

## **SALE OF STOLEN VEHICLES AND PARTS**

**House Bill 5445 (Substitute H-4)**  
**House Bill 5447 (Substitute H-2)**  
**House Bill 5468 (Substitute H-3)**  
**First Analysis (6-4-98)**

**Sponsor: Rep. Derrick Hale**  
**Committee: Judiciary**

### ***THE APPARENT PROBLEM:***

Car theft is a major problem in Michigan, with 62,930 stolen vehicles reported in 1996, down slightly from the recent high of 68,415 in 1987. Thefts from Detroit alone make up nearly fifty percent of the stolen vehicles. Car theft is an increasingly lucrative business and, as a result, car thieves are becoming more aggressive with carjackings, and more efficient -- targeting specific cars for vulnerability and particular parts for resale value. For example, air bags are currently one of the most popular items for car thieves. Radios, tires and other parts have long been popular items for thieves as well. Car theft rings are run like businesses, targeting the most profitable items, seeking out customers, and distributing different types of work between employees -- some break into vehicles and steal the vehicle or particular parts, while others strip vehicles, rebuild them or resell the parts or the vehicle. Where at one time a car thief might merely take a car and drive it around, now increasing numbers of vehicles are stripped of the parts that have resale value and abandoned. Many believe that increased penalties for convicted car thieves, increased fines, and allowing for license sanctions can help to reduce car theft in Michigan.

### ***THE CONTENT OF THE BILLS:***

The bills would amend the Penal Code, the Motor Vehicle Service and Repair Act, and Michigan Vehicle Code, respectively, to redefine crimes, increase penalties and provide licensure sanctions for people who are convicted of theft and fraud concerning vehicles and vehicle parts. The organized theft and resale of stolen vehicles and vehicle parts are sometimes referred to as "chop shop" organizations. The bills are tie-barred to each other.

House Bill 5445 would amend the Penal Code (MCL 750.356a et al.) to increase penalties for some existing crimes, change what constitutes certain crimes by expanding and clarifying the descriptions of the actions

prohibited, and provide for additional crimes and penalties as well.

Chop shops. The bill would add wheels, air bags, and transfer cases to the list of parts of a motor vehicle that are considered major component parts and would add definitions for a converted major component part (a major component part that has been the subject of a false or fraudulent claim to an insurance company), and a converted motor vehicle (a vehicle that has been the subject of a false of fraudulent claim to an insurance company).

The penalty for the felony of owning or operating a chop shop would be increased to not more than 10 years imprisonment and/or a fine of no less than \$10,000 or more than \$100,000. A second conviction would be punishable by no more than 15 years imprisonment and/or a fine of no less than \$10,000 or more than \$100,000. If a person who was convicted of owning or operating a chop shop had two or more prior convictions for stealing a motor vehicle; joy riding; concealing or misrepresenting the identity of a motor vehicle; buying, receiving, possessing or concealing stolen property; or knowingly buying, receiving, possessing, concealing or aiding in the concealment of a stolen vehicle or a vehicle with stolen parts, the person could be punished by not more than 20 years imprisonment and/or a fine of not less than \$10,000 or more than \$100,000.

Forfeiture. Property seized in a chop shop would be subject to forfeiture. Proceedings for forfeiture would have to be promptly instituted. If the seizure was made without process and the total value of the property seized did not exceed \$100,000, the state or local unit of government (depending upon which had seized the property) would have to notify the property's owner of the seizure and the intent to forfeit and dispose of the property. Notice would have to be delivered to the owner or sent by certified mail. If the owner's name and address were not reasonably

ascertainable or delivery of the notice could not reasonably be accomplished, notice could be published for ten consecutive days in a newspaper of general circulation in the county where the property had been seized.

Within 20 days after receiving notice or after the date of the first publication of the notice, a person could claim an interest in the seized property by filing a claim with the local unit or the state. The state or local unit would be required to transmit the claim with a list and description of the property to the attorney general, the prosecuting attorney for the county, or the attorney for the local unit of government where the property was seized. The attorney general, prosecuting attorney, or the attorney for the local unit of government would be required to promptly institute forfeiture proceedings after the 20-day period concluded. If no claim was filed, the state or local unit would be required to declare the property forfeited and would have to either return the property to its rightful owner or sell it as allowed by law.

Breaking into a motor vehicle. The punishment for breaking into a motor vehicle for the purpose of stealing property from the vehicle would be classified by the value of the property and the number of times the defendant had been previously convicted for the same or similar crimes. If the property involved was valued at less than \$200, the offense would be a misdemeanor punishable by up to 93 days in jail, and/or a maximum fine of \$500 or three times the value of the property, whichever was greater. If the property was worth at least \$200 but less than \$1,000, the offense would be a misdemeanor punishable by up to one year in jail, and/or a maximum fine of up to \$2,000 or three times the value of the property, whichever was greater. If the property was worth more than \$1,000 but less than \$20,000, the offense would be a felony punishable by up to five years in prison, and/or a maximum fine of \$10,000 or three times the value of the property, whichever was greater. If the property was worth \$20,000 or more, the offense would be a felony punishable by up to ten years in prison and/or a fine of up to \$15,000 or three times the value of the property, whichever was greater.

If, during the commission of a misdemeanor breaking into a motor vehicle the person damaged part of the vehicle, the crime would be a felony punishable by no more than 5 years in prison and or a fine of no more than \$10,000, regardless of the value of the property. Where property was stolen in separate incidents that were part of a scheme or course of conduct, the values of the items stolen over a 12-month period could be

figured in the aggregate so as to increase the level of the offense.

For breaking into a motor vehicle for the purpose of stealing property, enhanced penalties would be provided for repeat offenders. Repeat offenses would be elevated as follows: a second offense at the 93-day misdemeanor level or a violation of a substantially similar local ordinance would be treated as a one-year misdemeanor; a second or further offense at the one-year misdemeanor level would be a five-year felony; and, a third or further offense at the five-year felony level would be a ten-year felony. For each of these repeat offenses, the applicable fines would be elevated as well as the periods of imprisonment. When counting prior convictions for enhancing penalties, prior 93-day misdemeanor convictions would only be counted to raise the penalty to a one-year misdemeanor.

If the prosecutor intended to seek an enhanced penalty based on a prior conviction, he or she would have to list the prior conviction on the complaint and information. The existence of the prior conviction would be determined by a judge, without a jury, at sentencing, or at a separate prior hearing. The existence of a prior conviction under these circumstances could be established by any relevant evidence, including: a copy of the judgment of conviction; a transcript of a prior trial, plea-taking, or sentencing; information contained in the presentence report; or, the defendant's statement.

However, if an individual's sentence were enhanced as the result of the offender having had one or more prior convictions, those prior convictions could not also be used to further enhance the offender's sentence under the habitual offender provisions of the Code of Criminal Procedure.

Concealing or misrepresenting the identity of a motor vehicle. The crime of concealing or misrepresenting the identity of a motor vehicle, a mechanical device or a major component part would be clarified to specify that it would be a crime to do either of the following:

- a) Remove or deface the manufacturer's serial number, the engine or motor number, or any other number placed on a motor vehicle, major component part, or mechanical device by the manufacturer to identify the motor vehicle, part, or device.
- b) Replace a part of the motor vehicle, major component part, or mechanical device that has a serial number or any other identification number with a new or replacement part that does not have the appropriate serial number or other identification number.

Possession of a motor vehicle, major component part, or a mechanical device with an altered or removed identification number or with a replacement part that did not have a number (where the original had an identification number) would be considered prima facie evidence of a violation (sufficient evidence, without rebuttal or explanation, to support a finding). A vehicle, major component part, or mechanical device that cannot be identified because of a violation could be destroyed or sold at public auction.

A person who committed either of these acts without intending to mislead another person would be guilty of a misdemeanor punishable by imprisonment for no more than 93 days and/or a fine of not more than \$100. On the other hand, if the actions were done with the intent to mislead another person, the crime would be a felony punishable by imprisonment for no more than five years and/or a fine of no more than \$20,000. Provisions requiring the revocation of a person's dealer license if he or she were convicted of intentionally concealing or misrepresenting such information would be removed.

New felony. The bill would also create a new felony -- to purchase, receive, possess, conceal or aid in the concealment of a motor vehicle that the person knew was stolen or had one or more stolen or converted major component parts. A first conviction for this felony would be punishable by imprisonment for no more than five years and/or a fine of no more than \$5,000. A second conviction would be punishable by imprisonment for up to seven years and/or a fine of no more than \$10,000. If a person were convicted of this crime and had two or more prior convictions for violations or attempted violations of stealing a motor vehicle; joy riding; concealing or misrepresenting the identity of a motor vehicle; buying, receiving, possessing or concealing stolen property; or operating a chop shop, the person could be punished by not more than ten years imprisonment and/or a fine of no more than \$20,000 or more than \$100,000.

Other crimes. Larceny from a motor vehicle would be expanded to specifically include the theft of stereos, telephones, computers, or other electronic devices and the fine allowed as punishment would be increased from \$1,000 to \$10,000. Stealing or attempting to

steal a major component from a motor vehicle would be punishable by imprisonment for no more than five years and/or a fine of no more than \$20,000. A second or subsequent conviction for stealing or attempting to steal a motor vehicle or major component part would be punishable by imprisonment for no more than seven years and/or a fine of no more than \$20,000. A third or subsequent conviction would be punishable by no more than ten years imprisonment or a fine of no more than \$20,000, or both.

Intentionally starting a motor vehicle without the owner's permission; maliciously shifting or changing the starting device or gears; releasing the brake of a standing motor vehicle with the intent of damaging the vehicle or having it removed without the owner's consent; and intentionally damaging a motor vehicle or any major component part, or other part of a motor vehicle would be a felony punishable by not more than two years imprisonment and or a fine of not more than \$1,000.

House Bill 5447 would amend the Motor Vehicle Service and Repair Act (MCL 257.1322) to expand the circumstances where a registration, certificate, or mechanic training permit could be revoked, denied, or suspended. The bill would provide that a registration, certificate, or mechanic trainee permit could be denied, suspended, or revoked after notice and opportunity for a hearing if, among other things, there was a determination that the facility, mechanic, or trainee had been convicted of 1) unlawfully taking and driving away a motor vehicle; 2) concealing or misrepresenting the identity of a motor vehicle or mechanical device; 3) buying, receiving, possessing or concealing stolen, embezzled, or converted money, goods, or property; 4) owning, operating or conducting a chop shop; 5) buying, receiving, possessing, concealing, or aiding in the concealment of a motor vehicle that the person knows is stolen or contains one or more stolen or converted major component parts; or 6) a local ordinance or law of another state that is substantially similar to the preceding crimes. (Currently, only the first four crimes and substantially similar laws of other states allow for denial, suspension, or revocation.)

Further, House Bill 5447 would amend the definition of motor vehicle to include semi-trailers, and the definition of major component part to include air bags, transfer cases, wheels and any other part of a motor vehicle that the secretary of state determined was

comparable in design or function to any of the parts listed in the definition.

House Bill 5468 would amend the Michigan Vehicle Code (MCL 257.249 et al.) to provide that the secretary of state could deny a person's application for a dealer license, or revoke or suspend an already issued license, if the applicant or licensee has been convicted of certain crimes. In addition to the current law, which allows for denial, revocation, or suspension of a license for unlawfully taking and driving away a motor vehicle, the bill would allow a license to be denied, revoked, or suspended for a) concealing or misrepresenting the identity of a motor vehicle or mechanical device; b) buying, receiving, possessing or concealing stolen, embezzled, or converted money, goods, or property; c) owning, operating or conducting a chop shop; d) buying, receiving, possessing, concealing, or aiding in the concealment of a motor vehicle that the person knows is stolen or contains one or more stolen or converted major component parts; or e) a local ordinance or law of another state that was substantially similar to the preceding crimes.

The bill would also provide for the same limitations on applications and licenses for automotive recyclers, used or secondhand vehicle parts dealers, vehicle scrap metal processors, or foreign salvage dealers.

In addition, House Bill 5468 would impose a punishment of not more than five years in prison or a fine of not more than \$20,000, or both, if a person was found guilty of knowingly making false statements in reference to the certificates of title for stolen motor vehicles or of receiving or transferring possession of a vehicle knowing that it was stolen or contains stolen components with the intent to procure or pass title to the vehicle. Currently the penalty is ten years in prison, or a fine of not more than \$5,000, or both. The bill specifies that this section would not apply to peace officers performing their duties.

House Bill 5468 also would add a new section to set penalties for newly defined violations concerning title and other identifying markers. The bill would specify that the following would be guilty of a felony punishable by a prison term of not more than five years or a fine of not more than \$20,000, or both: 1) a person who knowingly sold, gave, or exchanged a motor vehicle certificate of title or identifying marker with the intent of deceiving another person as to the identity of the vehicle without also selling, giving, or exchanging the appropriate motor vehicle; 2) a person

who sold or exchanged a certificate of title or identifying marker knowing the certificate will be used to disguise the identity of a stolen vehicle or vehicle parts; 3) a person who knowingly made or presented false documents to obtain a certificate of title. Furthermore, a person who bought, possessed, or received a certificate of title or identifying marker that belonged to another vehicle, without the intent to mislead as to the identity of a vehicle, would be guilty of misdemeanor punishable by up to 93 days imprisonment and/or a fine of no more than \$100. Prosecution for any of these crimes would not prohibit prosecution under any other appropriate larceny law.

The bill would also require a court clerk to forward an abstract of the court record to the secretary of state upon a person's conviction for, among other things, 1) concealing or misrepresenting the identity of a motor vehicle or mechanical device; 2) buying, receiving, possessing or concealing stolen, embezzled, or converted money, goods, or property; 3) owning, operating or conducting a chop shop; or 4) buying, receiving, possessing, concealing, or aiding in the concealment of a motor vehicle that the person knows is stolen or contains one or more stolen or converted major component parts.

Finally, House Bill 5468 also would amend the vehicle code's definition of major component part so that it would be identical to the term's definition in the Motor Vehicle Service and Repair Act as amended by House Bill 5447. "Identifying marker," "vehicle identification number," and "vehicle identification number derivative" would also be defined.

Effective date. The bills would take effect January 1, 1999.

### ***BACKGROUND INFORMATION:***

In response to major problems with car theft and illegal "chop shops," Public Act 507 of 1978 was passed to amend the Michigan Vehicle Code to create a salvage vehicle title, and to require that businesses specializing in insurance company salvage vehicle recycling and repair be licensed. By 1988 it became apparent that the 1978 act had significant shortcomings that reduced its effectiveness in deterring and combating car theft and crime. After considerable debate and discussion among affected parties, the legislature enacted Public Acts 254 and 255 of 1988.

Public Act 255 of 1988 amended the vehicle code with regard to the titling, sale, repair, dismantling and

disposal of late model vehicles sold for their salvage value instead of being repaired. The amendments required out-of-state salvage dealers to be licensed with the secretary of state, increased record keeping requirements (especially regarding late model major component parts), regulated salvage pools, and increased inspection duties and enforcement powers of the secretary of state. The act had a sunset date of January 1, 1993--which the legislature extended to January 1, 1994 in Public Act 304 of 1992--and required the secretary of state, in conjunction with the Insurance Bureau and the Department of State Police, to report to the legislature on the effectiveness of the 1988 amendments in reducing automobile theft and automobile insurance rates.

In December 1991 the Department of State issued a report titled *Michigan's Salvage Vehicle Titling Law and the Reduction in Auto Theft and Auto Insurance Rates*, which not only reported on the required study of auto theft rates and their effects on insurance rates in Michigan, but also looked at other effects of the 1988 amendments to the vehicle code that did not bear directly on theft or insurance rates but which the department nevertheless through might warrant legislative attention. Legislation to implement the department's recommendations was enacted as Public Act 300 of 1993.

That law amended the salvage vehicle sections of the Michigan Vehicle Code in a number of ways. It created a new title, the "scrap certificate of title," for vehicles that could only be used for scrap. Unlike salvage vehicles, scrap vehicles cannot be rebuilt and retitled for sale. The law also requires insurance companies to get salvage or scrap titles for every vehicle they acquire through payment of a claim. (Prior to the enactment of the law, insurance companies were only required to get salvage title for late model 'distressed' vehicles.) The law also revised the standards for issuing salvage titles, expanded the list of salvageable parts that have to be listed on the salvage title, standardized police inspections of rebuilt salvage vehicles, and required certification of inspections by the secretary of state. The law also created a new license, the "salvage dealer agent's license", and restricted trade in salvage or scrap vehicles to licensed agents.

### **FISCAL IMPLICATIONS:**

Fiscal information is not available.

### **ARGUMENTS:**

#### **For:**

Car theft is a serious problem in Michigan and warrants serious measures. Of particular concern are the increasing number of repeat offenders and car theft rings that steal and resell vehicles. Current penalties are clearly insufficient to deter repeat offenders and increasing these penalties is one way to help to limit this type of crime. Chop shops in particular are deserving of higher penalties because they provide a market for stolen cars and thereby encourage the theft of more vehicles. The bills will help police to convict car thieves and keep them off the streets for longer periods of time. In addition, due to the increasingly lucrative nature of car theft, the fines will be increased as well.

Finally, the changes expanding the circumstances for allowing for prosecutors to use possession of a part where the identifying number had been altered or removed as prima facie evidence of a violation will help to convict criminals involved in car and car part thefts.

#### **Against:**

Criticisms of the bills could come from a number of perspectives. For instance, some may find the bills' approach in increasing the penalties for many of the crimes, particularly those for operating a chop shop, excessive. The penalties in these cases are for non-assaultive thefts, and thereby do not warrant the penalties that these bills would provide. Furthermore, some might feel that since bills providing for statutory sentencing guidelines are in the works, bills such as these should be held until such time as the sentencing guidelines are in place. Once the guidelines have been established changes like those suggested in the bills could be made to fit within the provisions of the guidelines.

Others may feel that the bills are not sufficient to help with the problem. As introduced, the bills included mandatory licensure sanctions and would have sent a far stronger message to criminals. In addition, the bills fail to deal with some of the bad actors involved.

For example, air bags are stolen for resale to automobile repair shops who use them to replace the air bags in cars during repairs. The repairer charges the owner of the vehicle or the insurer for a new air bag and pockets the difference between the amount paid for the stolen air bag and the amount charged to

the owner or insurer. Without including severe sanctions for these unscrupulous repair facilities and others who provide a market for stolen vehicles or vehicle parts, the bills are inadequate to truly help prevent car theft.

***POSITIONS:***

The Department of State Police supports the bills. (6-3-98)

The Department of State supports the bills. (6-3-98)

Analyst: W. Flory

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.