



**House
Legislative
Analysis
Section**

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REVISE SALVAGE VEHICLE LAW

House Bill 4391

Sponsor: Rep. Agnes Dobronski

Committee: Transportation

Complete to 3-8-93

A SUMMARY OF HOUSE BILL 4391 AS INTRODUCED 3-2-93

The bill would amend the salvage vehicle sections of the Michigan Vehicle Code in a number of ways. It would create a new title, "scrap certificate of title," for vehicles that could only be used for scrap. Unlike salvage vehicles, scrap vehicles could not be rebuilt and retitled for sale. The bill would require insurance companies to get salvage or scrap titles for every vehicle they acquired through payment of a claim. (Currently, insurance companies are only required to get salvage titles for late model "distressed" vehicles.) The bill would revise the standards for issuing salvage titles, expand the list of salvageable parts that would have to be listed on the salvage title, standardize police inspections of rebuilt salvage vehicles, and require certification of inspections by the secretary of state. The bill also would create a new license, the salvage dealer agent's license, and restrict trade in salvage or scrap vehicles to licensed agents.

The bill would take effect January 1, 1994, except for provisions that would create a new vehicle inspection program by local police agencies and raise the inspection fee from the current \$25 to \$125, which would take effect July 1, 1993. In addition, the bill would delete the January 1, 1994, expiration date that applies to certain sections of the act related to salvage vehicles and licensees and, thus, would permanently establish these provisions (as well as those added by the bill) within the act.

Definitions. The act currently defines a "used (or secondhand) vehicle parts dealer" as someone who is in the business of buying, or otherwise acquiring, vehicles in order to dismantle them and sell the used parts and remaining scrap material. The bill would keep this definition, but would call these people "automotive recyclers" instead of "used parts dealers." The bill also would add the definition of "salvage vehicle agent" and change the definitions of "distressed vehicle" and "major component part."

Under the bill, the list of items included under "major component part" would be expanded to include a radio, rally or alloy wheel, T-top, taillight, composite headlight, wire wheel cover, and a vehicle's front and rear assemblies (and various related parts). The bill also would remove "trunk floor pan" from the list of items included under the current definition.

"Distressed," "scrap" vehicles. Currently, a "late model distressed vehicle" is the only vehicle required to have a salvage certificate of title. The act defines a "distressed" vehicle as one 1) that has been wrecked, destroyed or damaged, 2) that is considered by its owner or insurance company to be "uneconomical" to repair, and 3) whose ownership has been transferred because it is considered to be uneconomical to repair. Under the bill, a

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"distressed vehicle" would be one that had a "major component part" that had been wrecked, destroyed, damaged, stolen, or missing such that repairs would cost more than 50 percent of the actual cash value of the undamaged vehicle. (The value of the parts would be taken from current published retail costs of the parts.)

The bill would define a "scrap vehicle" as one that was "wrecked, destroyed, damaged," or that had a major component part stolen or missing so that repairs would cost more than 75 percent of the actual cash value of the vehicle before it had been damaged. A scrap vehicle would include any vehicle whose owner decided it was scrap.

Salvage, scrap certificates of title. The act currently allows an insurance company either to acquire ownership of a distressed, late-model vehicle through the payment of damages, or allows the owner to retain ownership of such a vehicle. Depending on which occurs certain procedures must be followed, one of which includes applying to the secretary of state for a salvage certificate of title. The bill specifies that, except for a late model vehicle that had been stolen and recovered and that had no major component part removed, missing, or destroyed, or damaged and not salvageable, an insurer that acquired ownership of such a vehicle by paying damages would have to follow similar procedures, with the following differences relative to applying for a new title:

- * If the insurer acquired ownership of the vehicle by paying a claim and the estimated cost of repair, including parts and labor, was equal to or less than 75 percent of the vehicle's predamaged actual cash value, the insurer would have to apply for a salvage title; but if the estimated repair cost was greater than 75 percent of the vehicle's predamaged actual cash value, the insurer would have to apply for a scrap title;

- * If the insurer, after paying a claim, allowed the owner to retain ownership and the estimated repair cost was equal to or less than 75 percent of the vehicle's predamaged actual cash value, the insurer would have to require each vehicle owner to apply for a salvage title; but if the estimated repair cost was greater than 75 percent of the vehicle's predamaged actual cash value, the insurer would have to require each vehicle owner to apply for a scrap title.

Once repaired and inspected, salvage vehicles would be eligible for a title, with or without a legend, depending on how much the repairs cost compared to the vehicle's predamaged fair market value. Vehicles whose cost of repair was 75 percent or less of their predamaged fair market value could have a clear title which would not have to be a color different from regular titles. Those whose cost of repair was more than 75 percent of their predamaged fair market value would always have to have the legend "rebuilt former salvage vehicle" on their title, and the title would have to be different in color than regular titles (as currently is the case for titles of rebuilt vehicles). The title on such vehicles also would have to carry a legend that the vehicle was not to be titled or registered, and could be used only for parts or scrap metal.

An insurance company could assign a salvage or scrap title only to an automotive recycler (formerly, a "used or second vehicle parts dealer"), foreign salvage vehicle dealer, or vehicle scrap metal processor. A dealer could sell a scrap vehicle only to a vehicle scrap metal processor.

An application for a scrap title would have to include the complete name and current address of the owner and a description of the vehicle (including its make, style, model year, weight, color, and vehicle identification number--or VIN); also, the application fee would be \$10. A vehicle with a scrap title could be transported, but not driven, on a highway. The bill would prohibit someone from rebuilding or repairing a scrap vehicle and allowing it to keep its original VIN, and specifies that scrap vehicles could not get regular certificates of title. A vehicle brought into Michigan from another jurisdiction that had a rebuilt or salvage title issued by that jurisdiction would have to be issued a rebuilt or salvage title by the secretary of state.

Police agency vehicle inspection program. Currently, a vehicle with a salvage certificate of title cannot get a regular certificate of title or registration plate unless a specially trained police officer certifies that 1) the VIN and parts-identification number have been examined for accuracy, 2) the applicant has proof of ownership of the repair parts, 3) the vehicle complies with required equipment standards, and 4) certification accompanies the application for a regular certificate of title. The current fee that must be paid to a police agency for inspecting a vehicle is \$25.

Under the bill, an application for a certificate of title on a repaired salvage vehicle would have to be accompanied by a form prescribed by the secretary of state and state police to authorize the issuing of a regular vehicle title. The inspection fee would remain \$25 until June 30, 1993; beginning July 1, 1993, it would be \$125. Under the bill, the fee would be credited to the police agency's budget that covered enforcement of laws involving stolen vehicles and vehicle parts, and salvage vehicle inspections. A police agency would have to compensate an off-duty and limited enforcement police officer for a salvage vehicle inspection.

All the bill's provisions relating to inspections by local police agencies, certification of inspection officers by the secretary of state, and higher inspection fees would take effect July 1, 1993.

The secretary of state would have to issue a certificate to an officer who was specially trained by it to conduct salvage vehicle inspections, and only someone who had a valid certificate could perform them. The secretary of state, either at its own discretion or in response to complaints, would have to make reasonable and necessary public or private investigations within or outside of the state and gather evidence against a certified officer who had violated or was about to violate the act or rules promulgated under it. An officer trained and authorized by the secretary of state to conduct a salvage vehicle inspection would include either:

- * an on-duty or off-duty police officer; or
- * a previously certified police officer who had been appointed by the police agency as a limited enforcement officer to conduct salvage vehicle inspections. The police agency would have to give such officers access to the Law Enforcement Information Network (LEIN) system and authority to confiscate any stolen vehicle or vehicle parts discovered during an inspection, and could authorize such officers to arrest someone suspected of illegally possessing a stolen vehicle or vehicle parts.

The secretary of state could suspend, revoke or deny a certificate after an investigation if it determined that an officer had committed one or more of the following:

- * violated the act or a rule promulgated under it;
- * was found guilty of fraud in connection with the inspection, purchase, sale, or transfer of a salvage vehicle;
- * was found guilty of stealing, embezzling or misappropriating salvage inspection fees;
- * performed improper, careless or negligent salvage vehicle inspections;
- * ceased to function as a police officer due to suspension, retirement, dismissal, disability or termination of employment;
- * was convicted of violating or attempting to violate Public Act 119 of 1986, which regulates the business of buying or receiving used motor vehicle parts;
- * made a false statement of a material fact in his or her certification of a salvage vehicle inspection or any record concerning one.

Licensing provisions. The vehicle code currently provides for licenses in one or more of seven classifications: new vehicle dealer; used or secondhand vehicle dealer; used or secondhand vehicle parts dealer; vehicle scrap metal processor; vehicle salvage pool operator; distressed vehicle transporter; and broker. Only insurance companies and dealers with a used or secondhand vehicle parts dealer's license may deal in distressed late model motor vehicle or salvageable parts. (Registered motor vehicle repair facilities, however, may buy salvageable parts and salvage vehicles in order to use them in repairing other vehicles.) Only licensed dealers may buy vehicles to process into scrap metal (or to store or display vehicles as agents of insurance companies), though vehicle scrap metal processors do not have to have a dealer license if they do not buy vehicles from unlicensed persons. Out-of-state dealers who buy, sell or otherwise deal in distressed late model motor vehicles must have foreign salvage vehicle dealer licenses. Vehicle salvage pool operators and brokers may sell, transfer or release distressed late model vehicles only to the vehicle's former owner, used or secondhand vehicle parts dealers, scrap metal processors, or registered motor vehicle repair facilities doing body work.

In addition to renaming the current license for used or secondhand vehicle parts dealers as an "automotive recycler" license, the bill would create a "salvage vehicle agent license" and would prohibit dealers from acquiring distressed late model vehicles through salvage pools, auctions or brokers unless the dealer also was licensed as a salvage vehicle agent. (The fee for an automotive recycler license, however, would remain the same as is now charged for a used or secondhand vehicle parts dealer--namely, \$100 a year or \$50 for half a year.) The bill would require additional information on applications for dealers licenses, namely, the date of birth and social security number of each owner, partner or principal officer, and certification that the applicant and anyone else named on the application was not acting on behalf of someone else "as the alter ego" in order to obtain the license. Applicants for foreign salvage vehicle dealer licenses would have to have the appropriate license, rather than a salvage vehicle dealer license, to buy, sell or otherwise deal in distressed late model motor vehicles or salvageable parts in another state, and would have to "actually" engage in this business in the other state.

Salvage vehicle agents. The bill would create a new license, a "salvage vehicle agent license," that could be acquired by automotive recyclers or licensed foreign salvage vehicle

dealers. Salvage vehicle agents would have to work for licensed dealers, who could have no more than two agents licensed under them (one of whom could be the dealer him- or herself) at one time. With certain exceptions--including Department of State employees, insurance company representatives, government officials and law enforcement officers--the bill would restrict attendance at salvage or scrap vehicle pools or auctions to salvage vehicle agents. Beginning January 1, 1994, only licensed salvage vehicle agents could acquire distressed late model vehicles or salvageable parts through salvage pools, auctions or brokers. A salvage vehicle agent could be an agent for only one licensed dealer at a time.

Applications for salvage vehicle agent licenses would be in a form prescribed by the secretary of state and would have to be signed both by the agent and dealer who was appointing the individual as his or her salvage vehicle agent. The application would have to include the business name, address and dealer license number of the dealer-applicant; the name, address, social security number, and date of birth of the agent-applicant; a statement establishing the business reputation and character of the agent; a statement about the agent's past regarding dealer's and agent's licenses; and certification that the agent was not acting in the place of someone else in seeking a salvage vehicle agent license. A dealer would have to make a separate application for each agent license, along with his or her application for a dealer license. An agent's license would be issued and renewed with the corresponding dealer's license--though, if necessary, a dealer could apply for an agent's license at any time his or her dealer's license was valid--and would expire with it, too.

Within 15 days after receiving an application the secretary of state would have to investigate the qualifications of first-time applicants. Agent's licenses would have a full-face photograph of the agent, along with his or her name and address, physical description, signature, license number, and the name, address and dealer license number of the dealer for whom the agent could conduct business. Agents would have to comply with the bill's provisions and, in addition, do all of the following:

- * buy or acquire salvage vehicles only for the dealer listed on their license;
- * "prominently display" their license on their person whenever they were at places where salvage vehicles were bought, sold, or offered for sale;
- * upon demand, show their license to peace officers or representatives of the secretary of state;
- * immediately contact the dealer if there was a change in the information on their license or application; and
- * immediately surrender their license to the dealer when their employment was cancelled, stopped or was transferred.

Dealers would be responsible for notifying the secretary of state of any changes in the information on the license or application and for applying for duplicate licenses in cases of loss, mutilation or illegibility. A dealer could cancel his or her agent's license at any time and would have to notify the secretary of state within five days of the cancellation and send in the cancelled license. Within five days of the cancellation, expiration, suspension or revocation of an agent's license, the agent also would have to surrender the license to the dealer or the secretary of state. Dealers also would be responsible for notifying each salvage pool or salvage auction with whom they did business of the cancellation.

Under the bill, the fee for a salvage agent's license or for a duplicate license, if the original was lost or stolen, would be \$15.

Criminal investigations of applicants. The secretary of state would have to do a criminal history check on applicants for vehicle dealer's licenses or salvage vehicle agent's licenses. All applicants would have to submit two sets of fingerprints with their applications--one of which the Department of State would forward to the Department of State Police, the other to the Federal Bureau of Investigation. Each set of fingerprints would have to be accompanied by a check or money order (made payable to the state police or the FBI, respectively) for the fee required to process prints. (The current state police fee for this is \$15.)

Prohibited conduct and penalties. The bill would list a number of prohibited actions and the penalties that could be applied in cases of violations. Penalties could include license actions (limitations, suspensions or revocations, denial of license applications), civil fines of up to \$25,000, probation, letters of censure, or requiring affirmative actions (including payment of restitution). Penalties could be imposed if a dealer or salvage agent did any of the following:

- * gave false or misleading information on an application;
- * violated, or helped others to violate, the bill's provisions or rules promulgated under it;
- * bought or acquired a salvage or scrap vehicle, or salvageable parts, either for a dealer for whom the agent was not licensed or acted as an agent on one's own (and not for a dealer);
- * had been involved in fraud with regard to motor vehicles, salvage or scrap vehicles, or vehicle parts;
- * engaged in unfair or deceptive practices, including lying;
- * violated probation;
- * violated a cease and desist order;
- * did not pay money or turn over property received in the course of employment to a dealer or other person entitled to the money or property;
- * acted as a dealer's agent--by buying, acquiring, selling or disposing of a vehicle--without reporting the transaction to the dealer;
- * managed another agent or dealer's employee who violated the bill's provisions;
- * acted for more than one party in a transaction without the knowledge of the other parties;
- * allowed the illegal use of the agent's license;
- * accepted, for the sale of a vehicle, remuneration from someone other than the dealer for whom the agent worked;
- * went bankrupt or became insolvent; or
- * possessed a vehicle or vehicle part that had been confiscated under the Michigan Penal Code or a similar law in another state or jurisdiction.

Grounds for license actions. The act currently describes a number of situations in which the secretary of state may deny, suspend or revoke a dealer's license, including when an applicant or licensee is in possession of a vehicle or vehicle part that was confiscated under the penal code. Before taking any license action the secretary of state must conduct

an administrative hearing on the matter. Under the bill, this provision would apply not only to applicants and licensees, but also to stockholders, officers, directors or partners. The bill also would add to the list of situations that would fall under this provision possession of a vehicle, salvageable part or other property forfeited under criminal drug convictions, and would delete the requirement for an administrative hearing.

In addition, the bill would add new grounds for license actions. Action could be taken against:

- * a foreign salvage vehicle dealer who had had his or her license in another state revoked, suspended or canceled, or whose license had expired;

- * automotive recyclers or foreign salvage vehicle dealers without an established place of business or without evidence of worker's compensation insurance coverage for certain of their employees;

- * sole proprietorships that previously had been a corporation or partnership in which a stockholder, officer, director, partner or employee had done something that could have resulted in that person's license being refused, revoked or suspended; or

- * anyone who had taken a scrap vehicle out of Michigan in order to rebuild it or sell or transfer it "as a unit" in order to rebuild it.

Repeal. The bill would repeal two existing sections of the vehicle code, one of which defines "used or secondhand vehicle parts dealer" and another which governs the repeal of used or secondhand vehicle parts dealer's licenses.