

USED CAR DEALER TRAINING PROGRAMS

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House Bill 5260 as introduced
Sponsor: Rep. Angela Witwer
Committee: Regulatory Reform
Revised 9-27-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5260 would amend the Michigan Vehicle Code to change procedures under which a qualified trade organization can be authorized to conduct certain used vehicle dealer training programs under that act, to authorize the secretary of state to establish an initial and renewal license application fee, and to revise provisions concerning the training programs themselves.

2018 PA 420 amended the code to require the secretary of state to establish the following dealer training programs for eligible used vehicle dealers (those who are licensed or seeking licensure as used vehicle dealers and who are not licensed or seeking licensure as new vehicle dealers):

- A **prelicensure** dealer training program for applicants for an original dealer license. In general, this program must be completed by an applicant for an original (not renewal) eligible used vehicle dealer license, and by each partner or officer of the applicant, in the six-month period before the date of the license application.
- A training program for **designated individuals** (those selected by a licensed dealer to receive the training, such as the dealer or a manager or other employee of the dealer). In general, the selection of a designated individual and completion of this training must take place in the 90-day period after the license is issued.
- A **continuing education** training program, which must be completed by a designated individual at least once in every 24-month period after the license is issued.

Under 2018 PA 420, the three training programs described above could be conducted by the Department of State (DOS) and, respectively, by a **qualified trade organization** approved by DOS (for a prelicensure program); by another person designated by the secretary of state (for a designated individual program); or by a **qualified trade organization** approved by DOS after evaluation and approval (for a continuing education program).

Qualified trade organization means a bona fide nonprofit membership 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.

The bill would eliminate these various provisions and instead establish a procedure, applicable to all three training programs, under which a qualified trade organization (as defined above) could be approved by DOS to conduct a training program.

Under the bill, a dealer could satisfy the act's prelicensure, dedicated individual, or continuing education training requirements through a training program conducted either by DOS or by a qualified trade organization approved by DOS. The training programs could be conducted online or by other electronic means.

A qualified trade organization could apply to DOS for approval to conduct a training program and could not conduct a training program without that approval. DOS would have to develop and make available an application form no later than 30 days after the bill took effect.

DOS would also have to establish an application procedure for a qualified trade organization to obtain approval to conduct a training program. The procedure would have to include all of the following requirements:

- Documentation needed to establish that the applicant is a qualified trade organization.
- A training program plan or curriculum for each training program the qualified trade organization intends to conduct.
- Any other information or requirements DOS considers necessary.

DOS could charge an initial application fee of up to \$500 and an application renewal fee of up to 50% of the initial application fee. DOS would have to approve or deny an application in writing no later than 30 days after receiving it, stating the reasons for a denial. An applicant could resubmit an application, correcting the deficiencies identified by DOS in the denial letter. DOS would have 10 business days to review a resubmitted application and either approve or deny it. The denial of a resubmitted application would have to be in writing to the applicant, and the applicant would once again have an opportunity to correct any deficiencies identified in the denial letter.

If an approved qualified trade organization failed to comply with the requirements of the training programs, DOS could, after a hearing, suspend or revoke its approval.

Other changes

Currently, the preclosure dealer training program must be offered at least twice each calendar quarter. The bill would eliminate this requirement. (However, the designated individual and continuing education training programs would still have to be offered or conducted, respectively, at least twice quarterly.)

Currently, the preclosure and designated individual training programs can be conducted online or electronically if approved by DOS. The bill would allow all of the training programs to be conducted online or by other electronic means.

Currently, for the preclosure and continuing education training programs, DOS can consult with other departments to evaluate and *approve* course content it considers appropriate. The bill would authorize DOS, for all three training programs, to consult with other departments to evaluate and *develop* course content it considers appropriate.

The act currently stipulates that an eligible used vehicle dealer (to whom the training requirements apply) does not include a person who is licensed or seeking licensure as a new vehicle dealer. The bill would specify that an eligible used vehicle dealer does not include an owner, partner, corporate officer, or director of a licensed new vehicle dealer or a person seeking licensure as an owner, partner, corporate officer, or director of a new vehicle dealer.

DOS could promulgate rules and procedures to implement the bill.

The bill would take effect 60 days after being enacted.

MCL 257.248I

BACKGROUND:

House Bill 5260 is similar to Senate Bill 659 of the 2019-20 legislative session. That bill was passed by both legislative chambers and enrolled, but was subsequently vetoed. In her veto message, Governor Whitmer highlighted the additional administrative burdens the bill would put on the Department of State and that the department would be prohibited from collecting fees to pay for the bill's mandates. In addition, she wrote that the bill would undermine "the department's ability to monitor the quality and efficacy of the proposed program" by providing "excessively brief deadlines for application review." However, the governor expressed a willingness to work with the legislature in designing a "workable structure that allows third-parties to conduct used automobile dealerships preclearance trainings."

FISCAL IMPACT:

The bill would result in an increase in administrative duties for DOS that could lead to the need for an additional staff member and an undetermined annual cost that would depend on the number of applicants and fee revenue it receives. The bill would require DOS to establish an application process by which third-party qualified trade organizations could apply for approval to conduct used vehicle dealer training programs. Current law is permissive regarding third-party training, and DOS does not currently utilize any qualified trade organizations for its used vehicle dealer training programs. All dealer training programs are currently administered through DOS's Business Compliance and Regulation Division. The bill would effectively require the use of qualified trade organizations for training. The approval of third-party organizations for training would require DOS to oversee these trainers' curriculum and training services. These responsibilities would be in addition to those necessary for continuing the DOS-administered training programs.

The bill would allow DOS to charge an initial application fee of \$500 and a renewal fee of up to \$250 to help cover the costs of administering the program. DOS has reported that these duties would require an additional FTE position at a cost of approximately \$150,000 a year. If so, 300 applicants would need to submit the initial application fee to offset the administrative costs of the program in the first year, as well as new initial applicants, in addition to renewal applicants, in each subsequent year to offset annual costs. DOS has not provided an estimate for the number of applicants or fee revenue it would anticipate receiving but does not believe the fees would cover the department's costs. A search for authorized third-party vehicle dealer training providers in other states found, for the state of California, 48 approved providers. Figures for other states were not available at the time of this analysis.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.