

Legislative Analysis



ABANDONED VEHICLES

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House Bill 5364

Sponsor: Rep. Ken Daniels

Committee: Transportation

Complete to 5-12-04

A SUMMARY OF HOUSE BILL 5364 AS INTRODUCED 12-10-03

The bill would repeal and replace existing provisions in the Michigan Vehicle Code regarding abandoned vehicles. It would establish protocols for the removal of abandoned vehicles and authorize charges and costs to the vehicle owners when abandoned vehicles were towed.

Under the bill, a person would be prohibited from abandoning a vehicle on a highway or on private or public property in general view of the public. A violation would be a civil infraction. A violation of the bill's provisions, or a substantially similar local ordinance, would carry a \$300 civil fine. The following are among the bill's major provisions.

Definition of "abandon a vehicle" The bill would define this term to mean allowing a vehicle to remain on public property or private property or a highway for a period of 48 hours after a law enforcement officer or other governmental designated by the law enforcement agency had affixed a written notice to the vehicle indicating that was considered abandoned and could be towed at the owner's expense.

Immediate Removal of Vehicles by Law Enforcement. A law enforcement agency could immediately remove an abandoned vehicle if it was hazardous and dilapidated. (This would not apply to a vehicle located on property that belongs to the vehicle owner.)

General Towing or Removal Provisions. The owner or lessor of privately owned real property, or his or her agent, or a law enforcement agency, in the case of public property, could cause an abandoned vehicle left on the property without permission to be towed and removed by a towing service. The owner, lessor, agent, or law enforcement agency would not be liable for the cost of the towing or removal, or for transportation or storage of the vehicle, or for any damage to the vehicle if all of the following conditions were met.

- 1) The towing service stored the vehicle at its place of business and the site was open for redemption of vehicles during the towing service's business hours.
- 2) Not more than 30 minutes after completing the towing or removal, the towing service notified the appropriate law enforcement agency of the year, make, model, color, VIN number, and license plate number of the vehicle and recorded the name of the person at the law enforcement agency to whom the information was reported.

3) If the owner or lessor or other legally authorized person entitled to possession of the vehicle arrived at the location prior to the actual towing or removal, the vehicle would have to be disconnected from the tow truck and the person could remove the vehicle without interference upon the payment of a reasonable service fee for which a receipt would have to be given.

Presumption of Ownership. Under the bill, it would be presumed that the last registered owner of the vehicle was responsible for abandoning the vehicle and was liable for all towing or removal, storage, and processing charges and collection costs, less any amounts realized from the disposal of the vehicle. The last registered owner would not be liable for storage fees beyond 90 days of storage. The presumption of ownership could be rebutted by showing that, prior to the towing or removal, the last registered owner provided the towing service with a copy of the reassigned title and a photocopy of the operator's license of the purchaser or transferee of the vehicle.

If the presumption was rebutted, the person to whom the vehicle was sold or transferred would be responsible for all towing or removal, transportation, storage, and processing charges and collection costs.

Notice that Vehicles will be Towed. A private property owner or lessor would be required to post a notice that meets all of the following requirements before towing or removing a vehicle from the property without the owner's consent: the notice would have to be prominently displayed at a point of entry for the vehicular access to the property, with at least one notice for each 100 feet of lot frontage (if there are no curbs or access barriers); clearly indicate in reflective letters at least two inches high on a contrasting background that unauthorized vehicles will be towed away at the owner's expense; provide the name and current telephone number of the towing service to be used; be permanently installed with the bottom of the notice at least four feet above the ground; and be continuously maintained for at least 24 hours before any vehicle was towed or removed.

Exemption from Notice Requirement. The notice provisions above would not apply to real estate that is appurtenant to and obviously a part of a single-family dwelling; or when notice had been personally given to the owner or other legally authorized person in control of the vehicle that the area where the vehicle was parked was reserved or otherwise unavailable to unauthorized vehicles and that the vehicle was subject to towing or removal without the owner's consent.

Property Owner's Permission for Vehicle Removal. A vehicle could not be removed from privately owned property without the express written consent of the owner or person in charge of that property.

A law enforcement agency with jurisdiction over the location of a vehicle could authorize the towing or removal and impoundment of a vehicle by a towing service if the vehicle was hazardous and dilapidated.

Costs of Towing and Removal. The owner of a vehicle would be liable for the costs associated with the towing, removal, transportation, and storage of a vehicle and damage to a vehicle that was towed if conditions in the bill were satisfied.

Reclaiming Abandoned Vehicle. Any time before a vehicle was sold at public sale or disposed of, the owner, lienholder, or other person legally entitled to possession of the vehicle could reclaim the vehicle by presenting to the law enforcement agency with custody of the vehicle proof of ownership or proof of the right to possession of the vehicle. However, a vehicle would not be released until all towing, removal, transportation, storage, and processing charges were paid.

Payment of Removal, Storage, and Processing Costs. In an action to collect towing or removal, storage, and processing charges that remained unpaid after disposition of a vehicle towed or removed, the towing service could collect reasonable collection costs from the owner or lessor of the vehicle.

The bill would allow money received from the public sale of an abandoned vehicle to be applied to the costs of advertising and of publication of legal notices (as well as towing and storage charges).

The bill would specify that the surrender of a vehicle to a towing firm would not be a bar to the recovery of actual costs by the towing firm.

FISCAL IMPACT:

Section 252h(1) would prohibit a person from abandoning a vehicle on a highway, or on private or public property in general view of the public. Subsection (2) indicates that a person who violates subsection (1) is responsible for a civil infraction. The bill would also amend Section 907 of the Michigan Vehicle Code to provide a civil fine penalty of \$300 for violations of Section 252i. [The reference to Section 252i appears to be a technical error; the correct reference appears to be to Section 252h.].

The bill would have an indeterminate impact on local revenue. The fiscal impact would depend on the number of citations issued, and whether the citation was written under the authority of the Michigan Vehicle Code or local ordinance. A discussion of the distribution of fines and assessments written under the Michigan Vehicle Code is found in the House Fiscal Agency publication: Traffic Citation Revenue in Michigan on the HFA website at: <http://www.house.mi.gov/hfa/PDFs/traf.pdf>

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.