

ELIMINATE TEMPORARY PLATES FOR A VEHICLE USED IN A VIOLATION REQUIRING IMMOBILIZATION

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House Bill 4239 as reported from committee

Sponsor: Mike Mueller

Committee: Judiciary

Complete to 5-19-22

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

SUMMARY:

House Bill 4239 would amend the Michigan Vehicle Code to eliminate the requirement that a vehicle be issued a temporary license plate while a violation of law committed by its driver is adjudicated that upon conviction would result in the vehicle's immobilization.

Currently,¹ a peace officer must do all of the following when he or she detains the driver of a motor vehicle for a violation of a state law or local ordinance for which vehicle immobilization is required:

- Immediately confiscate the vehicle's metal license plate and destroy it.
- Issue a temporary paper license plate for the vehicle in a form prescribed by the secretary of state (SOS) and put it on the vehicle in the manner the SOS requires.
- Notify the SOS through the Law Enforcement Information Network (LEIN) that the metal plate was confiscated and destroyed and a temporary plate was issued.

The temporary plate is valid until the charges against the driver are dismissed, he or she pleads guilty or nolo contendere to them, or he or she is found guilty or acquitted of them.

The SOS cannot issue a registration for a vehicle that has been issued a temporary license plate as described above until either the violation is adjudicated or the vehicle is transferred to a person who is subject to payment of use tax under the Use Tax Act (that is, someone who is not a member of the owner's family).

The registration records of the SOS must show vehicles assigned a temporary plate as described above.

The bill would instead require a peace officer who detains the driver of a motor vehicle for a violation of a state law or a local ordinance for which vehicle immobilization is required to immediately confiscate the vehicle's metal plate and destroy it and notify the SOS through LEIN that the vehicle must be recorded as immobilized under the Vehicle Code.

The SOS could not issue a registration for a vehicle immobilized under the above provisions until the underlying violation was adjudicated or the vehicle transferred to a person who is not a member of the owner's family.

MCL 257.219, 257.904c, and 257.904f

¹ See: https://www.michigan.gov/sos/0,4670,7-127-1627_8665_9076-31038--,00.html

BACKGROUND:

Under the Vehicle Code, vehicle immobilization generally refers to the physical prevention of a vehicle's movement that is ordered by a court after a conviction or civil infraction determination for certain violations. It involves, in the language of section 904e, "any available technology approved by the court that locks the ignition, wheels, or steering of the vehicle or otherwise prevents any person from operating the vehicle or that prevents the defendant from operating the vehicle."²

Section 904d³ allows a court to order vehicle immobilization if either of the following apply:

- The defendant is the owner, co-owner, lessee, or co-lessee of the vehicle operated during the violation.
- The owner, co-owner, lessee, or co-lessee knowingly permitted the vehicle to be operated in violation of section 625(2) or section 904(2), regardless of whether a conviction resulted.

Section 904d lists violations for which vehicle immobilization either may be or must be ordered by a court after a conviction or civil infraction determination. Whether immobilization is allowed or required to be ordered, and how long it will last, depends on the violation and whether there are prior convictions. Under section 904d, the court *must* order vehicle immobilization as follows:

- For a conviction under section 625(4) or (5) with no prior convictions, the court must order vehicle immobilization for up to 180 days.
- For a conviction under section 625(1), (3), (4), (5), (7), or (8) within seven years after a prior conviction or for a conviction under section 625(2), the court must order vehicle immobilization for at least 90 days and up to 180 days.
- For a conviction under section 625(1), (3), (4), (5), (7), or (8) after two or more prior convictions, the court must order vehicle immobilization for at least one year and up to three years.
- For a conviction or civil infraction determination resulting from a violation that occurred during a period of license suspension, revocation, or denial, the following apply:
 - Except as provided below, if the person is convicted under section 904(4) or (5), the court must order vehicle immobilization for up to 180 days.
 - For any combination of two or three prior suspensions, revocations, or denials under section 904(10), (11), or (12) or former section 904(2) or (4) in the past seven years, the court must order vehicle immobilization for at least 90 days and up to 180 days.
 - For any combination of four or more prior suspensions, revocations, or denials under section 904(10), (11), or (12) or former section 904(2) or (4) in the past seven years, the court must order vehicle immobilization for at least one year and up to three years.

² See <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-257-904e.pdf>

³ See <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-257-904d.pdf>

Note: Section 625 generally concerns drugged and drunk driving,⁴ and section 904 generally concerns driving on a license that was suspended, revoked, or denied.⁵ The term “prior conviction,” as used above, mean a conviction for certain specific offenses that are described in section 904d.

Although it is not listed in section 904d, a court can also order vehicle immobilization when a person is convicted of violating section 626 (reckless driving) and causing the death or serious impairment of a body function of another person through that violation.⁶

Section 904d requires the period of vehicle immobilization to begin after any period of imprisonment that is ordered for the conviction. Other provisions allow for suspension and reinstatement of immobilization under certain circumstances and describe specific vehicles and violations to which immobilization does not apply.

Section 904e contains provisions allowing a court to direct where the vehicle is stored, providing for payment of costs, and restricting a person prohibited from operating a motor vehicle by immobilization from getting another vehicle during that period or circumventing immobilization in other specified ways.

An overview of vehicle immobilization is available from the secretary of state’s website here: https://www.michigan.gov/sos/0,4670,7-127-1627_8665_9076-32399--,00.html

A chart showing immobilization periods for certain violations is available here: https://www.michigan.gov/documents/sos/Immobilization_chart_367823_7.pdf

BRIEF DISCUSSION:

Some believe that the temporary paper plates are too easily destroyed and can be hard to read when out on the road. Supporters of the bill argue that for these reasons they pose risks to other drivers and to police officers. If a person issued a temporary paper plate uses the vehicle during the commission of another crime, it is difficult for citizens and police officers to read the temporary plate to identify the owner of the vehicle. Supporters argue that eliminating the issuance of temporary paper plates would help ensure that the vehicle remains immobilized and free police officers and the secretary of state from having to issue temporary paper plates.

FISCAL IMPACT:

The bill would not have a substantial fiscal impact on the Department of State or on local units of government.

POSITIONS:

The following entities indicated support for the bill:

- Department of State (2-23-21)
- Department of State Police (5-10-22)

⁴ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-257-625.pdf>

⁵ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-257-904.pdf>

⁶ <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-257-626.pdf>

- Prosecuting Attorneys Association of Michigan (2-23-21)
- Criminal Defense Attorneys of Michigan (2-23-21)
- Safe and Just Michigan (2-23-21)
- Michigan Sheriffs Association (5-3-22)

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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.