

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5668**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 217 and 235 (MCL 257.217 and 257.235), section
217 as amended by 2005 PA 36 and section 235 as amended by 2002 PA
652, and by adding section 235b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 217. (1) An owner of a vehicle that is subject to
2 registration under this act shall apply to the secretary of state,
3 upon an appropriate form furnished by the secretary of state, for
4 the registration of the vehicle and issuance of a certificate of
5 title for the vehicle. A vehicle brought into this state from
6 another state or jurisdiction that has a rebuilt, salvage, scrap,
7 flood, or comparable certificate of title issued by that other

1 state or jurisdiction shall be issued a rebuilt, salvage, scrap, or
2 flood certificate of title by the secretary of state. The
3 application shall be accompanied by the required fee. An
4 application for a certificate of title shall bear the signature or
5 verification and certification of the owner. The application shall
6 contain all of the following:

7 (a) The owner's name, the owner's bona fide residence, and
8 either of the following:

9 (i) If the owner is an individual, the owner's mailing address.

10 (ii) If the owner is a firm, association, partnership, limited
11 liability company, or corporation, the owner's business address.

12 (b) A description of the vehicle including the make or name,
13 style of body, and model year; the number of miles, not including
14 the tenths of a mile, registered on the vehicle's odometer at the
15 time of transfer; whether the vehicle is a flood vehicle or another
16 state previously issued the vehicle a flood certificate of title;
17 whether the vehicle is to be or has been used as a taxi or police
18 vehicle, or by a political subdivision of this state, unless the
19 vehicle is owned by a dealer and loaned or leased to a political
20 subdivision of this state for use as a driver education vehicle;
21 whether the vehicle has previously been issued a salvage or rebuilt
22 certificate of title from this state or a comparable certificate of
23 title from any other state or jurisdiction; vehicle identification
24 number; and the vehicle's weight fully equipped, if a passenger
25 vehicle registered in accordance with section 801(1)(a), and, if a
26 trailer coach or pickup camper, in addition to the weight, the
27 manufacturer's serial number, or in the absence of the serial

1 number, a number assigned by the secretary of state. A number
2 assigned by the secretary of state shall be permanently placed on
3 the trailer coach or pickup camper in the manner and place
4 designated by the secretary of state.

5 (c) A statement of the applicant's title and the names and
6 addresses of the holders of security interests in the vehicle and
7 in an accessory to the vehicle, in the order of their priority.

8 (d) Further information that the secretary of state reasonably
9 requires to enable the secretary of state to determine whether the
10 vehicle is lawfully entitled to registration and the owner entitled
11 to a certificate of title. If the secretary of state is not
12 satisfied as to the ownership of a ~~late model vehicle or other~~
13 vehicle having a value over \$2,500.00 **OR THAT IS 10 YEARS OLD OR**
14 **OLDER**, before registering the vehicle and issuing a certificate of
15 title, the secretary of state may require the applicant to file a
16 properly executed surety bond in a form prescribed by the secretary
17 of state and executed by the applicant and a company authorized to
18 conduct a surety business in this state. The bond shall be in an
19 amount equal to twice the value of the vehicle as determined by the
20 secretary of state and shall be conditioned to indemnify or
21 reimburse the secretary of state, any prior owner, and any
22 subsequent purchaser or lessee of the vehicle and their successors
23 in interest against any expense, loss, or damage, including
24 reasonable attorney's fees, by reason of the issuance of a
25 certificate of title for the vehicle or on account of any defect in
26 the right, title, or interest of the applicant in the vehicle. An
27 interested person has a right of action to recover on the bond for

1 a breach of the conditions of the bond, but the aggregate liability
2 of the surety to all persons shall not exceed the amount of the
3 bond. ~~The bond shall be returned at the end of 3 years, or before 3~~
4 ~~years if the vehicle is no longer registered in this state and the~~
5 ~~currently valid certificate of title is surrendered to the~~
6 ~~secretary of state, unless the secretary of state has received~~
7 ~~notification of the pendency of an action to recover on the bond.~~
8 If the secretary of state is not satisfied as to the ownership of a
9 vehicle that is valued at \$2,500.00 or less and that is not a late
10 ~~model vehicle,~~ **10 YEARS OLD OR OLDER**, the secretary of state shall
11 require the applicant to certify that the applicant is the owner of
12 the vehicle and entitled to register and title the vehicle.

13 (e) Except as provided in subdivision (f), an application for
14 a commercial vehicle shall also have attached a scale weight
15 receipt of the motor vehicle fully equipped as of the time the
16 application is made. A scale weight receipt is not necessary if
17 there is presented with the application a registration receipt of
18 the previous year that shows on its face the empty weight of the
19 motor vehicle as registered with the secretary of state that is
20 accompanied by a statement of the applicant that there has not been
21 structural change in the motor vehicle that has increased the empty
22 weight and that the previous registered weight is the true weight.

23 (f) An application for registration of a vehicle on the basis
24 of elected gross weight shall include a declaration by the
25 applicant specifying the elected gross weight for which application
26 is being made.

27 (g) If the application is for a certificate of title of a

1 motor vehicle registered in accordance with section 801(1)(p), the
2 application shall include the manufacturer's suggested base list
3 price for the model year of the vehicle. Annually, the secretary of
4 state shall publish a list of the manufacturer's suggested base
5 list price for each vehicle being manufactured. Once a base list
6 price is published by the secretary of state for a model year for a
7 vehicle, the base list price shall not be affected by subsequent
8 increases in the manufacturer's suggested base list price but shall
9 remain the same throughout the model year unless changed in the
10 annual list published by the secretary of state. If the secretary
11 of state's list has not been published for that vehicle by the time
12 of the application for registration, the base list price shall be
13 the manufacturer's suggested retail price as shown on the label
14 required to be affixed to the vehicle under 15 USC 1232. If the
15 manufacturer's suggested retail price is unavailable, the
16 application shall list the purchase price of the vehicle as defined
17 in section 801.

18 (2) An applicant for registration of a leased pickup truck or
19 passenger vehicle that is subject to registration under this act,
20 except a vehicle that is subject to a registration fee under
21 section 801g, shall disclose in writing to the secretary of state
22 the lessee's name, the lessee's bona fide residence, and either of
23 the following:

24 (a) If the lessee is an individual, the lessee's Michigan
25 driver license number or Michigan personal identification number
26 or, if the lessee does not have a Michigan driver license or
27 Michigan personal identification number, the lessee's mailing

1 address.

2 (b) If the lessee is a firm, association, partnership, limited
3 liability company, or corporation, the lessee's business address.

4 (3) The secretary of state shall maintain the information
5 described in subsection (2) on the secretary of state's computer
6 records.

7 (4) Except as provided in subsection (5), a dealer selling,
8 leasing, or exchanging vehicles required to be titled, within 15
9 days after delivering a vehicle to the purchaser or lessee, and a
10 person engaged in the sale of vessels required to be numbered by
11 part 801 of the natural resources and environmental protection act,
12 1994 PA 451, MCL 324.80101 to 324.80199, within 15 days after
13 delivering a boat trailer weighing less than 2,500 pounds to the
14 purchaser or lessee, shall apply to the secretary of state for a
15 new title, if required, and transfer or secure registration plates
16 and secure a certificate of registration for the vehicle or boat
17 trailer, in the name of the purchaser or lessee. The dealer's
18 license may be suspended or revoked in accordance with section 249
19 for failure to apply for a title when required or for failure to
20 transfer or secure registration plates and certificate of
21 registration within the 15 days required by this section. If the
22 dealer or person fails to apply for a title when required, and to
23 transfer or secure registration plates and secure a certificate of
24 registration and pay the required fees within 15 days of delivery
25 of the vehicle or boat trailer, a title and registration for the
26 vehicle or boat trailer may subsequently be acquired only upon the
27 payment of a **LATE** transfer fee of \$15.00 **FOR AN INDIVIDUAL OR A**

1 **DEALER OTHER THAN A DEALER SUBJECT TO SECTION 235B** in addition to
2 the fees specified in section 806. **FOR A USED OR SECONDHAND VEHICLE**
3 **DEALER SUBJECT TO SECTION 235B, THE LATE TRANSFER FEE IS \$100.00 IN**
4 **ADDITION TO THE FEES SPECIFIED IN SECTION 806.** The purchaser or
5 lessee of the vehicle or the purchaser of the boat trailer shall
6 sign the application, including, ~~when~~**IF** applicable, the
7 declaration specifying the maximum elected gross weight ~~—~~as
8 required by subsection (1)(f), and other necessary papers to enable
9 the dealer or person to secure the title, registration plates, and
10 transfers from the secretary of state. If the secretary of state
11 mails or delivers a purchaser's certificate of title to a dealer,
12 the dealer shall mail or deliver the certificate of title to the
13 purchaser not more than 5 days after receiving the certificate of
14 title from the secretary of state.

15 (5) A dealer selling or exchanging an off lease or buy back
16 vehicle shall apply to the secretary of state for a new title for
17 the vehicle within 15 days after it receives the certificate of
18 title from the lessor or manufacturer under section 235 **OR SECTION**
19 **235B** and transfer or secure registration plates and secure a
20 certificate of registration for the vehicle in the name of the
21 purchaser. The dealer's license may be suspended or revoked in
22 accordance with section 249 for failure to apply for a title when
23 required or for failure to transfer or secure registration plates
24 and certificate of registration within the 15-day period. If the
25 dealer or person fails to apply for a title when required, and to
26 transfer or secure registration plates and secure a certificate of
27 registration and pay the required fees within the 15-day time

1 period, a title and registration for the vehicle may subsequently
2 be acquired only upon the payment of a **LATE** transfer fee of \$15.00
3 **FOR AN INDIVIDUAL OR DEALER OTHER THAN A USED OR SECONDHAND VEHICLE**
4 **DEALER SUBJECT TO SECTION 235B** in addition to the fees specified in
5 section 806. **THE LATE TRANSFER FEE FOR A USED OR SECONDHAND VEHICLE**
6 **DEALER SUBJECT TO SECTION 235B IS \$100.00 IN ADDITION TO THE FEES**
7 **SPECIFIED IN SECTION 806.** The purchaser of the vehicle shall sign
8 the application, including, ~~when~~ **IF** applicable, the declaration
9 specifying the maximum elected gross weight ~~,~~ as required by
10 subsection (1)(f), and other necessary papers to enable the dealer
11 or person to secure the title, registration plates, and transfers
12 from the secretary of state. If the secretary of state mails or
13 delivers a purchaser's certificate of title to a dealer, the dealer
14 shall mail or deliver the certificate of title to the purchaser not
15 more than 5 days after receiving the certificate of title from the
16 secretary of state.

17 (6) If a vehicle is delivered to a purchaser or lessee who has
18 valid Michigan registration plates that are to be transferred to
19 the vehicle, and an application for title, if required, and
20 registration for the vehicle is not made before delivery of the
21 vehicle to the purchaser or lessee, the registration plates shall
22 be affixed to the vehicle immediately, and the dealer shall provide
23 the purchaser or lessee with an instrument in writing, on a form
24 prescribed by the secretary of state, which shall serve as a
25 temporary registration for the vehicle for a period of 15 days from
26 the date the vehicle is delivered.

27 (7) An application for a certificate of title that indicates

1 the existence of a security interest in the vehicle or in an
2 accessory to the vehicle, if requested by the security interest
3 holder, shall be accompanied by a copy of the security agreement
4 ~~which~~ **THAT** need not be signed. The request may be made of the
5 seller on an annual basis. The secretary of state shall indicate on
6 the copy the date and place of filing of the application and return
7 the copy to the person submitting the application who shall forward
8 it to the holder of the security interest named in the application.

9 (8) If the seller does not prepare the credit information,
10 contract note, and mortgage, and the holder, finance company,
11 credit union, or banking institution requires the installment
12 seller to record the lien on the title, the holder, finance
13 company, credit union, or banking institution shall pay the seller
14 a service fee of not more than \$10.00. The service fee shall be
15 paid from the finance charges and shall not be charged to the buyer
16 in addition to the finance charges. The holder, finance company,
17 credit union, or banking institution shall issue its check or bank
18 draft for the principal amount financed, payable jointly to the
19 buyer and seller, and there shall be imprinted on the back side of
20 the check or bank draft the following:

21 "Under Michigan law, the seller must record a first lien in
22 favor of (name of lender) _____ on the vehicle with
23 vehicle identification number _____ and title the vehicle
24 only in the name(s) shown on the reverse side." On the front of the
25 sales check or draft, the holder, finance company, credit union, or
26 banking institution shall note the name(s) of the prospective
27 owner(s). Failure of the holder, finance company, credit union, or

1 banking institution to comply with these requirements frees the
2 seller from any obligation to record the lien or from any liability
3 that may arise as a result of the failure to record the lien. A
4 service fee shall not be charged to the buyer.

5 (9) In the absence of actual malice proved independently and
6 not inferred from lack of probable cause, a person who in any
7 manner causes a prosecution for larceny of a motor vehicle; for
8 embezzlement of a motor vehicle; for any crime an element of which
9 is the taking of a motor vehicle without authority; or for buying,
10 receiving, possessing, leasing, or aiding in the concealment of a
11 stolen, embezzled, or converted motor vehicle knowing that the
12 motor vehicle has been stolen, embezzled, or converted, is not
13 liable for damages in a civil action for causing the prosecution.
14 This subsection does not relieve a person from proving any other
15 element necessary to sustain his or her cause of action.

16 (10) Receipt by the secretary of state of a properly tendered
17 application for a certificate of title on which a security interest
18 in a vehicle is to be indicated is a condition of perfection of a
19 security interest in the vehicle and is equivalent to filing a
20 financing statement under the uniform commercial code, 1962 PA 174,
21 MCL 440.1101 to 440.11102, with respect to the vehicle. When a
22 security interest in a vehicle is perfected, it has priority over
23 the rights of a lien creditor as lien creditor is defined in
24 section 9102 of the uniform commercial code, 1962 PA 174, MCL
25 440.9102.

26 Sec. 235. (1) If the transferee of a vehicle is a new motor
27 vehicle dealer or a used **OR SECONDHAND** vehicle dealer that acquires

1 the vehicle for resale, the dealer is not required to obtain a new
2 registration of the vehicle or forward the certificate of title to
3 the secretary of state, but shall retain and have in the dealer's
4 immediate possession the assigned certificate of title with the
5 odometer information properly completed, **EXCEPT AS OTHERWISE**
6 **PROVIDED IN SECTION 235B.** A dealer shall obtain a certificate of
7 title for a vehicle having a salvage certificate of title before
8 the dealer may operate the vehicle under dealer's license plates.
9 Upon transferring title or interest to another person that is not a
10 dealer, the dealer shall complete an assignment and warranty of
11 title upon the certificate of title, salvage certificate of title,
12 or dealer reassignment of title form and make an application for
13 registration and a new title as provided in section 217(4).

14 (2) The dealer or transferee is liable for all damages arising
15 from the operation of the vehicle while the vehicle is in the
16 dealer's or transferee's possession.

17 (3) Upon transferring title or interest to another dealer, the
18 dealer shall complete an assignment and warranty of title upon the
19 certificate of title, salvage certificate of title, or dealer
20 reassignment of title form and deliver it to the licensed dealer to
21 which the transfer is made.

22 (4) The secretary of state shall prescribe the dealer
23 reassignment of title form. The form shall contain the title number
24 of the accompanying title; the name, address, and, if applicable,
25 dealer license number of the transferee; the year, make, model,
26 body type, and vehicle identification number of the vehicle; the
27 name, address, dealer number, and signature of the transferor; an

1 odometer mileage statement ~~pursuant to~~ **AS PRESCRIBED UNDER** section
2 233a; and any other information the secretary of state requires.

3 (5) This section does not prohibit a dealer from selling a buy
4 back vehicle while the certificate of title is in the possession of
5 a manufacturer that obtained the certificate of title under the
6 manufacturer's buy back vehicle program. The manufacturer shall
7 mail the certificate of title to the dealer within 5 business days
8 after the manufacturer's receipt of a signed statement from the
9 purchaser of the vehicle acknowledging he or she was informed by
10 the dealer that the manufacturer acquired title to the vehicle as
11 the result of an arbitration proceeding, ~~pursuant to~~ **UNDER** a
12 customer satisfaction policy adopted by the manufacturer, or under
13 1986 PA 87, MCL 257.1401 to 257.1410, or a similar law of another
14 state.

15 (6) This section does not prohibit a dealer from selling an
16 off lease vehicle while the certificate of title is in the
17 possession of a lessor. The lessor shall mail the certificate of
18 title to the dealer within 21 days after the lessor receives the
19 purchase price of the vehicle and any other fees and charges due
20 under the lease.

21 **SEC. 235B. (1) A USED OR SECONDHAND VEHICLE DEALER MAY**
22 **VOLUNTARILY ENTER INTO A WRITTEN AGREEMENT WITH AN INVENTORY LENDER**
23 **ALLOWING THE INVENTORY LENDER TO RETAIN IN ITS POSSESSION THE**
24 **CERTIFICATE OF TITLE FOR A VEHICLE THAT IS SUBJECT TO AN INVENTORY**
25 **LOAN IF ALL OF THE FOLLOWING CONDITIONS HAVE BEEN MET:**

26 (A) **THE USED OR SECONDHAND VEHICLE DEALER POSTS A NOTICE ON**
27 **THE USED OR SECONDHAND VEHICLE WINDOW DISCLOSING THE EXISTENCE OF**

1 THE USED OR SECONDHAND VEHICLE DEALER'S INVENTORY LOAN FOR THE
2 VEHICLE. THE NOTICE UNDER THIS SUBDIVISION SHALL INCLUDE THE NAME,
3 ADDRESS, TELEPHONE NUMBER, AND INTERNET ADDRESS OF THE USED OR
4 SECONDHAND VEHICLE INVENTORY LENDER IN A MANNER AND OF A SIZE
5 SUFFICIENT TO ALERT POTENTIAL BUYERS OF THE EXISTENCE OF INVENTORY
6 LOAN, CONTACT INFORMATION FOR THE HOLDER OF THAT INVENTORY LOAN,
7 AND THAT THE INVENTORY LENDER HOLDS THE TITLE TO THE VEHICLE IN ITS
8 POSSESSION. THE NOTICE UNDER THIS SUBDIVISION SHALL BE IN A FORM
9 AND MANNER AS PRESCRIBED BY THE SECRETARY OF STATE.

10 (B) THE USED OR SECONDHAND VEHICLE DEALER MAINTAINS A COLOR
11 COPY OF THE CERTIFICATE OF TITLE, EITHER IN PAPER OR ELECTRONIC
12 FORM, AT THE USED OR SECONDHAND VEHICLE DEALER'S PLACE OF BUSINESS.
13 THE COLOR COPY OF THE CERTIFICATE OF TITLE SHALL INDICATE ON ITS
14 FACE THAT IT IS A COPY. THE COLOR COPY OF THE TITLE AND A
15 DISCLOSURE OR NOTICE OF THE VEHICLE INVENTORY LENDER'S POSSESSION
16 OF THE TITLE SHALL BE PRESENTED TO THE BUYER AT THE TIME OF
17 PURCHASE IN PAPER OR ELECTRONIC FORM.

18 (C) THE USED OR SECONDHAND VEHICLE DEALER MAINTAINS A PAPER OR
19 ELECTRONIC COPY OF THE INVENTORY LOAN AGREEMENT BETWEEN THE USED OR
20 SECONDHAND VEHICLE DEALER AND THE VEHICLE INVENTORY LENDER, ALONG
21 WITH THE INVENTORY LIST, WHICH SHALL BE NOT MORE THAN 5 DAYS OLD.
22 THESE DOCUMENTS SHALL BE MADE AVAILABLE TO THE SECRETARY OF STATE
23 UPON THE REQUEST OF THE SECRETARY OF STATE.

24 (2) A USED OR SECONDHAND VEHICLE DEALER'S INVENTORY LENDER
25 SHALL RELEASE THE CERTIFICATE OF TITLE TO THE USED OR SECONDHAND
26 VEHICLE DEALER, THE USED OR SECONDHAND VEHICLE DEALER'S DESIGNEE,
27 OR THE SECRETARY OF STATE, AS APPLICABLE, NOT MORE THAN 2 BANKING

1 BUSINESS DAYS AFTER THE USED OR SECONDHAND VEHICLE DEALER'S
2 INVENTORY LENDER RECEIVES 1 OF THE FOLLOWING:

3 (A) THE OUTSTANDING PRINCIPAL BALANCE AND ANY OTHER FEES AND
4 CHARGES DUE ON THE VEHICLE UNDER THE INVENTORY LOAN.

5 (B) A WRITTEN REQUEST FROM THE USED OR SECONDHAND VEHICLE
6 DEALER WITH PROOF OF FULL PAYMENT EVIDENCING THAT THE VEHICLE HAS
7 BEEN SOLD TO A BUYER IN THE ORDINARY COURSE OF BUSINESS UNDER
8 SECTION 9320 OF THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL
9 440.9320, OR A SUBSTANTIALLY SIMILAR LAW OF ANOTHER STATE.

10 (C) A WRITTEN REQUEST FROM THE PURCHASER AND PROOF OF FULL
11 PAYMENT EVIDENCING THAT THE PURCHASER'S STATUS AS A BUYER IN
12 ORDINARY COURSE OF BUSINESS UNDER SECTION 9320 OF THE UNIFORM
13 COMMERCIAL CODE, 1962 PA 174, MCL 440.9320, OR A SUBSTANTIALLY
14 SIMILAR LAW OF ANOTHER STATE.

15 (D) A WRITTEN REQUEST FROM THE SECRETARY OF STATE.

16 (3) A USED OR SECONDHAND VEHICLE DEALER'S INVENTORY LENDER
17 THAT FAILS TO RELEASE A VEHICLE TITLE AS REQUIRED UNDER SUBSECTION
18 (2) MAY BE ORDERED TO PAY AN ADMINISTRATIVE FINE OF \$500.00.

19 (4) A USED OR SECONDHAND VEHICLE INVENTORY LENDER THAT HOLDS A
20 CERTIFICATE OF TITLE FOR A VEHICLE SHALL REGISTER WITH THE
21 SECRETARY OF STATE IN A FORM AND MANNER AS PRESCRIBED BY THE
22 SECRETARY OF STATE TO PROVIDE ITS LOCATION AND CONTACT INFORMATION.
23 NO FEE SHALL BE CHARGED FOR REGISTRATION UNDER THIS SUBSECTION.

24 (5) THIS SECTION APPLIES ONLY TO DEALERS LICENSED UNDER THIS
25 ACT THAT SOLELY SELL USED OR SECONDHAND VEHICLES AND DOES NOT APPLY
26 TO A DEALER LICENSED UNDER THIS ACT THAT SELLS NEW MOTOR VEHICLES
27 OR BOTH NEW MOTOR VEHICLES AND USED OR SECONDHAND VEHICLES.

1 (6) SECTION 235 APPLIES TO USED OR SECONDHAND VEHICLE DEALERS
2 UNDER THIS SECTION ONLY TO THE EXTENT THAT SECTION 235 DOES NOT
3 CONFLICT WITH THIS SECTION.

4 (7) AS USED IN THIS SECTION:

5 (A) "INVENTORY LENDER" MEANS A THIRD PARTY ENGAGED IN THE
6 BUSINESS OF PROVIDING FINANCING TO A USED OR SECONDHAND VEHICLE
7 DEALER FOR THE ACQUISITION OR RETENTION OF VEHICLES THAT ARE HELD
8 FOR SALE OR LEASE BY THE USED OR SECONDHAND VEHICLE DEALER IN THE
9 ORDINARY COURSE OF THE USED OR SECONDHAND VEHICLE DEALER'S BUSINESS
10 AND HAS FILED A FINANCING STATEMENT WITH THE SECRETARY OF STATE
11 EVIDENCING THE THIRD PARTY'S SECURITY INTEREST IN THE USED OR
12 SECONDHAND VEHICLE DEALER'S INVENTORY AND THE PROCEEDS OF THAT
13 INVENTORY.

14 (B) "LICENSE" MEANS PERTINENT LICENSE UNDER SECTION 248.