



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5668 (Substitute H-3 as passed by the House)
Sponsor: Representative Bradford C. Jacobsen
House Committee: Commerce
Senate Committee: Transportation

Date Completed: 9-10-12

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- **Establish a \$100 late transfer fee for a used or secondhand vehicle dealer, rather than the \$15 late transfer fee that presently applies to all vehicle dealers.**
- **Allow a used or secondhand vehicle dealer to enter into an agreement with an inventory lender allowing the lender to retain the certificate of title for a vehicle subject to an inventory loan, if certain conditions were met.**
- **Require an inventory lender to release the certificate of title within two days after receiving full payment, proof of full payment, or a request from the Secretary of State (SOS); and prescribe a \$500 administrative fine for failure to release the title as required.**
- **Require a lender that held a certificate of title for a used or secondhand vehicle to register with the SOS at no charge.**

("Inventory lender" would mean a third party that is engaged in the business of providing financing to a used or secondhand vehicle dealer for the acquisition or retention of vehicles that are held for sale or lease by the dealer in the ordinary course of business, and that has filed a financing statement with the SOS evidencing the third party's security interest in the dealer's inventory and its proceeds.)

Late Transfer Fee

Under the Code, within 15 days after delivering a vehicle or boat trailer to a purchaser or lessee, a vehicle dealer or a person engaged in the sale of vessels must apply to the Secretary of State for a new title, if required, and transfer or secure registration plates and secure a certificate of registration in the name of the purchaser or lessee. If the dealer or seller fails to comply with these requirements and pay the prescribed fees in that time period, a title and registration may be acquired subsequently only upon the payment of the required fees, as well as a late transfer fee of \$15. Similar provisions apply to a dealer selling or exchanging an off lease or buy back vehicle

Under the bill, the \$15 fee would apply to an individual or a dealer other than a used or secondhand vehicle dealer subject to proposed Section 235b (described below). For a dealer subject to that section, the late transfer fee would be \$100.

Agreement with Inventory Lender

The bill would add Section 235b, which would apply only to licensed dealers that sold used or secondhand vehicles and would not apply to a dealer that sold new motor vehicles, or both new and used or secondhand vehicles. The section would allow a used or secondhand vehicle dealer to voluntarily enter into a written agreement with an inventory lender allowing the lender to retain in its possession the certificate of title for a vehicle that was subject to an inventory loan if all of the following conditions were met:

- The dealer posted on the vehicle window a notice disclosing the existence of the inventory loan.
- The dealer maintained a color copy of the certificate of title, in either paper or electronic form, at the dealer's place of business.
- The dealer maintained a paper or electronic copy of the inventory loan agreement between the dealer and the lender, along with the inventory list, which could not be more than five days old.

The notice posted on the window would have to include the name, address, telephone number, and internet address of the lender in a manner and of a size sufficient to alert potential buyers of the existence of the inventory loan, contact information for the holder of the loan, and that the lender held the title to the vehicle in its possession. The notice would have to be in a form and manner as prescribed by the SOS.

The copy of the certificate of title maintained by the dealer would have to indicate on its face that it was a copy. The copy and a disclosure or notice of the inventory lender's possession of the title would have to be given to the buyer at the time of purchase in paper or electronic form.

The copy of the loan agreement and inventory list would have to be made available to the SOS upon request.

A used or secondhand vehicle dealer's inventory lender would have to release the certificate of title to the dealer, the dealer's designee, or the SOS, as applicable, within two banking business days after the lender received one of the following:

- The outstanding principal balance and any other fees and charges due on the vehicle under the inventory loan.
- A written request from the dealer with proof of full payment evidencing that the vehicle had been sold to a buyer in the ordinary course of business under the Uniform Commercial Code (UCC) or a substantially similar law of another state.
- A written request from the purchaser and proof of full payment evidencing the purchaser's status as a buyer in the ordinary course of business under the UCC or a substantially similar law of another state.
- A written request from the SOS.

An inventory lender that failed to release a vehicle title as required could be ordered to pay an administrative fine of \$500.

A lender that held a certificate of title for a used or secondhand vehicle would have to register with the SOS in a form and manner as prescribed by the SOS to provide its location and contact information. No fee could be charged for registration.

The bill provides that Section 235 would apply to used or secondhand vehicle dealers only to the extent that it did not conflict with proposed Section 235b. (Section 235 prescribes the responsibilities and duties of a dealer that is a transferee of a vehicle, procedures for the

transfer of title or interest to another dealer, and provisions related to a dealer's sale of buy back and off lease vehicles.)

MCL 257.217 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would result in an indeterminate increase in revenue to the Secretary of State from the proposed new \$100 fee. The amount of additional revenue would depend on the number of late transfer fees assessed. Any revenue resulting from the proposed \$500 administrative fine would be deposited in the State General Fund.

Fiscal Analyst: Joe Carrasco

S1112\5668sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.