

ABANDONED VEHICLES

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House Bill 5364 (Substitute H-2)

Sponsor: Rep. Ken Daniels

Committee: Transportation

Complete to 5-25-04

A SUMMARY OF HOUSE BILL 5364 AS REPORTED FROM COMMITTEE

The bill would amend sections of the Michigan Vehicle Code that deal with abandoned vehicles. The following are among the provisions in the bill.

** In order for an individual to no longer be liable for any damages or violations of law resulting from the use of a vehicle he or she has transferred, the owner selling the vehicle would have to satisfy one of the following conditions: 1) accompany the purchaser of the vehicle to a secretary of state branch office to assure that the title of the vehicle being sold is transferred; or 2) maintain a record of the sale for at least three years.

A record of sale would have to be either a photocopy of the reassigned title or a form approved by the secretary of state that includes the name, address, and driver license number of the person to whom the vehicle is sold.

A violation would be a civil infraction and a person who violated the provision would be presumed to be the last titled owner and to be liable for towing fees and daily storage fees for an abandoned motor vehicle.

** A person would be prohibited from abandoning a vehicle in the state (as now). Under the bill, it would be presumed that the last titled owner of the vehicle is responsible for abandoning the vehicle unless the person provided a record of sale (as described earlier). A person who violated this provision and who failed to redeem the vehicle before the vehicle was subject to a public sale would be responsible for a civil infraction and would be ordered to pay a fine of \$100.

** the definition of "abandoned vehicle" would be amended to apply to a vehicle that remained on public or private property for at least 24 hours (rather than the current 48 hours) after a police agency or other governmental agency designated by the police agency had affixed a written notice to the vehicle.

** A vehicle could only be removed from private property at the direction of the last titled owner of the vehicle or a police agency or upon the written instruction of the owner of person in charge of the private property where the vehicle was located.

The custodian of the vehicle would have to notify the police agency from whose jurisdiction the vehicle was towed not more than 60 minutes after completing the towing or removal of the vehicle (rather than immediately, as is now the case).

** Procedures that must currently be followed when a police agency has taken a vehicle into custody would also have to be followed when a police agency was notified (as referred to above) of the removal from private property by the appropriate private parties. This includes checking to see if a vehicle has been reported stolen, entering the vehicle as abandoned into the law enforcement information network (LIEN), and sending notification to the last titled owner and secured party.

** If the owner or another person legally entitled to possess a vehicle that was about to be towed arrived where a vehicle was located before the actual towing or removal, the vehicle would have to be disconnected from the tow truck and the owner or other person could take possession of the vehicle and remove it without interference upon the payment of a reasonable service fee for which a receipt would have to be given.

** 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.

The notice provisions above would not apply to real property that is appurtenant to and obviously a part of a single-family residence or to an instance when notice had been personally given to the owner or other legally entitled 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 consent of the owner or other legally entitled person.

** Provisions that usually apply that allow a person to contest the reasonableness of towing fees and daily storage fees would not apply if towing fees and daily storage fees had been established by contract with the local governmental agency or local law enforcement agency.

** In court actions where a vehicle owner is contesting the fact that the vehicle is considered abandoned or is contesting the reasonableness of the towing fees, the district court would have to notify not only the police agency and the vehicle owner (as now) but also the towing service and the custodian of the vehicle.

** Currently, if there are no bidders at the sale of an abandoned vehicle, the police agency can turn the vehicle over to the towing firm to satisfy charges against the vehicle. The bill would specify that if the value of the vehicle did not satisfy the towing fees and the accrued daily storage fees, the custodian of the vehicle could collect the balance of the unpaid fees from the last titled owner. A towing service or the custodian of the vehicle, or both, would be able to recover their actual costs, including collection costs, from the last titled owner. A contract between a police agency or its local unit of government and a towing agency could not include a provision in contravention of this provision.

MCL 257.240 et al.

FISCAL IMPACT:

The bill would amend Section 240 of the Michigan Vehicle Code to require the owner of a motor vehicle who had made a bona fide sale of the vehicle to either: accompany the purchaser to the Secretary of State branch office to assure that the title of the vehicle being sold was transferred; or maintain a record of sale for not less than 3 years. The bill indicates that a person who violates these vehicle transfer provisions is responsible for a civil infraction. Provisions regarding civil infraction fines and the distribution of fine revenue are found in Section 907 and 909 of the Michigan Vehicle Code.

The bill would amend Section 252a to indicate that “a person shall not abandon a vehicle in this state.” The bill further states that a person who violates the subsection, and who fails to redeem the abandoned vehicle, is responsible for a civil infraction, and shall be ordered to pay a fine of \$100.00.

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 ticket written under the authority of the state statute would be earmarked for county law libraries and local libraries. A ticket written under authority of a local ordinance may be earmarked for local court or local unit of government in which the citation was written, based on several variables.

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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.