

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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House Bill 5234 (Substitute S-1 as reported)
House Bill 5312 (as reported without amendment)
Sponsor: Representative Gregory E. Pitoniak
House Committee: Transportation
Senate Committee: Commerce and Technology

JUN 28 1990

Date Completed: 5-2-90

RATIONALE

The Michigan Vehicle Code specifies that if an insurance company acquires ownership of a severely damaged vehicle by paying for the damages (when the owner exercises a claim), the insurer then must apply to the Secretary of State for a salvage certificate of title. Sometimes, however, the original owner may wish to keep the damaged vehicle even though the insurer considers it to have been "totaled". In such a case, the insurer subtracts the value of the totaled vehicle from the payment to the insured and does not apply for a salvage title. 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 these situations.

Further, according to the Department of State, 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 on the transfer. (The use tax is a tax levied in lieu of sales tax for the privilege of using, storing, or consuming certain tangible personal property such as new or used vehicles, or services such as telephone and telegraph services or lodging at hotels and motels.) 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 that the insurer otherwise would have acquired in fulfilling a damage claim.

CONTENT

The bills would require the owner of a late model distressed (severely damaged) vehicle to assign the certificate of title to the insurance company that insured the vehicle, and would create a use tax exemption for the transfer or purchase of a late model distressed vehicle. The bills are tie-barred and would take effect January 1, 1991.

House Bill 5234 (S-1)

The bill would amend the Michigan Vehicle Code to specify that if an insurance company determined that a late model vehicle (generally, one that is less than six years old) insured by the company became "distressed", the owner of the vehicle would have to assign the certificate of title to the company, which would have to 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

The bill would amend the Use Tax Act 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.

MCL 257.217c (House Bill 5234)
205.93 (House Bill 5312)

H.B. 5234 & 5312 (5-2-90)

SENATE COMMITTEE ACTION

The Senate Committee adopted a substitute to House Bill 5234 to delete a provision in the House-passed version of the bill that would have required an owner to apply for a salvage title certificate before selling or transferring a distressed vehicle to a person other than an insurance company or dealer.

FISCAL IMPACT

House Bill 5234 (S-1)

According to the Department of State, the bill would result in an insignificant increase in revenues collected by the Department.

House Bill 5312

Although the transactions required by House Bill 5234 would be subject to the use tax, House Bill 5312 would exempt them from that tax. Together, the bills would have no fiscal impact on the State.

ARGUMENTS

Supporting Argument

House Bill 5234 (S-1) simply would clarify a procedure involving the transfer of title ownership of a damaged vehicle between the owner of the vehicle and his or her insurance company. The Code 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 that repairing the vehicle may be more feasible than buying a new one. The bills would give the owner the option to retain such a damaged vehicle, and also would grant an exemption from the use tax to owners who did "reacquire" a damaged vehicle from an insurer after a claim on the vehicle had already been exercised (in which case title ownership would essentially remain with the original owner). Such an exemption is currently extended to insurers who obtain salvage titles on such vehicles from the Secretary of State. House Bill 5234 (S-1), however, would clarify the responsibility of the owner to surrender the title to the insurer so that the insurer then

could use the original title for applying for a salvage title from the Secretary of State. It is important that such a transaction actually be made and documented with the State to ensure that damaged vehicles were not put back on the streets without having passed a safety inspection, which is required under the Code before salvage vehicles can be driven. In addition, the issuance of salvage titles creates a record of damage to a vehicle and assists in auto theft prevention records since, under the law's salvage title provisions, records must be kept on major component parts acquired or sold by dealers who dismantle or rebuild salvage vehicles.

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H8990/S5234A

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