

REVISE ABANDONED VEHICLES PROCEDURES

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House Bill 4839

Sponsor: Rep. Barbara Farrah

Committee: Transportation

Complete to 2-21-08

A SUMMARY OF HOUSE BILL 4839 AS INTRODUCED 5-24-07

House Bill 4839 would amend the Michigan Vehicle Code to clarify a number of the procedures used in order to deal with abandoned vehicles.

** The bill specifies that a "dealer" for the purposes of this act would *not* include a person engaged in the incidental sale of vehicles that are considered abandoned and are valued at \$2,500 or less.

** The law specifies when the secretary of state may disclose personal information contained in a record maintained under the act. Among those provisions, the secretary of state may disclose personal information for use in providing notice to the owner of an abandoned, towed, or impounded vehicle. House Bill 4829 would retain this provision, and add "or for use by the custodian of a vehicle that is considered abandoned, for the sole purpose of disposing of that vehicle."

** Currently under the law, before removing a vehicle from private property, a towing agency must notify the police agency having jurisdiction over the vehicle that it is being removed. House Bill 4829 would retain this provision, but clarify that the towing agency must "provide reasonable notice by telephone, or otherwise" to the police agency.

** The law currently specifies that a police agency (or a governmental agency designated by the police) may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner of the vehicle in any of a number of circumstances. House Bill 4829 would retain those provisions of the law, and also allow immediate removal "if the vehicle has been involved in a traffic crash and cannot be safely operated from the scene of the crash."

** Currently, when a police agency authorizes the removal of a vehicle, they must check to determine if the vehicle has been reported stolen, and then follow the procedures set out in the law. House Bill 4829 would retain those provisions, but require that the check to determine if the vehicle had been reported stolen take place "prior to authorizing the removal of the vehicle." In addition, unless the vehicle had been reported stolen, had to be seized to provide evidence of a crime, or was involved in a traffic crash and inoperable, the police agency would be required to enter the vehicle into the Law Enforcement Information Network as abandoned not less than seven days after authorizing the removal.

Further, a vehicle impounded for the reasons noted above would first have to be released by the police agency that authorized the removal prior to the towing agency or custodian releasing the vehicle to the vehicle owner.

Finally, not less than 20 days but not more than 30 days after a vehicle had been released, the towing agency or custodian would be required to notify the police agency to enter the vehicle as abandoned, and the police agency would then be required to follow the procedures set forth in the act, if the impounded vehicle had not been redeemed.

** Currently under the law, a person can file a petition in court if a vehicle has been taken into custody improperly. The law requires that the court 1) schedule a hearing within 30 days to determine whether the police agency acted properly, and 2) notify the owner, towing service, custodian of the vehicle, and the police agency of the time and place of the hearing. House Bill 4839 would expand the scope of the hearing to say that the hearing would be held to determine if the "police agency, towing agency or custodian, or private property owner" acted properly. Further, the bill would retain the notice provision, but require that a private property owner be given notice if the vehicle had been removed from private property. Finally, at the hearing, the police agency, towing agency or custodian, or, if the vehicle had been removed from private property then the private property owner, would have the burden of showing, by a preponderance of the evidence, that it had complied with the requirements of the act in reporting or processing the abandoned vehicle.

** After a hearing is held, a court must make a decision that includes one or more of the responses specified in the law. House Bill 4839 would retain those provisions, but add further options for the court to consider, as follows: 1) find that the towing fees and daily storage fees were unreasonable and issue an order directing the towing agency or custodian of the vehicle to provide the last titled owner of the vehicle with an appropriate reduction or refund; 2) find that the owner of the real property complied with the provisions of the act; 3) find that the owner of the real property did not comply, and issue an order requiring the owner of the real property to reimburse the last titled owner of the vehicle for the accrued towing and storage charges; or 4) find that the towing agency did not comply with the procedures established for the proper removal and reporting of an abandoned vehicle, and then after making that finding, issue an order directing that the vehicle immediately be released to the owner and that the towing agency be responsible for the accrued towing and storage charges, and additionally, order that any fee or bond posted by the owner be returned to the owner.

** The law provides for, and describes in some detail, a public sale for abandoned vehicles, undertaken by the police agency (or the agency's designee) or the custodian of the vehicle (or the custodian's designee). House Bill 4839 would retain those provisions, and require that upon disposition of a vehicle, the police or towing agency or the custodian provide to the secretary of state and to the police agency (if the police agency did not conduct the sale), the disposition of each vehicle, and the name of the agency that disposed of it. Following that notice, the police agency would cancel the entry in the Law Enforcement Information Network.

** The bill specifies that not less than 25 days after the date of notice, if the police agency did not provide a copy of the bill of sale for the abandoned vehicle, then the towing agency or custodian or police agency designee could obtain an original of the bill of sale by submitting an application to the secretary of state.

** Finally, the law specifies that Section 252k—a section requiring warning signs about towing of vehicles on private property—does not apply to real property that is obviously part of a single- or dual-family residence; or to an instance when notice is personally given to the owner or other legally entitled person in control of a vehicle that the area where the vehicle is parked is reserved and that the vehicle is subject to towing or removal. House Bill 4839 would retain these two exemptions and add a third: Section 252k would not apply to a vehicle removed from private property under Section 252d, a section which allows the immediate removal of vehicles from public or private property.

MCL 257.11 et al

FISCAL IMPACT:

House Bill 4839 would have no fiscal impact on the State of Michigan or its local units of government.

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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.