

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.356 Larceny; property; penalties; total value of property stolen; enhanced sentence; prior convictions; "nonferrous 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) Nonferrous 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 nonferrous 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 nonferrous metal.

(b) The cost of repairing the damage caused by the larceny of the nonferrous 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, "nonferrous metal" means a metal that does not contain significant quantities of ferrous metal but contains copper, brass, platinum-based metals, aluminum, bronze, lead, zinc, nickel, or alloys of those metals.

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.

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.