

HOUSE BILL No. 5668

May 23, 2012, Introduced by Rep. Jacobsen and referred to the Committee on Commerce.

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
8 state or jurisdiction shall be issued a rebuilt, salvage, scrap, or

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

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

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

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

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

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

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

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

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

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

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

25 (g) If the application is for a certificate of title of a
26 motor vehicle registered in accordance with section 801(1)(p), the
27 application shall include the manufacturer's suggested base list

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

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

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

27 (b) If the lessee is a firm, association, partnership, limited

1 liability company, or corporation, the lessee's business address.

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

5 (4) Except as provided in subsection (5), a dealer selling,
6 leasing, or exchanging vehicles required to be titled, within 15
7 days after delivering a vehicle to the purchaser or lessee, and a
8 person engaged in the sale of vessels required to be numbered by
9 part 801 of the natural resources and environmental protection act,
10 1994 PA 451, MCL 324.80101 to 324.80199, within 15 days after
11 delivering a boat trailer weighing less than 2,500 pounds to the
12 purchaser or lessee, shall apply to the secretary of state for a
13 new title, if required, and transfer or secure registration plates
14 and secure a certificate of registration for the vehicle or boat
15 trailer, in the name of the purchaser or lessee. The dealer's
16 license may be suspended or revoked in accordance with section 249
17 for failure to apply for a title when required or for failure to
18 transfer or secure registration plates and certificate of
19 registration within the 15 days required by this section. If the
20 dealer or person fails to apply for a title when required, and to
21 transfer or secure registration plates and secure a certificate of
22 registration and pay the required fees within 15 days of delivery
23 of the vehicle or boat trailer, a title and registration for the
24 vehicle or boat trailer may subsequently be acquired only upon the
25 payment of a transfer fee of \$15.00 **FOR AN INDIVIDUAL OR A DEALER**
26 **OTHER THAN A DEALER SUBJECT TO SECTION 235B** in addition to the fees
27 specified in section 806. **THE TRANSFER FEE FOR A USED VEHICLE**

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

13 (5) A dealer selling or exchanging an off lease or buy back
14 vehicle shall apply to the secretary of state for a new title for
15 the vehicle within 15 days after it receives the certificate of
16 title from the lessor or manufacturer under section 235 **OR SECTION**
17 **235B** and transfer or secure registration plates and secure a
18 certificate of registration for the vehicle in the name of the
19 purchaser. The dealer's license may be suspended or revoked in
20 accordance with section 249 for failure to apply for a title when
21 required or for failure to transfer or secure registration plates
22 and certificate of registration within the 15-day period. If the
23 dealer or person fails to apply for a title when required, and to
24 transfer or secure registration plates and secure a certificate of
25 registration and pay the required fees within the 15-day time
26 period, a title and registration for the vehicle may subsequently
27 be acquired only upon the payment of a transfer fee of \$15.00 **FOR**

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

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

25 (7) An application for a certificate of title that indicates
26 the existence of a security interest in the vehicle or in an
27 accessory to the vehicle, if requested by the security interest

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

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

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

1 that may arise as a result of the failure to record the lien. A
2 service fee shall not be charged to the buyer.

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

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

24 Sec. 235. (1) If the transferee of a vehicle is a new motor
25 vehicle dealer or a used vehicle dealer that acquires the vehicle
26 for resale, the dealer is not required to obtain a new registration
27 of the vehicle or forward the certificate of title to the secretary

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

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

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

20 (4) The secretary of state shall prescribe the dealer
21 reassignment of title form. The form shall contain the title number
22 of the accompanying title; the name, address, and, if applicable,
23 dealer license number of the transferee; the year, make, model,
24 body type, and vehicle identification number of the vehicle; the
25 name, address, dealer number, and signature of the transferor; an
26 odometer mileage statement pursuant to section 233a; and any other
27 information the secretary of state requires.

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

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

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

23 **(A) THE USED VEHICLE DEALER POSTS A NOTICE ON THE USED VEHICLE**
24 **WINDOW DISCLOSING THE EXISTENCE OF THE USED VEHICLE DEALER'S**
25 **INVENTORY LOAN FOR THE VEHICLE. THE NOTICE UNDER THIS SUBDIVISION**
26 **SHALL INCLUDE THE NAME, ADDRESS, TELEPHONE NUMBER, AND INTERNET**
27 **ADDRESS OF THE USED VEHICLE INVENTORY LENDER IN A MANNER AND OF A**

1 SIZE SUFFICIENT TO ALERT POTENTIAL BUYERS OF THE EXISTENCE OF
2 INVENTORY LOAN, CONTACT INFORMATION FOR THE HOLDER OF THAT
3 INVENTORY LOAN, AND THAT THE INVENTORY LENDER HOLDS THE TITLE TO
4 THE VEHICLE IN ITS POSSESSION.

5 (B) THE USED VEHICLE DEALER MAINTAINS A COLOR COPY OF THE
6 CERTIFICATE OF TITLE, EITHER IN PAPER OR ELECTRONIC FORM, AT THE
7 USED VEHICLE DEALER'S PLACE OF BUSINESS. THE COLOR COPY OF THE
8 CERTIFICATE OF TITLE SHALL INDICATE ON ITS FACE THAT IT IS A COPY.
9 THE COLORED COPY OF THE TITLE SHALL BE PRESENTED TO THE BUYER AT
10 THE TIME OF PURCHASE IN PAPER OR ELECTRONIC FORM.

11 (C) THE USED VEHICLE DEALER MAINTAINS A PAPER OR ELECTRONIC
12 COPY OF THE INVENTORY LOAN AGREEMENT BETWEEN THE USED VEHICLE
13 DEALER AND THE VEHICLE INVENTORY LENDER, ALONG WITH THE INVENTORY
14 LIST, WHICH SHALL BE NOT MORE THAN 5 DAYS OLD. THESE DOCUMENTS
15 SHALL BE MADE AVAILABLE TO THE SECRETARY OF STATE UPON THE REQUEST
16 OF THE SECRETARY OF STATE.

17 (2) A USED VEHICLE DEALER'S INVENTORY LENDER SHALL RELEASE THE
18 CERTIFICATE OF TITLE TO THE USED VEHICLE DEALER, THE USED VEHICLE
19 DEALER'S DESIGNEE, AND THE SECRETARY OF STATE NOT MORE THAN 2
20 BANKING BUSINESS DAYS AFTER THE USED VEHICLE DEALER'S INVENTORY
21 LENDER RECEIVES 1 OF THE FOLLOWING:

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

24 (B) A WRITTEN REQUEST FROM THE USED VEHICLE DEALER WITH PROOF
25 OF FULL PAYMENT EVIDENCING THAT THE VEHICLE HAS BEEN SOLD TO A
26 BUYER IN THE ORDINARY COURSE OF BUSINESS UNDER SECTION 9320 OF THE
27 UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL 440.9320, OR A

1 SUBSTANTIALLY SIMILAR LAW OF ANOTHER STATE.

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

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

8 (3) A USED VEHICLE DEALER'S INVENTORY LENDER THAT FAILS TO
9 RELEASE A VEHICLE TITLE AS REQUIRED UNDER SUBSECTION (2) MAY BE
10 ORDERED TO PAY A CIVIL FINE OF \$500.00.

11 (4) A USED VEHICLE INVENTORY LENDER SHALL REGISTER WITH THE
12 SECRETARY OF STATE IN A FORM AND MANNER AS PRESCRIBED BY THE
13 SECRETARY OF STATE TO PROVIDE ITS LOCATION AND CONTACT INFORMATION.
14 NO FEE SHALL BE CHARGED FOR REGISTRATION UNDER THIS SUBSECTION.

15 (5) THIS SECTION APPLIES SOLELY TO A USED VEHICLE DEALER WHOSE
16 CAPITAL STOCK IS NOT OWNED, IN WHOLE OR IN PART, BY AN INDIVIDUAL
17 OR ENTITY THAT ALSO OWNS ANY CAPITAL STOCK IN AN ENTITY HOLDING A
18 NEW VEHICLE DEALER LICENSE.

19 (6) SECTION 235 APPLIES TO USED VEHICLE DEALERS UNDER THIS
20 SECTION ONLY TO THE EXTENT THAT SECTION 235 DOES NOT CONFLICT WITH
21 THIS SECTION.

22 (7) AS USED IN THIS SECTION:

23 (A) "LICENSE" MEANS PERTINENT LICENSURE UNDER SECTION 248.

24 (B) "NEW VEHICLE DEALER" MEANS A DEALER THAT BUYS AND SELLS
25 NEW VEHICLES UNDER A FRANCHISE AGREEMENT OR CONTRACT WITH THE
26 MANUFACTURER OF THE NEW VEHICLE AND THAT IS LICENSED AS A NEW
27 VEHICLE DEALER IN THIS STATE.

1 (C) "USED VEHICLE DEALER" MEANS A DEALER THAT BUYS AND SELLS
2 USED VEHICLES AND THAT IS LICENSED AS A USED VEHICLE DEALER IN THIS
3 STATE.