



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

BILL ANALYSIS



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

Senate Bill 1023 (as enacted)
Sponsor: Senator Peter MacGregor
Senate Committee: Commerce
House Committee: Commerce and Trade

PUBLIC ACT 420 of 2018

Date Completed: 3-18-19

CONTENT

The bill amends the Michigan Vehicle Code to do the following:

- **Require the Secretary of State (SOS) to establish a prelicensure dealer training program, a training program for designated individuals, and a continuing education training program, and require each training program to meet certain criteria.**
- **Require an applicant for an original eligible used vehicle dealer license to complete a prelicensure dealer license program, within the six-month period before the application.**
- **Prohibit the Department of State from renewing an eligible used vehicle dealer license unless the application includes a certification from the dealer that it is in compliance with the bill's training requirements.**
- **Require an eligible used vehicle dealer to select a designated individual, and ensure that he or she completes a training program for designated individuals, within 90 days after an original dealer license is issued, and a continuing education training program once every two years after the license is issued.**
- **Require certain certifications to be included on a dealer license application.**

The bill will take effect on March 20, 2019.

Dealer Training Programs

The bill requires the SOS to establish each of the following dealer training programs for eligible used vehicle dealers:

- A prelicensure dealer training program.
- A training program for designated individuals.
- A continuing education training program.

(Under the Code, "dealer" means a person who in a 12-month period did one or more of the following: engaged in the business of purchasing, selling, exchanging, brokering, leasing, or dealing in vehicles of a type required to be titled under the Code; engaged in the business of purchasing, selling, exchanging, brokering, or dealing in salvageable parts of five or more vehicles; or engaged in the business of buying five or more vehicles to sell vehicle parts or process into scrap metal. The term also includes a person engaged in the actual remanufacturing of engines or transmissions.)

The bill defines "eligible used vehicle dealer" as a person that is licensed, or is applying for licensure, as a used or secondhand vehicle dealer, and is not licensed or seeking licensure as a new vehicle dealer.

"Designated individual" means any of the following individuals, if he or she is selected by an eligible used vehicle dealer to complete a training program:

- An individual who is a licensed eligible vehicle dealer, or his or her partner or officer.
- An employee of a licensed eligible used vehicle dealer, such as a general or sales manager, or an employee who is responsible for preparing title documents for the dealer.

Prelicensure Training Program

A prelicensure dealer training program must meet all of the following:

- Is conducted by the Department of State, or a Department-approved qualified trade organization, and is offered at least two times each calendar quarter.
- Is available to any individual who is an eligible used vehicle dealer, or his or her partner or officer, who is applying for an original dealer license.
- Includes a training related to the Code and any other subject matter approved by the SOS, such as consumer protection and sales and use tax collection.

If approved by the Department, the training program may be conducted online or by other electronic means. The Department may consult with any other State departments to evaluate and approve course content it considered appropriate.

"Qualified trade organization" means a bona fide nonprofit member organization that is based in Michigan, that has been in existence for at least five years, and whose members are primarily eligible used vehicle dealers.

Designated Individual Training Program

A training program for designated individuals must meet all of the following:

- Is conducted by the Department or another person designated by the SOS, and is offered at least two times each calendar quarter.
- Is available to any designated individual.
- Includes training in transferring vehicle titles, documentation of title transfer, record keeping, and any other subject matter approved by the SOS, such as consumer protection and sales and use tax collection.

If approved by the Department, the training program must be conducted online or by other electronic means.

Continuing Education Training Program

A continuing education training program must meet all of the following:

- Is conducted at least two times in each calendar quarter.
- Includes at least two hours of training.
- Includes subject matter approved by the SOS, such as transferring vehicle titles, documentation of title transfer, record keeping, consumer protection, and sales and use tax collection.
- Is conducted by the Department or a Department-approved qualified trade organization.

The Department may evaluate an approved qualified trade organization to determine whether it meets the requirements for a continuing education training program. Also, it may, after a hearing, suspend or revoke a qualified trade organization's approval to offer the continuing education training for failure to comply with those requirements.

The Department may consult with any other State departments it considers appropriate to evaluate and approve course content.

Eligible Used Vehicle Dealer License

Under the bill, in the six-month period before the date of an application for an original eligible used vehicle dealer license, each individual who is the applicant, or each of his or her partners or officers, as applicable, for an original eligible used vehicle dealer license must complete a precensure dealer license program. This requirement does not apply to either of the following:

- An applicant or application for the renewal of an eligible used vehicle license.
- The holder of an original eligible used vehicle dealer license that is granted before, or is valid the bill's effective date.

In the 90-day period following the issuance of an original dealer license to an eligible used vehicle dealer, the licensed dealer must select a designated individual and ensure that he or she completed a training program for designated individuals. However, this does not apply if the designated individual had completed a continuing education training program. An eligible used vehicle dealer must select a designated individual for each of its retail sales locations. An eligible used vehicle dealer may not select the same individual as the designated individual for more than three retail sales location. Additionally, these requirements do not apply to the holder of an original or renewal eligible used vehicle dealer license that is granted before, and is valid on, the bill's effective date until the license is next renewed.

In addition to the training program for designated individuals, an eligible used vehicle dealer must ensure that a designated individual completed a continuing education dealer program once every two years after the date the original license is issued.

The Department may not renew an eligible used vehicle dealer license unless the renewal application includes a certification from the dealer that it is in compliance with the applicable training requirements.

Dealer License Application

The Code permits the Secretary of State to grant a dealer license if certain criteria are met. The application for a dealer license must be in the form prescribed by the SOS and be signed by the applicant. In addition to other information that the SOS may require, the application must contain information outlined in the Code.

Under the bill, for an application submitted by or on behalf of an eligible used dealer license for an original license, the application must include a certification that within the six-month period before the date of the application, the applicant, his or her partners, or his or her principal officers completed a precensure dealer training program. This provision does not apply to an application to renew an eligible used vehicle dealer license and does not apply to an original license that was granted to an eligible used vehicle dealer before, and that was valid on the bill's effective date.

An application submitted by or on behalf of an eligible used vehicle dealer for an original or renewal license must include a certification that each of the dealer's retail sales locations has an employee who has completed a training program for a designated individual and a continuing education training program.

MCL 257.248 et al.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill may have an indeterminate fiscal impact on the Department of State. Currently, the Department does offer dealer training programs; however, they do not meet the bill's requirements. The bill will allow for the Department to approve a qualified trade organization to conduct the trainings but it is unclear as to how the trainings will be funded. The Department has indicated that there is no mechanism in place for it to charge a fee for the trainings.

The cost is indeterminate and will depend on how many additional trainings are required, whether the Department opts to modify the courses it already offers, and whether the Department will choose to contract with a qualified trade organization to conduct the courses. Although the anticipated additional costs should be minimal, additional supplemental funding may be required later in the fiscal year, or additional funding may be included in the next year's annual appropriations.

Fiscal Analyst: Joe Carrasco

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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.