



Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6486

TOT'D. VEHICLE KEPT BY OWNER

House Bill 5224 as introduced
First Analysis (4-28-92)

Sponsor: Rep. Gary L. Randall
Committee: Transportation

THE APPARENT PROBLEM:

The Michigan Vehicle Code was amended in 1990 to require the owner of a newer vehicle that has been severely damaged in an accident and "totalled" by the insurance company to assign the certificate of title to the company, which must acquire ownership of the vehicle through the payment of damages and apply for a salvage certificate of title from the secretary of state. The owner then may "reacquire" the vehicle from the insurance company (essentially, maintain ownership of it) if he or she feels it would be more feasible to repair it or use it for salvage purposes than to buy another vehicle. Some people have complained, however, that the current process of transferring ownership of a totalled vehicle from its owner to his or her insurance company and back to the owner frequently entails additional costs to the owner that had not been anticipated. For instance, after an accident has occurred the damaged vehicle must be towed away and held somewhere while the insurance company determines the extent of the loss. If the vehicle is totalled, the insurance company must acquire ownership of the vehicle from the owner through the payment of a claim and apply for a salvage certificate of title. To protect itself from liability, however, an insurance company usually has the vehicle towed to a salvage lot to prevent the vehicle's former owner from driving it before a salvage title has been obtained. Towing the vehicle elsewhere and storing it there often costs hundreds of dollars, which the former owner must pay to reacquire the vehicle from the insurance company. To allow a person who wishes to keep a badly-damaged vehicle to avoid these costs, amendments have been proposed that would allow the owner to retain ownership of the vehicle so that it can be towed to his or her home for storage after the insurance company has totalled it and paid the claim.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Vehicle Code to require the insuring company of a distressed late-

model vehicle to permit the vehicle's owner, at his or her option, to either retain ownership of the vehicle after paying any necessary charges or to assign the title certificate over to the insurance company. If the vehicle's owner chose to keep the distressed vehicle, he or she would have to surrender the vehicle's certificate of title to the secretary of state and apply for a salvage title certificate before the vehicle could be transported.

MCL 257.217c

FISCAL IMPLICATIONS:

The Department of State says the bill would not affect state or local budget expenditures. (4-14-92)

ARGUMENTS:

For:

The bill would allow the owner of a vehicle that was badly damaged in an accident and had been totalled by the owner's insurance company to keep the vehicle after he or she had paid the insurance company the necessary charges to reacquire it after the insurance company had paid the claims on the vehicle. Once the decision to retain the vehicle was made by the owner, he or she would have to surrender the vehicle's certificate of title to the secretary of state and apply for a salvage certificate of title before the vehicle could be transported. By opting to retain ownership in the manner specified in the bill, an owner could avoid having to pay certain towing and storage costs that accrue after an insurance company has totalled a vehicle and the owner decides to retain it. Currently, most insurance companies will arrange to have a badly-damaged vehicle (which, once totalled, they are required to take ownership of) towed to a salvage lot to await repair in order to avoid liability that could result if the person planning to reacquire the vehicle drove it before a salvage title had been issued for it.

House Bill 5224 (4-28-92)

Response:

According to a spokesman for the Department of State, the bill is flawed in that it could encourage the owner of a vehicle that had been totalled who opted to retain ownership of the vehicle to drive the vehicle before the title certificate had been surrendered and a salvage title had been applied for and received from the secretary of state. Some people also fear the bill could encourage an owner to fraudulently resell the badly damaged vehicle once repairs had been made using the vehicle's original identification number. Instead of having the owner, once he or she had decided to keep the vehicle, surrender the vehicle's title certificate and apply for a salvage title certificate from the secretary of state, the department suggests the bill should require the insurance company to make the transfer to ensure that the owner had a salvage title in his or her possession before transporting the vehicle (see SUGGESTED AMENDMENTS).

AAA Michigan does not support the bill as reported from committee, but would support Substitute H-1. (4-27-92)

The Department of State does not support the bill as introduced, but would support Substitute H-1. (4-27-92)

SUGGESTED AMENDMENTS:

The Department of State has proposed Substitute H-1 for the bill, which would require an insurance company that totalled a late model vehicle to proceed in either of two ways:

* If it acquired ownership of the vehicle through payment of a claim, the vehicle's owner would have to assign the certificate of title to the insurance company who would follow the current procedure of surrendering the title and applying for a salvage title from the secretary of state.

* If after payment of a claim, the insurance company permitted the vehicle's owner to retain ownership, the company would have to 1) require each owner of the vehicle to sign an application for a salvage title, 2) attach the owner's title certificate to the application for a salvage title or have the owner certify that the original title was lost, and 3) on behalf of the owner, apply to the secretary of state for a salvage title in the name of the owner.

The substitute provides that the owner could not sell or otherwise dispose of the vehicle without first receiving a salvage title certificate, which would be assigned to the buyer of the salvaged vehicle.

POSITIONS:

The Professional Independent Insurance Agents of Michigan (PIIAM) has no position on the bill as reported from committee, but would support Substitute H-1. (4-27-92)