

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931
Chapter LII
LARCENY

750.356 Larceny; property; penalties; total value of property stolen; enhanced sentence; prior convictions; "scrap metal" defined.

Sec. 356.

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

(a) Money, goods, or chattels.

(b) A bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order, or certificate.

(c) A book of accounts for or concerning money or goods due, to become due, or to be delivered.

(d) A deed or writing containing a conveyance of land or other valuable contract in force.

(e) A receipt, release, or defeasance.

(f) A writ, process, or public record.

(g) Scrap metal.

(2) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property stolen, whichever is greater, or both imprisonment and a fine:

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

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property stolen, whichever is greater, or both imprisonment and a fine:

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

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

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

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

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

(5) If the property stolen has a value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the property stolen, whichever is greater, or both imprisonment and a fine.

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

(a) The replacement cost of the stolen scrap metal.

(b) The cost of repairing the damage caused by the larceny of the scrap metal.

(c) The sum of subdivisions (a) and (b).

(7) The values of property stolen in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property stolen.

(8) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

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

(c) Information contained in a presentence report.

(d) The defendant's statement.

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

(10) As used in this section, "scrap metal" means that term as defined in section 3 of the scrap metal regulatory act, 2008 PA 429, MCL 445.423.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.356 ;-- Am. 1957, Act 69, Eff. Sept. 27, 1957 ;-- Am. 1998, Act 311, Eff. Jan. 1, 1999 ;-- Am. 2008, Act 431, Eff. Apr. 1, 2009 ;-- Am. 2013, Act 217, Eff. Apr. 10, 2014

Constitutionality: A defendant's convictions of both armed robbery and the lesser included offenses of larceny of property with a value over \$100 and of larceny in a building cannot be allowed to stand as a violation of the defendant's protection against double jeopardy. *People v Jankowski*, 408 Mich 79; 289 NW2d 674 (1980).

Former Law: See section 18 of Ch. 154 of R.S. 1846, being CL 1857, § 5762; CL 1871, § 7569; How., § 9140; CL 1897, § 11553; CL 1915, § 15298; CL 1929, § 16899; Act 242 of 1879; and Act 222 of 1929.

750.356a Larceny; motor vehicles or trailers; aggregate value; prior convictions; breaking or entering; damaging.

Sec. 356a.

(1) A person who commits larceny by stealing or unlawfully removing or taking any wheel, tire, air bag, catalytic converter, radio, stereo, clock, telephone, computer, or other electronic device in or on any motor vehicle, house trailer, trailer, or semitrailer is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(2) Except as provided in subsection (3), a person who enters or breaks into a motor vehicle, house trailer, trailer, or semitrailer to steal or unlawfully remove property from it is guilty of a crime as follows:

(a) If the value of the property is less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the property, whichever is greater, or both imprisonment and a fine.

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

(i) The value of the property is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property, whichever is greater, or both imprisonment and a fine:

(i) The value of the property is \$1,000.00 or more but less than \$20,000.00.

(ii) The person violates subdivision (b)(i) and has 1 or more prior convictions for violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property, whichever is greater, or both imprisonment and a fine:

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

(ii) The person violates subdivision (c)(i) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(ii).

(3) A person who violates subsection (2)(a) or (b) and who breaks, tears, cuts, or otherwise damages any part of the motor vehicle, house trailer, trailer, or semitrailer is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both, regardless of the value of the property.

(4) The values of property stolen or unlawfully removed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property stolen or unlawfully removed.

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

of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.
- (e) A copy of a court register of actions.

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

History: Add. 1937, Act 194, Imd. Eff. July 14, 1937 ;-- Am. 1939, Act 254, Eff. Sept. 29, 1939 ;-- Am. 1947, Act 124, Eff. Oct. 11, 1947 ;-- CL 1948, 750.356a ;-- Am. 1998, Act 311, Eff. Jan. 1, 1999 ;-- Am. 2008, Act 475, Eff. Apr. 1, 2009 ;-- Am. 2008, Act 476, Eff. Apr. 1, 2009

750.356b Breaking and entering coin operated telephone, penalty.

Sec. 356b.

Any person who breaks or enters into any coin operated telephone or a coin device attached to or an integral part thereof for the purpose of stealing or unlawfully removing therefrom any money, regardless of the value thereof, if in so doing such person breaks, tears, cuts or otherwise damages any part of the telephone or any coin device attached to or an integral part thereof, is guilty of a felony.

History: Add. 1961, Act 81, Eff. Sept. 8, 1961 ;-- Am. 1969, Act 254, Eff. Mar. 20, 1970

750.356c Retail fraud in first degree.

Sec. 356c.

(1) A person who does any of the following in a store or in its immediate vicinity is guilty of retail fraud in the first degree, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the difference in price, property stolen, or money or property obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

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

(b) While a store is open to the public, steals property of the store that is offered for sale at a price of \$1,000.00 or more.

(c) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store, if the amount of money or the value of the property obtained or attempted to be obtained is \$1,000.00 or more.

(2) A person who violates section 356d(1) and who has 1 or more prior convictions for committing or attempting to commit an offense under this section or section 218, 356, 356d(1), or 360 is guilty of retail fraud in the first degree. For purposes of this subsection, however, a prior conviction does not include a conviction for a violation or attempted violation of section 218(2) or (3)(b) or section 356(4)(b) or (5).

(3) The values of the difference in price, property stolen, or money or property obtained or attempted to be obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value involved in the offense under this section.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1

or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.
- (5) A person who commits retail fraud in the first degree shall not be prosecuted under section 218(5) or 356(2).
- (6) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: Add. 1988, Act 20, Eff. June 1, 1988 ;-- Am. 1998, Act 311, Eff. Jan. 1, 1999

750.356d Retail fraud in second or third degree.

Sec. 356d.

(1) A person who does any of the following in a store or in its immediate vicinity is guilty of retail fraud in the second degree, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the difference in price, property stolen, or money or property obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(a) While a store is open to the public, alters, transfers, removes and replaces, conceals, or otherwise misrepresents the price at which property is offered for sale with the intent not to pay for the property or to pay less than the price at which the property is offered for sale if the resulting difference in price is \$200.00 or more but less than \$1,000.00.

(b) While a store is open to the public, steals property of the store that is offered for sale at a price of \$200.00 or more but less than \$1,000.00.

(c) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store if the amount of money or the value of the property obtained or attempted to be obtained is \$200.00 or more but less than \$1,000.00.

(2) A person who violates subsection (4) and who has 1 or more prior convictions for committing or attempting to commit an offense under this section, section 218, 356, 356c, or 360, or a local ordinance substantially corresponding to this section or section 218, 356, 356c, or 360 is guilty of retail fraud in the second degree.

(3) A person who commits retail fraud in the second degree shall not be prosecuted under section 360.

(4) A person who does any of the following in a store or in its immediate vicinity is guilty of retail fraud in the third degree, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the difference in price, property stolen, or money or property obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(a) While a store is open to the public, alters, transfers, removes and replaces, conceals, or otherwise misrepresents the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale, if the resulting difference in price is less than \$200.00.

(b) While a store is open to the public, steals property of the store that is offered for sale at a price of less than \$200.00.

(c) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store, if the amount of money, or the value of the property, obtained or attempted to be obtained is less than \$200.00.

(5) A person who commits retail fraud in the third degree shall not be prosecuted under section 360.

(6) The values of the difference in price, property stolen, or money or property obtained or attempted to be obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value involved in the offense under this section.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.

- (c) Information contained in a presentence report.
- (d) The defendant's statement.

History: Add. 1988, Act 20, Eff. June 1, 1988 ;-- Am. 1998, Act 311, Eff. Jan. 1, 1999

750.357 Larceny from the person.

Sec. 357.

Larceny from the person—Any person who shall commit the offense of larceny by stealing from the person of another shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.357

Former Law: See section 17 of Ch. 154 of R.S. 1846, being CL 1857, § 5761; CL 1871, § 7568; How., § 9139; CL 1897, § 11552; CL 1915, § 15297; and CL 1929, § 16898.

750.357a Larceny of livestock.

Sec. 357a.

Larceny of livestock—Any person who shall commit the offense of larceny by stealing the livestock of another shall be guilty of a felony.

The term "livestock" shall apply to horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids and swine.

History: Add. 1943, Act 171, Eff. July 30, 1943 ;-- CL 1948, 750.357a

750.357b Committing larceny by stealing firearm of another person as felony; penalty.

Sec. 357b.

A person who commits larceny by stealing the firearm of another person is guilty of a felony, punishable by imprisonment for not more than 5 years or by a fine of not more than \$2,500.00, or both.

History: Add. 1990, Act 321, Eff. Mar. 28, 1991

750.358 Larceny at a fire.

Sec. 358.

Larceny at a fire—Any person who shall commit the offense of larceny by stealing in any building that is on fire, or by stealing any property removed in consequence of alarm caused by fire, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 5 years or by a fine of not more than 2,500 dollars.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.358

Former Law: See section 16 of Ch. 154 of R.S. 1846, being CL 1857, § 5760; CL 1871, § 7567; How., § 9138; CL 1897, § 11551; CL 1915, § 15296; and CL 1929, § 16897.

750.359 Larceny from vacant dwelling.

Sec. 359.

Any person or persons who shall steal or unlawfully remove or in any manner damage any fixture, attachment, or other property belonging to, connected with, or used in the construction of any vacant structure or building, whether built or in the process of construction or who shall break into any vacant structure or building with the intention of unlawfully removing, taking therefrom, or in any manner damaging any fixture, attachment, or other property belonging to, connected with, or used in the construction of such vacant structure or building whether built or in the process of construction, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.359 ;-- Am. 2002, Act 672, Eff. Mar. 31, 2003

Former Law: See section 1 of Act 99 of 1929, being CL 1929, § 16956.

750.360 Larceny; places of abode, work, storage, conveyance, worship and other places.

Sec. 360.

Any person who shall commit the crime of larceny by stealing in any dwelling house, house trailer, office, store, gasoline service station, shop, warehouse, mill, factory, hotel, school, barn, granary, ship, boat, vessel, church, house of worship, locker room or any building used by the public shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- Am. 1947, Act 190, Eff. Oct. 11, 1947 ;-- CL 1948, 750.360

Constitutionality: A defendant's convictions of both armed robbery and the lesser included offenses of larceny of property with a value over \$100 and of larceny in a building cannot be allowed to stand as a violation of the defendant's protection against double jeopardy. *People v Jankowski*, 408 Mich 79; 289 NW2d 674 (1980).

Former Law: See section 1 of Act 179 of 1929, being CL 1929, § 16959.

750.360a Electronic or magnetic theft detection; shielding merchandise prohibited; violation as crime.

Sec. 360a.

(1) A person shall not do any of the following:

(a) Possess a laminated or coated bag or device that is intended to shield merchandise from detection by an electronic or magnetic theft detection device with the intent to commit or attempt to commit larceny.

(b) Manufacture, sell, offer for sale, or distribute, or attempt to manufacture, sell, offer for sale, or distribute, a laminated or coated bag or device that is intended to shield merchandise from detection by an electronic or magnetic theft detection device knowing or reasonably believing that the bag or device will be used to commit or attempt to commit larceny.

(c) Possess a tool or device designed to allow the deactivation or removal of a theft detection device from any merchandise with the intent to use the tool or device to deactivate a theft detection device on, or to remove a theft detection device from, any merchandise without the permission of the merchant or person owning or lawfully holding that merchandise with the intent to commit or attempt to commit larceny.

(d) Manufacture, sell, offer for sale, or distribute a tool or device designed to allow the deactivation or removal of a theft detection device from any merchandise without the permission of the merchant or person owning or lawfully holding that merchandise knowing or reasonably believing that the tool or device will be used to commit or attempt to commit larceny.

(e) Deactivate a theft detection device or remove a theft detection device from any merchandise in a retail establishment prior to purchasing the merchandise with the intent to commit or attempt to commit a larceny.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) If the person has a prior conviction for violating subsection (1), a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$4,000.00, or both.

History: Add. 2002, Act 101, Eff. July 1, 2002

750.361 Larceny or maliciously removing journal bearings or brasses.

Sec. 361.

Larceny or maliciously removing journal bearings or brasses—Any person who shall steal or maliciously remove, take, change, add to, take from or in any manner interfere with any journal bearings or brasses or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging to, connecting with or used by any railway, railroad or transportation company in this state shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not less than 1 year nor more than 2 years: Provided, That if the stealing or removal of such journal bearings or brasses, or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging to, connected with, or used on any locomotive, tender or car as aforesaid shall be the cause of wrecking any train, locomotive or other car in this state, whereby the life of any person or persons shall be lost as a result of the felonious or malicious stealing, nothing in this section shall be construed as preventing prosecution for such crime.

Possession of any journal bearings or brasses or any parts or attachments of any locomotive, tender or car, or any fixture or attachment belonging to, connected with, or used in operating any locomotive, tender or car owned, leased or used by any railroad, railway or transportation company in this state, without the authority of the railroad company owning or leasing the same, shall be prima facie evidence that the same has been stolen or maliciously taken or removed by the person in whose possession the same is found or proved to have been.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.361

Former Law: See sections 1 and 2 of Act 333 of 1917, being CL 1929, §§ 17039 and 17040.

750.362 Larceny by conversion.

Sec. 362.

Larceny by conversion, etc.—Any person to whom any money, goods or other property, which may be the subject of larceny, shall have been delivered, who shall embezzle or fraudulently convert to his own use, or shall secrete with the intent to embezzle, or fraudulently use such goods, money or other property, or any part thereof, shall be deemed by so doing to have committed the crime of larceny and shall be punished as provided in the first section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.362

Former Law: See section 34 of Ch. 154 of R.S. 1846, being CL 1857, § 5778; CL 1871, § 7585; How., § 9156; CL 1897, § 11570; CL 1915, § 15315; CL 1929, § 16911; and Act 168 of 1875.

750.362a Larceny; rented motor vehicle, trailer or other tangible property; penalty.

Sec. 362a.

(1) A person to whom a motor vehicle, trailer, or other tangible property is delivered on a rental or lease basis

under a written agreement providing for its return to a particular place at a particular time who with intent to defraud the lessor refuses or willfully neglects to return the vehicle, trailer, or other tangible property after expiration of the time stated in a written notice mailed by registered or certified mail addressed to that person's last known address is guilty of larceny, punishable as provided in this section.

(2) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the vehicle, trailer, or other tangible property, whichever is greater, or both imprisonment and a fine:

(a) The vehicle, trailer, or other tangible property has a value of \$20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the vehicle, trailer, or other tangible property, whichever is greater, or both imprisonment and a fine:

(a) The vehicle, trailer, or other tangible property has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

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

(a) The vehicle, trailer, or other tangible property has a value of \$200.00 or more but less than \$1,000.00.

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

(5) If the vehicle, trailer, or other tangible property has a value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the vehicle, trailer, or other tangible property, whichever is greater, or both imprisonment and a fine.

(6) The values of property not returned in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property not returned.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

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

(c) Information contained in a presentence report.

(d) The defendant's statement.

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

History: Add. 1964, Act 241, Eff. Aug. 28, 1964 ;-- Am. 1966, Act 297, Eff. Mar. 10, 1967 ;-- Am. 1998, Act 311, Eff. Jan. 1, 1999

750.363 Larceny by false personation.

Sec. 363.

Larceny by false personation—Any person who shall falsely personate or represent another, and in such assumed character shall receive any money, or other property whatever, intended to be delivered to the party so personated, with intent to convert the same to his own use, shall be deemed by so doing, to have committed the crime of larceny, and shall be punished as provided in the first section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.363

Former Law: See section 38 of Ch. 154 of R.S. 1846, being CL 1857, § 5782; CL 1871, § 7589; How., § 9160; CL 1897, § 11574; CL 1915, § 15319; and CL 1929, § 16915.

750.364 Larceny from libraries.

Sec. 364.

Larceny from libraries—Any person who shall procure, or take in any way from any public library or the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, with intent to convert the same to his own use, or with intent to defraud the owner thereof, or who having procured or taken any such book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof, shall thereafter convert the same to his own use or fraudulently deprive the owner thereof, shall be guilty of a misdemeanor.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.364

Former Law: See section 2 of Act 3 of 1881, being How., § 9211; CL 1897, § 11641; CL 1915, § 15407; CL 1929, § 17020; and Act 58 of 1911.

750.365 Larceny from car or persons detained or injured by accident.

Sec. 365.

Larceny from car or persons detained or injured by accident—Any person who shall steal from any car, while detained by accident or injury to any railroad, locomotive, tender or car, or who shall steal the property of, or rob any person detained, injured or killed by reason of any accident or injury to any such railroad, locomotive, tender or car, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 20 years or by a fine of not more than 10,000 dollars.

At the trial of any case arising under this section, it shall be sufficient prima facie proof of the existence of any railroad company named in the indictment to show that such company was doing business as a railroad company at the time named in the indictment.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.365

Former Law: See section 2 of Act 164 of 1869, being CL 1871, § 7620; How., § 9201; CL 1897, § 11624; CL 1915, § 15389; CL 1929, § 17025; section 10 of Act 164 of 1869, being How., § 9209; CL 1897, § 11632; CL 1915, § 15397; CL 1929, § 17033; and Act 146 of 1881.

750.366 Repealed. 2002, Act 295, Imd. Eff. May 9, 2002.

Compiler's Notes: The repealed section pertained to larceny involving railroad passenger tickets.

750.367 Taking or injuring trees, shrubs, vines, plants.

Sec. 367.

Taking or injuring fruit, shade, ornamental trees, shrubs, vines, etc.—Any person who shall wrongfully take and carry away from any place any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, or vegetable there growing, standing or being, with intent to deprive the owner thereof, or who shall without right and with wrongful intent, detach from the ground or injure any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, vegetable or produce shall be deemed by so doing to have committed the crime of larceny

and shall be punished as provided in the first section of this chapter.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.367

Former Law: See section 1 of Act 174 of 1855, being CL 1857, § 5801; CL 1871, § 7610; How., § 9194; CL 1897, § 11647; CL 1915, § 15416; CL 1929, § 17003; and Act 202 of 1875.

750.367a Larceny of rationed goods, wares and merchandise.

Sec. 367a.

Larceny of rationed goods, wares or merchandise—Any person who shall steal any goods, wares, or merchandise, the manufacture, distribution, sale or use of which is restricted or rationed by the federal government, or any of its agencies or instrumentalities, during a state of war between the United States and any other country or nation, shall be guilty of the applicable crime or crimes set forth in Act No. 328 of the Public Acts of 1931, as amended, and upon conviction thereof shall be punished by not to exceed double the fines and imprisonment therein provided. Any prosecution hereunder shall be in circuit court or in a court having similar criminal jurisdiction. The term "steal" as used in this section shall be construed to include the obtaining of any such property or the possession thereof in any manner or by any means defined, or the penalty for which is prescribed, by any section of chapters 31, 36, 52 or 61, or section 280 of chapter 43 of Act No. 328 of the Public Acts of 1931 as amended.

History: Add. 1942, 1st Ex. Sess., Act 5, Imd. Eff. Jan. 28, 1942 ;-- CL 1948, 750.367a

Compiler's Notes: For provisions of Act 328 of 1931, referred to in this section, see MCL 750.1 et seq.

750.367b Taking possession of and use of airplane.

Sec. 367b.

Taking possession of and use of an airplane—Any person who shall, wilfully and without authority, take possession of or use an airplane, and any person who shall assist in or be a party to such taking possession of or use of an airplane, belonging to another, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years.

History: Add. 1942, 2nd Ex. Sess., Act 11, Imd. Eff. Feb. 25, 1942 ;-- CL 1948, 750.367b

750.367c Theft of motor vehicle fuel.

Sec. 367c.

The secretary of state shall suspend the operator's or chauffeur's license of a person convicted of an offense or attempted offense under this chapter involving the theft of motor vehicle fuel that occurred by pumping the fuel into a motor vehicle, as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

History: Add. 1982, Act 63, Eff. Mar. 30, 1983 ;-- Am. 1998, Act 344, Eff. Oct. 1, 1999