
8 to commit an offense under this section. For purposes of this
9 subdivision, however, a prior conviction does not include a
10 conviction for a violation or attempted violation of subsection
11 (4) (b) or (5).

12 (3) If any of the following apply, a person who violates
13 subsection (1) is guilty of a felony punishable by imprisonment for
14 not more than 5 years or a fine of not more than \$10,000.00 or 3
15 times the value of the property purchased, received, possessed, or
16 concealed, whichever is greater, or both imprisonment and a fine:

17 (a) The property purchased, received, possessed, or concealed
18 has a value of \$1,000.00 or more but less than \$20,000.00.

19 (b) The property purchased, received, possessed, or concealed
20 has a value of \$200.00 or more but less than \$1,000.00, and the
21 person has 1 or more prior convictions for committing or attempting
22 to commit an offense under this section. For purposes of this
23 subdivision, however, a prior conviction does not include a
24 conviction for a violation or attempted violation of subsection
25 (4) (b) or (5).

26 (4) If any of the following apply, a person who violates
27 subsection (1) is guilty of a misdemeanor punishable by

1 imprisonment for not more than 1 year or a fine of not more than
2 \$2,000.00 or 3 times the value of the property purchased, received,
3 possessed, or concealed, whichever is greater, or both imprisonment
4 and a fine:

5 (a) The property purchased, received, possessed, or concealed
6 has a value of \$200.00 or more but less than \$1,000.00.

7 (b) The property purchased, received, possessed, or concealed
8 has a value of less than \$200.00, and the person has 1 or more
9 prior convictions for committing or attempting to commit an offense
10 under this section or a local ordinance substantially corresponding
11 to this section.

12 (5) If the property purchased, received, possessed, or
13 concealed has a value of less than \$200.00, a person who violates
14 subsection (1) is guilty of a misdemeanor punishable by
15 imprisonment for not more than 93 days or a fine of not more than
16 \$500.00 or 3 times the value of the property purchased, received,
17 possessed, or concealed, whichever is greater, or both imprisonment
18 and a fine.

19 (6) The values of property purchased, received, possessed, or
20 concealed in separate incidents pursuant to a scheme or course of
21 conduct within any 12-month period may be aggregated to determine
22 the total value of property purchased, received, possessed, or
23 concealed.

24 (7) A person shall not buy, receive, possess, conceal, or aid
25 in the concealment of a stolen motor vehicle knowing, or having
26 reason to know or reason to believe, that the motor vehicle is
27 stolen, embezzled, or converted. Except as provided in subsection

1 (8), a person who violates this subsection is guilty of a felony
2 punishable by imprisonment for not more than 5 years or a fine of
3 not more than \$10,000.00 or 3 times the value of the motor vehicle
4 purchased, received, possessed, or concealed, whichever is greater,
5 or both imprisonment and a fine. A person who is charged with,
6 convicted of, or punished for a violation of this subsection shall
7 not be convicted of or punished for a violation of another
8 provision of this section arising from the purchase, receipt,
9 possession, concealment, or aiding in the concealment of the same
10 motor vehicle. This subsection does not prohibit the person from
11 being charged, convicted, or punished under any other applicable
12 law.

13 (8) A person who violates subsection (7) and has 1 or more
14 prior convictions for committing or attempting to commit an offense
15 under this section, other than a violation of subsection (4)(b) or
16 (5), is guilty of a felony punishable by imprisonment for not more
17 than 10 years or a fine of not more than \$15,000.00 or 3 times the
18 value of the vehicle purchased, received, possessed, or concealed,
19 whichever is greater, or both imprisonment and a fine.

20 (9) If the prosecuting attorney intends to seek an enhanced
21 sentence based upon the defendant having 1 or more prior
22 convictions, the prosecuting attorney shall include on the
23 complaint and information a statement listing the prior conviction
24 or convictions. The existence of the defendant's prior conviction
25 or convictions shall be determined by the court, without a jury, at
26 sentencing or at a separate hearing for that purpose before
27 sentencing. The existence of a prior conviction may be established

1 by any evidence relevant for that purpose, including, but not
2 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 sentencing.

5 (c) Information contained in a presentence report.

6 (d) The defendant's statement.

7 (10) A person who is a dealer in or collector of merchandise
8 or personal property, or the agent, employee, or representative of
9 a dealer or collector of merchandise or personal property who fails
10 to reasonably inquire whether the person selling or delivering the
11 stolen, embezzled, or converted property to the dealer or collector
12 has a legal right to do so or who buys or receives stolen,
13 embezzled, or converted property that has a registration, serial,
14 or other identifying number altered or obliterated on an external
15 surface of the property, is presumed to have bought or received the
16 property knowing the property is stolen, embezzled, or converted.
17 This presumption is rebuttable.

18 (11) If the sentence for a conviction under this section is
19 enhanced by 1 or more prior convictions, those prior convictions
20 shall not be used to further enhance the sentence for the
21 conviction under section 10, 11, or 12 of chapter IX of the code of
22 criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

23 (12) It is not a defense to a charge under this section that
24 the property was not stolen, embezzled, or converted property at
25 the time of the violation if the property was explicitly
26 represented to the accused person as being stolen, embezzled, or
27 converted property.

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.