

HOUSE BILL No. 4596

April 11, 1989, Introduced by Rep. Hollister and referred to the Committee on Transportation.

A bill to amend section 251 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

as amended by Act No. 470 of the Public Acts of 1988, being section 257.251 of the Michigan Compiled Laws; and to add section 251f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 251 of Act No. 300 of the Public Acts of
2 1949, as amended by Act No. 470 of the Public Acts of 1988, being
3 section 257.251 of the Michigan Compiled Laws, is amended and
4 section 251f is added to read as follows:

5 Sec. 251. (1) Each new vehicle dealer and each used vehicle
6 dealer shall maintain a record in form as prescribed by the
7 secretary of state of each vehicle of a type subject to titling

1 under this act which is bought, sold, or exchanged by the dealer
2 or received or accepted by the dealer for sale or exchange.

3 (2) Each record shall contain the date of the purchase,
4 sale, or exchange or receipt for the purpose of sale, a descrip-
5 tion of the vehicle, together with the name and address of the
6 seller, of the purchaser, and of the alleged owner or other per-
7 sons from whom the vehicle was purchased or received, or to whom
8 it was sold or delivered. The record shall contain a copy of all
9 odometer mileage statements received by the dealer upon purchas-
10 ing or acquiring a vehicle and a copy of the odometer mileage
11 statement furnished by the dealer upon sale of a vehicle as pre-
12 scribed in section 233a. A dealer shall retain for not less than
13 5 years each odometer mileage statement the dealer receives and
14 each odometer mileage statement furnished by the dealer upon the
15 sale of a vehicle. The description of the vehicle, in the case
16 of a motor vehicle, shall also include the vehicle identification
17 number, and other numbers or identification marks as may be on
18 the vehicle, and shall also include a statement that a number has
19 been obliterated, defaced, or changed, if that is the fact. For
20 a trailer or semitrailer, the record shall include the vehicle
21 identification number, and other numbers or identification marks
22 as may be on the trailer or semitrailer.

23 (3) Not more than 20 days after the delivery of the vehicle,
24 the seller shall deliver to the buyer in person or mail to the
25 buyer's last known address a duplicate of a written statement, on
26 a form prescribed by the secretary of state in conjunction with
27 the department of treasury, describing clearly the name and

1 address of the seller, the name and address of the buyer, the
2 vehicle sold to the buyer, the cash sale price of the vehicle,
3 the cash paid down by the buyer, the amount credited the buyer
4 for a trade-in, a description of the trade-in, the amount of the
5 finance charge, the amount charged for vehicle insurance, stating
6 the types of insurance covered by the insurance policy, the
7 amount of any other charge specifying its purpose, the net bal-
8 ance due from the buyer, the terms of the payment of the net bal-
9 ance, and a summary of insurance coverage to be affected. The
10 written statement shall be dated, but it shall not be dated later
11 than the actual date of delivery of the vehicle to the buyer.
12 The original and all copies of the prescribed form shall contain
13 identical information. The statement shall be furnished by the
14 seller, shall be signed by the seller or the seller's agent and
15 by the buyer, and shall be filed with the application for new
16 title or registration. Failure of the seller to deliver this
17 written statement to the buyer shall not invalidate the sale
18 between the seller and the buyer.

19 (4) A retail vehicle sale shall be void unless the
20 ~~following~~ conditions SET FORTH IN SECTION 251F are met. →

21 ~~(a) The sale is evidenced by a written memorandum which con-~~
22 ~~tains the agreement of the parties and is signed by the buyer and~~
23 ~~the seller or the seller's agent.~~

24 ~~(b) The agreement contains a place for acknowledgment, by~~
25 ~~the buyer, of the receipt of a copy of the agreement or actual~~
26 ~~delivery of the vehicle is made to the buyer.~~

1 (5) Each dealer record and inventory, including the record
2 and inventory of a vehicle scrap metal processor not required to
3 obtain a dealer license, shall be open to inspection by a police
4 officer or an authorized officer or investigator of the secretary
5 of state during reasonable or established business hours.

6 (6) A dealer licensed as a distressed vehicle transporter
7 shall maintain records in a form as prescribed by the secretary
8 of state. The records shall identify each distressed vehicle
9 which is bought, acquired, and sold by the dealer. The record
10 shall identify the person from whom a distressed vehicle was
11 bought or acquired and the dealer to whom the vehicle was sold.
12 The record shall indicate whether a certificate of title or sal-
13 vage certificate of title was obtained by the dealer for each
14 vehicle.

15 (7) A dealer licensed as a vehicle salvage pool operator or
16 broker shall maintain records in a form as prescribed by the sec-
17 retary of state. The records shall contain a description of each
18 vehicle stored by the dealer, the insurance company storing the
19 vehicle, the period of time the vehicle was stored, and the
20 person acquiring the vehicle. In addition, a dealer licensed as
21 a broker shall maintain a record of the odometer mileage reading
22 of each vehicle sold pursuant to an agreement between the broker
23 and the buyer or the broker and the seller. The record of odome-
24 ter mileage shall be maintained for 5 years and shall contain all
25 of the information required by section 233a.

26 (8) A dealer licensed as a used vehicle parts dealer shall
27 maintain records in a form prescribed by the secretary of state.

1 The records shall contain the date of purchase or acquisition of
2 the vehicle, a description of the vehicle including the color,
3 and the name and address of the person from whom the vehicle was
4 acquired. If the vehicle is sold, the record shall contain the
5 date of sale and the name and address of the purchaser. The
6 record shall indicate whether a certificate of title or salvage
7 certificate of title was obtained by the dealer. In the case of
8 a late model vehicle, a record of the purchase or sale of a major
9 component of the vehicle shall be maintained identifying the part
10 purchased or sold, the name and address of the seller or purchas-
11 er, the date of the purchase or sale, and the identification
12 number assigned to the part by the dealer. The record of the
13 purchase or sale of a part shall be maintained in or attached to
14 the dealer's police book or hard copy of computerized data
15 entries and reference codes and shall be accessible at the
16 dealer's location.

17 (9) A dealer licensed as a vehicle scrap metal processor
18 shall maintain records as prescribed by the secretary of state.
19 As provided in section 217c, the records shall contain, for a
20 vehicle purchased from a dealer, a copy of the scrap vehicle
21 inventory, including the name and address of the dealer, a
22 description of the vehicle acquired, and the date of
23 acquisition. When a vehicle is purchased or acquired from a
24 person other than a dealer the record shall contain the date of
25 acquisition, the name and address of the person from whom the
26 vehicle was acquired, and whether a certificate of title or
27 salvage certificate of title was obtained by the dealer.

1 (10) A dealer licensed as a foreign salvage vehicle dealer
2 shall maintain records in a form prescribed by the secretary of
3 state. The records shall contain the date of purchase or acqui-
4 sition of each distressed vehicle, a description of the vehicle
5 including the color, and the name and address of the person from
6 whom the vehicle was acquired. If the vehicle is sold, the
7 record shall contain the date of sale and the name and address of
8 the purchaser. The record shall indicate whether a certificate
9 of title or salvage certificate of title was obtained by the
10 dealer. In the case of a late model vehicle, a record of the
11 purchase or sale of each major component part purchased or
12 acquired in this state shall be maintained and the record shall
13 contain the date of purchase or acquisition of the part, a
14 description of the part, the identification number assigned to
15 the part, and the name and address of the person to or from whom
16 the part was purchased or acquired or sold. The record of the
17 sale, purchase, or acquisition of a part shall be maintained in
18 the dealer's police book. The police book shall only contain
19 vehicles and major component parts purchased in Michigan or used
20 in the repair of a vehicle purchased in Michigan. The police
21 book and the records of vehicle part sales, purchases, or acqui-
22 sitions shall be made available at a location within the state
23 for inspection by the secretary of state within 48 hours after a
24 request by the secretary of state. This subsection shall apply
25 beginning October 1, 1989 and until January 1, 1993.

26 (11) The secretary of state shall make periodic unannounced
27 inspections of the records, facilities, and inventories of used

1 or secondhand vehicle parts dealers. This subsection shall apply
2 beginning October 1, 1989 and until January 1, 1993.

3 (12) A dealer licensed under this act shall maintain records
4 for a period of 5 years. The records shall be made available for
5 inspection by the secretary of state or other law enforcement
6 officials. The secretary of state shall ~~make inspection of~~
7 INSPECT a dealer once every 4 years and as determined necessary
8 by the secretary of state or a law enforcement officer. The sec-
9 retary of state may issue an order summarily suspending the
10 license of a dealer pursuant to section 92 of the administrative
11 procedures act of 1969, Act No. 306 of the Public Acts of 1969,
12 being section 24.292 of the Michigan Compiled Laws, based on an
13 affidavit by a person familiar with the facts set forth in the
14 affidavit that the dealer has failed to maintain the records
15 required by this act or failed to provide the records for inspec-
16 tion as requested by the secretary of state, or has otherwise
17 hindered, obstructed, or prevented the inspection of records
18 authorized under this section. The dealer to whom the order is
19 directed shall comply immediately but on application to the
20 department shall be afforded a hearing pursuant to the adminis-
21 trative procedures act of 1969, Act No. 306 of the Public Acts of
22 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
23 LAWS, within 30 days. On the basis of the hearing, the summary
24 order shall be continued, modified, or held in obedience not later
25 than 30 days after the hearing. This subsection shall apply
26 beginning October 1, 1989 and until January 1, 1993.

1 (13) Each dealer record of the purchase, acquisition, sale,
2 receipt, or acceptance for the purpose of sale, delivery, or
3 exchange of a vehicle shall contain the vehicle dealer license
4 number of the dealer from whom the vehicle was obtained and of
5 the dealer to whom the vehicle was sold or delivered.

6 (14) The secretary of state may promulgate rules to imple-
7 ment this section pursuant to the administrative procedures act
8 of 1969, Act No. 306 of the Public Acts of 1969, as amended. ~~7~~
9 ~~being sections 24.201 to 24.328 of the Michigan Compiled Laws.~~

10 SEC. 251F. (1) A RETAIL VEHICLE SALE SHALL BE EVIDENCED BY
11 A WRITTEN SALES INSTRUMENT SUPPLIED BY THE SELLER. A SALES
12 INSTRUMENT SHALL CONTAIN ALL OF THE AGREEMENTS BETWEEN THE PAR-
13 TIES AND BE SIGNED BY THE BUYER AND THE SELLER OR THE SELLER'S
14 AGENT.

15 (2) A SALES INSTRUMENT SHALL BE DATED AND COMPLETED BEFORE
16 BEING SIGNED BY THE BUYER. THE SELLER OR THE SELLER'S AGENT
17 SHALL SIGN THE SALES INSTRUMENT AT THE TIME THE BUYER SIGNS THE
18 INSTRUMENT.

19 (3) AN EXTRA COPY OF THE SALES INSTRUMENT SHALL BE FURNISHED
20 TO THE BUYER BY THE SELLER AT THE TIME THE BUYER SIGNS THE
21 INSTRUMENT. THE BUYER'S COPY OF THE SALES INSTRUMENT SHALL CON-
22 TAIN THE SIGNATURE OF THE SELLER OR THE SELLER'S AGENT IDENTICAL
23 WITH THE SELLER'S OR THE SELLER'S AGENT'S SIGNATURE ON THE ORIGI-
24 NAL INSTRUMENT. THE SIGNATURE OF A SELLER'S AGENT IS PRESUMED TO
25 BE AN AUTHORIZED SIGNATURE.

1 (4) A SALES INSTRUMENT REQUIRED BY THIS SECTION SHALL
2 CONTAIN AT LEAST THE FOLLOWING INFORMATION, AS FAR AS
3 APPLICABLE:

4 (A) THE NAME OF THE SELLER.

5 (B) THE NAME OF THE BUYER.

6 (C) THE MAKE, YEAR, AND MODEL OF THE VEHICLE.

7 (D) THE VEHICLE'S IDENTIFICATION NUMBER.

8 (E) AN ITEMIZED LIST OF EACH OPTION OR ACCESSORY ON THE
9 VEHICLE STATING WHETHER THE OPTION OR ACCESSORY WILL BE INSTALLED
10 BY THE MANUFACTURER OR A DEALER.

11 (F) A STATEMENT AS TO WHETHER THE VEHICLE IS NEW OR USED;
12 WHETHER THE VEHICLE HAS BEEN USED AS A DEMONSTRATOR, TAXI, POLICE
13 VEHICLE, EXECUTIVE OR MANUFACTURER'S VEHICLE, OR LEASED VEHICLE
14 OR BY A POLITICAL SUBDIVISION OF THIS STATE; AND WHETHER THE
15 VEHICLE HAS PREVIOUSLY BEEN ISSUED A SALVAGE CERTIFICATE OF
16 TITLE; OR THAT THE SELLER HAS NO KNOWLEDGE OF AND MAKES NO REPRESENTATION OF THE VEHICLE'S FORMER USE OR HISTORY.

18 (G) THE CASH SALE PRICE.

19 (H) THE CASH PAID DOWN BY THE BUYER.

20 (I) A DESCRIPTION OF THE TRADE-IN VEHICLE.

21 (J) THE AMOUNT OF ALLOWANCE CREDITED TO THE BUYER FOR THE
22 TRADE-IN VEHICLE.

23 (K) IF THE SELLER IS MAKING AN OUTRIGHT PURCHASE OF THE
24 TRADE-IN VEHICLE, THE AMOUNT OF THE PURCHASE PRICE THE SELLER
25 WILL PAY TO THE BUYER FOR THE TRADE-IN VEHICLE.

26 (L) A PROVISION AS TO WHETHER THE BUYER OR SELLER IS TO PAY
27 OFF THE INDEBTEDNESS, IF ANY, ON THE TRADE-IN VEHICLE.

1 (M) THE NET BALANCE DUE FROM THE BUYER AND THE TERMS OF
2 PAYMENT.

3 (5) A TRADE-IN ALLOWANCE OR A PURCHASE PRICE AGREED TO IN
4 THE SALES INSTRUMENT FOR A BUYER'S TRADE-IN VEHICLE SHALL NOT BE
5 REDUCED UPON DELIVERY OF THE TRADE-IN VEHICLE UNLESS THE VALUE OF
6 THE TRADE-IN VEHICLE IS MATERIALLY DIMINISHED AS A RESULT OF
7 PHYSICAL DAMAGE, ALTERATION, OR DETERIORATION IN MECHANICAL CON-
8 DITION OTHER THAN NORMAL WEAR AND TEAR.

9 (6) A CONDITION THAT WILL ALLOW EITHER PARTY TO VOID A
10 RETAIL VEHICLE SALES AGREEMENT AND ALLOW OR REQUIRE A REFUND OF A
11 DEPOSIT, DOWN PAYMENT, OR OTHER CONSIDERATION SHALL BE PRINTED
12 PROMINENTLY IN THE SALES INSTRUMENT. IF A BUYER'S REQUEST TO
13 VOID A RETAIL VEHICLE SALES AGREEMENT OCCURS PURSUANT TO THE
14 TERMS OF THE SALES INSTRUMENT, THE SELLER SHALL HONOR THE BUYER'S
15 REQUEST AND REFUND ANY DEPOSIT, DOWN PAYMENT, OR OTHER CONSIDERA-
16 TION HELD BY THE SELLER.

17 (7) EVERY SALES INSTRUMENT SHALL CONTAIN THE FOLLOWING
18 NOTICE, PRINTED PROMINENTLY AND IN THE FORM INDICATED, DIRECTLY
19 ABOVE THE SPACE PROVIDED IN THE SALES INSTRUMENT FOR THE SIGNA-
20 TURE OF THE BUYER:

21 "NOTICE TO BUYER: DO NOT SIGN THIS DOCUMENT BLANK. YOU ARE
22 ENTITLED TO 1 TRUE COPY OF THE DOCUMENT YOU SIGN. KEEP IT TO
23 PROTECT YOUR LEGAL RIGHTS."

24 (8) THE SELLER SHALL OBTAIN FROM THE BUYER A WRITTEN
25 ACKNOWLEDGMENT OF THE DELIVERY OF THE COPY OF THE SALES INSTRU-
26 MENT TO THE BUYER. THE ACKNOWLEDGMENT SHALL BE PRINTED

1 PROMINENTLY BELOW THE BUYER'S SIGNATURE ON THE SALES INSTRUMENT
2 AND SHALL BE INDEPENDENTLY SIGNED.

3 (9) A SELLER OR SELLER'S AGENT SHALL NOT ACCEPT A DEPOSIT,
4 DOWN PAYMENT, OR OTHER CONSIDERATION FOR A RETAIL VEHICLE SALE
5 UNTIL A SALES INSTRUMENT FOR THAT RETAIL VEHICLE SALE IS SIGNED
6 BY THE BUYER AND THE SELLER OR THE SELLER'S AGENT.

7 (10) AS USED IN THIS SECTION:

8 (A) "DISTRIBUTOR" MEANS ANY PERSON, RESIDENT OR NONRESIDENT,
9 WHO IN WHOLE OR IN PART OFFERS FOR SALE, SELLS, OR DISTRIBUTES
10 ANY NEW MOTOR VEHICLE TO A NEW VEHICLE DEALER OR WHO MAINTAINS A
11 FACTORY REPRESENTATIVE, RESIDENT OR NONRESIDENT, OR WHO CONTROLS
12 ANY PERSON, RESIDENT OR NONRESIDENT, WHO IN WHOLE OR IN PART
13 OFFERS FOR SALE, SELLS, OR DISTRIBUTES ANY NEW MOTOR VEHICLE TO A
14 NEW VEHICLE DEALER.

15 (B) "NEW VEHICLE DEALER" MEANS ANY PERSON LICENSED TO DEAL
16 IN NEW MOTOR VEHICLES PURSUANT TO SECTION 248.

17 (C) "RETAIL VEHICLE SALE" MEANS BOTH OF THE FOLLOWING:

18 (i) A TRANSACTION BY WHICH THE OWNERSHIP OF A VEHICLE IS
19 TRANSFERRED FOR CONSIDERATION, IF THE TRANSFER IS MADE IN THE
20 ORDINARY COURSE OF A DEALER'S BUSINESS TO ANY PERSON WHO IS NOT A
21 DEALER.

22 (ii) A TRANSACTION IN WHICH A NEW VEHICLE DEALER FOR CONSID-
23 ERATION ENTERS INTO A BINDING AGREEMENT WITH A PERSON WHO IS NOT
24 A DEALER FOR THE SALE OF A NEW MOTOR VEHICLE THAT IS TO BE
25 ORDERED BY THE DEALER FROM A MANUFACTURER OR DISTRIBUTOR FOR
26 DELIVERY TO THE PERSON.