

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5364

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 222, 240, 252g, and 907 (MCL 257.222,
257.240, 257.252g, and 257.907), section 222 as amended by 2002
PA 642, section 240 as amended by 1999 PA 267, section 252g as
added by 1981 PA 104, and section 907 as amended by 2004 PA 62,
and by adding sections 252i, 252j, 252k, 252l, and 252m.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 222. (1) Except as otherwise provided in this act, the
2 secretary of state shall issue a registration certificate and a
3 certificate of title when registering a vehicle upon receipt of
4 the required fees. The secretary of state shall issue a flood,
5 rebuilt, rebuilt salvage, salvage, or scrap certificate of title
6 for a vehicle brought into this state from another state or
7 jurisdiction that has a flood, rebuilt, salvage, or scrap

1 certificate of title issued by that other state or jurisdiction.

2 (2) The secretary of state shall deliver the registration
3 certificate to the owner. The certificate shall contain on its
4 face the date issued, the name and address of the owner, the
5 registration number assigned to the vehicle, and a description of
6 the vehicle as determined by the secretary of state.

7 (3) The certificate of title shall be manufactured in a
8 manner to prohibit as nearly as possible the ability to
9 reproduce, alter, counterfeit, forge, or duplicate the
10 certificate of title without ready detection. The certificate
11 shall contain **all of the following** on its face: ~~the~~

12 (a) **The** identical information required on the face of the
13 registration certificate. ~~if~~

14 (b) **If** the vehicle is a motor vehicle, the number of miles,
15 not including the tenths of a mile, registered on the vehicle's
16 odometer at the time of transfer. ~~whether~~

17 (c) **Whether** the vehicle is to be used or has been used as a
18 taxi, as a police vehicle, or by a political subdivision of this
19 state, unless the vehicle is owned by a dealer and loaned or
20 leased to a political subdivision of this state for use as a
21 driver education vehicle. ~~whether~~

22 (d) **Whether** the vehicle is a salvage vehicle. ~~if~~

23 (e) **If** the vehicle has previously been issued a rebuilt
24 certificate of title from this state or a comparable certificate
25 of title from any other state or jurisdiction. ~~if~~

26 (f) **Whether** the vehicle has been issued a scrap certificate
27 of title from this state or a comparable certificate of title

1 from any other state or jurisdiction. ~~→if~~

2 (g) **Whether** the vehicle is a flood vehicle or has previously
3 been issued a flood certificate of title from this state or any
4 other state or jurisdiction. ~~→if~~

5 (h) **Whether** the owner or co-owner or lessee or co-lessee of
6 the vehicle is subject to registration denial under
7 section 219(1) (d). ~~→a~~

8 (i) **A** statement of the owner's title and of all security
9 interests in the vehicle or in an accessory on the vehicle as set
10 forth in the application. ~~→the~~

11 (j) **The** date that the application was filed. ~~→and any~~

12 (k) **Any** other information that the secretary of state may
13 require.

14 (4) The certificate of title shall contain a form for
15 assignment of title or interest and warranty of title by the
16 owner with space for the notation of a security interest in the
17 vehicle and in an accessory on the vehicle, which at the time of
18 a transfer shall be certified and signed, and space for a written
19 odometer mileage statement that is required upon transfer
20 pursuant to section 233a. **The certificate of title shall include**
21 **a description of the proper procedure for transferring the title**
22 **of a motor vehicle and for maintaining records of that transfer**
23 **as provided under this act.** The certificate of title may also
24 contain other forms that the secretary of state considers
25 necessary to facilitate the effective administration of this
26 act. The certificate shall bear the coat of arms of this state.

27 (5) The secretary of state shall mail or deliver the

1 certificate of title to the owner or other person **as** the owner
2 may direct in a separate instrument, in a form prescribed by the
3 secretary of state.

4 (6) A person who intentionally reproduces, alters,
5 counterfeits, forges, or duplicates a certificate of title or who
6 uses a reproduced, altered, counterfeited, forged, or duplicated
7 certificate of title shall be punished as follows:

8 (a) If the intent of reproduction, alteration,
9 counterfeiting, forging, duplication, or use was to commit or aid
10 in the commission of an offense punishable by imprisonment for 1
11 or more years, the person committing the reproduction,
12 alteration, counterfeiting, forging, duplication, or use is
13 guilty of a misdemeanor, punishable by imprisonment for a period
14 equal to that which could be imposed for the commission of the
15 offense the person had the intent to aid or commit. The court
16 may also assess a fine of not more than \$10,000.00 against the
17 person.

18 (b) If the intent of the reproduction, alteration,
19 counterfeiting, forging, duplication, or use was to commit or aid
20 in the commission of an offense punishable by imprisonment for
21 not more than 1 year, the person committing the reproduction,
22 alteration, counterfeiting, forging, duplication, or use is
23 guilty of a misdemeanor, punishable by imprisonment for not more
24 than 1 year, or a fine of not more than \$1,000.00, or both.

25 (7) The certificate of title for a police vehicle, a vehicle
26 owned by a political subdivision of this state, a salvage
27 vehicle, a rebuilt vehicle, a scrap vehicle, or a flood vehicle

1 shall be different in color from the certificate of title for all
2 other vehicles unless the vehicle is loaned or leased to a
3 political subdivision of this state for use as a driver education
4 vehicle.

5 (8) A scrap certificate of title shall contain a legend that
6 the vehicle is not to be titled or registered and is to be used
7 for parts or scrap metal only.

8 (9) A certificate of title shall not be issued for a vehicle
9 that has had a salvage certificate of title unless the
10 certificate of title contains the legend "rebuilt salvage".

11 Sec. 240. (1) The owner of a motor vehicle who has made a
12 bona fide sale by transfer of his or her title or interest and
13 who has delivered possession of the vehicle and the certificate
14 of title ~~thereto~~ **to that vehicle** properly endorsed to the
15 purchaser or transferee ~~shall~~ **is** not ~~be~~ liable for any
16 damages or a violation of law ~~thereafter resulting~~ **that**
17 **subsequently results** from the use or ownership of the vehicle by
18 another, **if the owner, other than a licensed dealer, satisfies**
19 **the conditions prescribed under subsection (2).**

20 (2) The owner of a motor vehicle, other than a licensed
21 dealer, shall satisfy 1 of the following conditions:

22 (a) Accompany the purchaser of the vehicle to a secretary of
23 state branch office to assure that the title of the vehicle being
24 sold is transferred.

25 (b) Maintain a record of the sale for not less than 18
26 months. As used in this subdivision, "record of the sale" means
27 either a photocopy of the reassigned title or a form or document

1 that includes the name, address, driver license number, and
2 signature of the person to whom the vehicle is sold and the
3 purchase price and date of sale of the vehicle.

4 (3) A person who violates subsection (2) is responsible for a
5 civil infraction and shall be ordered to pay a civil fine of
6 \$15.00.

7 (4) A person who violates subsection (2) is presumed to be
8 the last titled owner and to be liable for towing fees and daily
9 storage fees for an abandoned motor vehicle.

10 Sec. 252g. (1) ~~A~~ Subject to section 252a(16), a public
11 sale for a vehicle ~~which~~ and its contents that has been
12 ~~deemed~~ determined to be abandoned under section 252a ~~or 252e~~
13 or removed under section 252d shall be conducted in the following
14 manner:

15 (a) It shall be under the control of the police agency or
16 ~~agent of the police agency~~ agency's designee or the custodian
17 of the vehicle or the custodian's designee.

18 (b) It shall be open to the public and consist of open
19 auction bidding or bidding by sealed bids. If sealed bids are
20 received, the person submitting the bid shall receive a receipt
21 for the bid from the police agency or ~~agent of the police~~
22 ~~agency~~ agency's designee or, if the vehicle is being sold under
23 section 252a(16), the custodian of the vehicle.

24 (c) Except as otherwise provided ~~by~~ in sections ~~252a(9)~~
25 252a(17) and ~~252d(7)~~ 252b(7), it shall be held not less than 5
26 days after public notice of the sale has been published.

27 (d) The public notice shall be published at least once in a

1 newspaper having a general circulation within the county in which
2 the vehicle was abandoned. The public notice shall give a
3 description of the vehicle for sale and shall state the time,
4 date, and location of the sale.

5 (2) The money received from the public sale of the vehicle
6 shall be applied in the following order of priority:

7 (a) Towing and storage charges.

8 (b) Expenses incurred by the police agency **or the custodian**
9 **of the vehicle.**

10 (c) **Payment of the \$40.00 abandoned vehicle fee described in**
11 **section 252f(3)(a).**

12 (d) **Any extra money shall be sent to the department of**
13 **treasury's unclaimed property division to be disbursed as**
14 **follows:**

15 (i) ~~—(e)—~~ To the secured party, if any, in the amount of the
16 debt outstanding on the vehicle.

17 (ii) ~~—(d)—~~ Remainder to the owner. A reasonable attempt
18 shall be made to mail the remainder to the ~~—registered—~~ **last**
19 **titled** owner. If delivery of the remainder cannot be
20 accomplished, the remainder shall become the property of the unit
21 of government ~~—that the police agency represents—~~ **governing the**
22 **location from which the vehicle was towed.**

23 (3) If there are no bidders on the vehicle, the police agency
24 **or the custodian of the vehicle** may do 1 of the following:

25 (a) Turn the vehicle over to the towing firm **or the custodian**
26 **of the vehicle** to satisfy charges against the vehicle. **However,**
27 **if the value of the vehicle does not satisfy the towing fees and**

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1 accrued daily storage fees, the custodian of the vehicle may
2 collect the balance of those unpaid fees from the last titled
3 owner, subject to section 252i.

4 (b) Obtain title to the vehicle for the police agency or the
5 unit of government the police agency represents, by doing the
6 following:

7 (i) Paying the towing and storage charges.

8 (ii) Applying for title to the vehicle.

9 (c) Hold another public sale ~~pursuant to~~ **under** subsection
10 (1).

11 (4) A person who acquires ownership of a vehicle under
12 subsection (1) or (3) ~~, which vehicle~~ **that** has been designated
13 as a distressed vehicle ~~, shall make application~~ **apply** for a
14 salvage certificate of title within 15 days after obtaining the
15 vehicle.

16 (5) Upon disposition of the vehicle, the police agency shall
17 **provide the secretary of state with the vehicle's disposition and**
18 **the name of the agency that disposed of it and shall** cancel the
19 entry ~~into~~ **in** the law enforcement information network.

20 **Sec. 252i. (1) A towing service, custodian of a vehicle, or**
21 **both, shall not be precluded from the recovery of towing fees or,**
22 **subject to subsection (2), storage fees from the last titled**
23 **owner of a vehicle deemed abandoned under section 252a or section**
24 **252b, or removed under section 252d.**

25 (2) If a vehicle is released for disposition under section
26 252b or section 252g <<

27

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1 >>, the amount of storage fees that may be
2 collected is whichever 1 of the following is the least amount:

3 (a) The daily storage rate established by contract or
4 agreement with the law enforcement agency or unit of government
5 that authorized the towing and storage of the vehicle.

6 (b) The daily storage rate charged by the storage facility.

7 (c) \$1,000.00.

8 (3) Subsection (2) does not apply to a commercial vehicle or
9 to a vehicle that is owned or leased by an entity other than an
10 individual.

11 Sec. 252j. Sections 252a and 252b do not apply to a vehicle
12 that is owned by the same person who owns the private real
13 property on which the vehicle is located and do not prohibit or
14 preempt a local unit of government from regulating the number and
15 placement of vehicles on private property.

16 Sec. 252k. Except as otherwise provided in section 252l, an
17 owner or lessor of private real property shall post a notice that
18 meets all of the following requirements before authorizing the
19 towing or removal of a vehicle from the real property without the
20 consent of the owner or other person who is legally entitled to
21 possess the vehicle:

22 (a) The notice shall be prominently displayed at a point of
23 entry for vehicular access to the real property. If the real
24 property lacks curbs or access barriers, not less than 1 notice
25 shall be posted for each 100 feet of road frontage.

26 (b) The notice clearly indicates in letters not less than 2
27 inches high on a contrasting background that unauthorized

1 vehicles will be towed away at the owner's expense.

2 (c) The notice provides the name and telephone number of the
3 towing service responsible for towing or removing vehicles from
4 that property.

5 (d) The notice is permanently installed with the bottom of
6 the notice located not less than 4 feet from the ground and is
7 continuously maintained on the property for not less than 24
8 hours before a vehicle is towed or removed.

9 Sec. 252l. Section 252k does not apply to either of the
10 following:

11 (a) Real property that is appurtenant to and obviously part
12 of a single- or dual-family residence.

13 (b) An instance when notice is personally given to the owner
14 or other legally entitled person in control of a vehicle that the
15 area where the vehicle is parked is reserved or otherwise
16 unavailable to unauthorized vehicles and that the vehicle is
17 subject to towing or removal from the private real property
18 without the consent of the owner or other legally entitled person
19 in control of the vehicle.

20 Sec. 252m. For a period of 1 year beginning on the effective
21 date of the amendatory act that added this section, the secretary
22 of state shall insert notification of the civil fines and
23 sanctions that may be imposed for the violation of sections 240
24 and 252a(1) into all mailings concerning motor vehicle
25 registration renewal notices and new vehicle title documents.

26 Sec. 907. (1) A violation of this act, or a local ordinance
27 substantially corresponding to a provision of this act, that is

1 designated a civil infraction shall not be considered a lesser
2 included offense of a criminal offense.

3 (2) If a person is determined pursuant to sections 741 to 750
4 to be responsible or responsible "with explanation" for a civil
5 infraction under this act or a local ordinance substantially
6 corresponding to a provision of this act, the judge or district
7 court magistrate may order the person to pay a civil fine of not
8 more than \$100.00 and costs as provided in subsection (4).
9 However, for a violation of section 674(1)(s) or a local
10 ordinance substantially corresponding to section 674(1)(s), the
11 person shall be ordered to pay costs as provided in subsection
12 (4) and a civil fine of not less than \$100.00 or more than
13 \$250.00. For a violation of section 328, the civil fine ordered
14 under this subsection shall be not more than \$50.00. For a
15 violation of section 710d, the civil fine ordered under this
16 subsection shall not exceed \$10.00. For a violation of section
17 710e, the civil fine and court costs ordered under this
18 subsection shall be \$25.00. For a violation of section 682 or a
19 local ordinance substantially corresponding to section 682, the
20 person shall be ordered to pay costs as provided in subsection
21 (4) and a civil fine of not less than \$100.00 or more than
22 \$500.00. **For a violation of section 240, the civil fine ordered**
23 **under this subsection shall be \$15.00. For a violation of**
24 **section 252a(1), the civil fine ordered under this subsection**
25 **shall be \$50.00.** Permission may be granted for payment of a civil
26 fine and costs to be made within a specified period of time or in
27 specified installments, but unless permission is included in the

1 order or judgment, the civil fine and costs shall be payable
2 immediately.

3 (3) Except as provided in this subsection, if a person is
4 determined to be responsible or responsible "with explanation"
5 for a civil infraction under this act or a local ordinance
6 substantially corresponding to a provision of this act while
7 driving a commercial motor vehicle, he or she shall be ordered to
8 pay costs as provided in subsection (4) and a civil fine of not
9 more than \$250.00. If a person is determined to be responsible
10 or responsible "with explanation" for a civil infraction under
11 section 319g or a local ordinance substantially corresponding to
12 section 319g, that person shall be ordered to pay costs as
13 provided in subsection (4) and a civil fine of not more than
14 \$10,000.00.

15 (4) If a civil fine is ordered under subsection (2) or (3),
16 the judge or district court magistrate shall summarily tax and
17 determine the costs of the action, which are not limited to the
18 costs taxable in ordinary civil actions, and may include all
19 expenses, direct and indirect, to which the plaintiff has been
20 put in connection with the civil infraction, up to the entry of
21 judgment. Costs shall not be ordered in excess of \$100.00. A
22 civil fine ordered under subsection (2) or (3) shall not be
23 waived unless costs ordered under this subsection are waived.
24 Except as otherwise provided by law, costs are payable to the
25 general fund of the plaintiff.

26 (5) In addition to a civil fine and costs ordered under
27 subsection (2) or (3) and subsection (4) and the justice system

1 assessment ordered under subsection (14), the judge or district
2 court magistrate may order the person to attend and complete a
3 program of treatment, education, or rehabilitation.

4 (6) A district court magistrate shall impose the sanctions
5 permitted under subsections (2), (3), and (5) only to the extent
6 expressly authorized by the chief judge or only judge of the
7 district court district.

8 (7) Each district of the district court and each municipal
9 court may establish a schedule of civil fines, costs, and
10 assessments to be imposed for civil infractions that occur within
11 the respective district or city. If a schedule is established,
12 it shall be prominently posted and readily available for public
13 inspection. A schedule need not include all violations that are
14 designated by law or ordinance as civil infractions. A schedule
15 may exclude cases on the basis of a defendant's prior record of
16 civil infractions or traffic offenses, or a combination of civil
17 infractions and traffic offenses.

18 (8) The state court administrator shall annually publish and
19 distribute to each district and court a recommended range of
20 civil fines and costs for first-time civil infractions. This
21 recommendation is not binding upon the courts having jurisdiction
22 over civil infractions but is intended to act as a normative
23 guide for judges and district court magistrates and a basis for
24 public evaluation of disparities in the imposition of civil fines
25 and costs throughout the state.

26 (9) If a person has received a civil infraction citation for
27 defective safety equipment on a vehicle under section 683, the

1 court shall waive a civil fine, costs, and assessments upon
2 receipt of certification by a law enforcement agency that repair
3 of the defective equipment was made before the appearance date on
4 the citation.

5 (10) A default in the payment of a civil fine or costs
6 ordered under subsection (2), (3), or (4) or a justice system
7 assessment ordered under subsection (14), or an installment of
8 the fine, costs, or assessment, may be collected by a means
9 authorized for the enforcement of a judgment under chapter 40 of
10 the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to
11 600.4065, or under chapter 60 of the revised judicature act of
12 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

13 (11) If a person fails to comply with an order or judgment
14 issued pursuant to this section — within the time prescribed by
15 the court, the driver's license of that person shall be suspended
16 pursuant to section 321a until full compliance with that order or
17 judgment occurs. In addition to this suspension, the court may
18 also proceed under section 908.

19 (12) The court shall waive any civil fine, cost, or
20 assessment against a person who received a civil infraction
21 citation for a violation of section 710d if the person, before
22 the appearance date on the citation, supplies the court with
23 evidence of acquisition, purchase, or rental of a child seating
24 system meeting the requirements of section 710d.

25 (13) Until October 1, 2003, in addition to any civil fines
26 and costs ordered to be paid under this section, the judge or
27 district court magistrate shall levy an assessment of \$5.00 for

1 each civil infraction determination, except for a parking
2 violation or a violation for which the total fine and costs
3 imposed are \$10.00 or less. An assessment paid before October 1,
4 2003 shall be transmitted by the clerk of the court to the state
5 treasurer to be deposited into the Michigan justice training
6 fund. An assessment ordered before October 1, 2003 but collected
7 on or after October 1, 2003 shall be transmitted by the clerk of
8 the court to the state treasurer for deposit in the justice
9 system fund created in section 181 of the revised judicature act
10 of 1961, 1961 PA 236, MCL 600.181. An assessment levied under
11 this subsection is not a civil fine for purposes of section 909.

12 (14) Effective October 1, 2003, in addition to any civil
13 fines or costs ordered to be paid under this section, the judge
14 or district court magistrate shall order the defendant to pay a
15 justice system assessment of \$40.00 for each civil infraction
16 determination, except for a parking violation or a violation for
17 which the total fine and costs imposed are \$10.00 or less. Upon
18 payment of the assessment, the clerk of the court shall transmit
19 the assessment collected to the state treasury to be deposited
20 into the justice system fund created in section 181 of the
21 revised judicature act of 1961, 1961 PA 236, MCL 600.181. An
22 assessment levied under this subsection is not a civil fine for
23 purposes of section 909.

24 (15) If a person has received a citation for a violation of
25 section 223, the court shall waive any civil fine, costs, and
26 assessment, upon receipt of certification by a law enforcement
27 agency that the person, before the appearance date on the

1 citation, produced a valid registration certificate that was
2 valid on the date the violation of section 223 occurred.

3 (16) If a person has received a citation for a violation of
4 section 328(1) for failing to produce a certificate of insurance
5 pursuant to section 328(2), the court may waive the fee described
6 in section 328(3)(c) and shall waive any fine, costs, and any
7 other fee or assessment otherwise authorized under this act upon
8 receipt of verification by the court that the person, before the
9 appearance date on the citation, produced valid proof of
10 insurance that was in effect at the time the violation of section
11 328(1) occurred. Insurance obtained subsequent to the time of
12 the violation does not make the person eligible for a waiver
13 under this subsection.

14 Enacting section 1. This amendatory act takes effect
15 October 1, 2005.

16 Enacting section 2. This amendatory act does not take
17 effect unless House Bill No. 4231 of the 92nd Legislature is
18 enacted into law.