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TITLE TRANSFER OF DAMAGED VEHICLE



**House
Legislative
Analysis
Section**

Mich. State Law Library

House Bills 5234 and 5312 as enrolled
Second Analysis (7-16-90)

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

Sponsor: Rep. Gregory E. Pitoniak
House Committee: Transportation
Senate Committee: Commerce & Technology

THE APPARENT PROBLEM:

The Michigan Vehicle Code provides a procedure for insurance companies to follow when a vehicle they insure is severely damaged. The act specifies that if an insurance company acquires ownership of such a damaged vehicle by paying for the damages (when the owner exercises a claim), that it then must apply to the secretary of state for a salvage certificate of title. In some cases, however, the original owner may wish to keep the damaged vehicle even though the insurer has "totaled" it. Some people feel legislation is needed to clarify this procedure and to specify the responsibilities of both the owner of a damaged vehicle to surrender the original title to the insurance company and the insurance company to acquire the vehicle through payment of damages and apply for a salvage title in such situations. According to a Department of State spokesperson, an insurance company that acquires a salvage title from the secretary of state in such a case is exempt from having to pay use tax — generally, a tax levied in lieu of sales tax for the privilege of using, storing, or consuming certain new or used vehicles — on the transfer. Some feel the use tax exemption should be extended to the original owner of a vehicle who wishes to "reacquire" (essentially, maintain the ownership of) a totaled vehicle which the insurer otherwise would have acquired in fulfilling a damage claim.

THE CONTENT OF THE BILL:

The bills would clarify a procedure that an insurance company must follow to acquire a "distressed vehicle" (i.e. a severely damaged vehicle) that it insured, and to provide that the method through which an insurance company acquired such a vehicle — whether through transfer or purchase — would be exempt from use tax. The bills are tie-barred to each other and would take effect January 1, 1991.

House Bill 5234 would amend the Vehicle Code (MCL 257.12a, 257.56a, and 257.217c) to specify that if an insurance company determined that a late model vehicle (generally, one which is less than six years old) which the company insured became "distressed," the owner of the vehicle would have to assign the certificate of title to the company who would acquire ownership of the vehicle through the payment of damages and apply for a salvage certificate of title from the secretary of state.

House Bill 5312 would amend the Use Tax Act (MCL 205.93) to specify that when an insurance company acquired ownership of a late model distressed vehicle through payment of damages in response to a claim or when the person who owned the vehicle before the insurance company owned it reacquired ownership from the company as part of the settlement of a claim, the transfer or purchase would not be subject to use tax.

FISCAL IMPLICATIONS:

According to the Department of State, the bill would not affect state budget expenditures. (1-31-90)

ARGUMENTS:

For:

The bill simply would clarify a procedure involving the transfer of title ownership of a damaged vehicle between the owner of the vehicle and the vehicle owner's insurance company. The act currently assumes that the insurer will, in all cases, acquire a totaled vehicle from the owner and that the owner will be willing to assign the title certificate to the insurer. In some cases, however, the original owner may choose to keep a badly damaged vehicle for salvage purposes, or because he or she feels repairing the vehicle may be more feasible than buying a new one. The bills would provide the owner the option to retain such a damaged vehicle, and would also grant owners who did "reacquire" a damaged vehicle from an insurer after a claim on the vehicle has already been exercised (where title ownership would essentially remain with the original owner) an exemption from the use tax act. Such an exemption is currently extended to insurers who obtain salvage titles on such vehicles from the secretary of state. House Bill 5234, however, would clarify the responsibility of the owner to surrender the title to the insurer so that the insurer can then use the original title for applying for a salvage title from the secretary of state.

H.B.s 5234 & 5312 (7-16-90)