



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**REFER TO VEHICLE LEASING
IN VEHICLE CODE**

**House Bill 5363 (Substitute H-4)
First Analysis (5-2-02)**

**Sponsor: Rep. Chris Kolb
Committee: Commerce**

THE APPARENT PROBLEM:

The Department of State notes that vehicle leasing has become a popular alternative to buying a vehicle. It is the department's view that whether a customer purchases or leases a vehicle, he or she deserves the same rights and protections under state law. The department's authority over lease transactions needs clarification. The department has noted in a recent analysis that:

The department has received and actively reviewed lease complaints since 1997. In the Fall of 1997, the Bureau of Automotive Regulation (BAR) became aware of more than 60 consumer complaints first received by the Office of Attorney General and then forwarded to BAR. The complaints were all similar in nature and involved alleged misrepresentations of lease terms by licensed Michigan dealers and their subsidiary leasing companies. These cases brought to light the question of jurisdiction over lease complaints since the Vehicle Code does not give express authority to the department in this type of transaction.

Legislation has been introduced at the behest of the Department of State giving the state clear authority to take action on lease transaction complaints.

THE CONTENT OF THE BILL:

The bill would amend numerous sections of the Michigan Vehicle Code, generally speaking, to treat the leasing of vehicles in the same manner as the sale of vehicles are currently treated.

The code currently, for example, requires the licensing of persons engaged in buying, selling, brokering, or dealing in vehicles of a type required to be titled under the code. The bill would also apply the requirement to "leasing" and "negotiating a lease". The bill would take effect October 1, 2002.

However, for the purpose of dealer licensing, the term "dealer" would not apply to a person who

negotiated the lease of a vehicle for a lease term of less than 120 days. Further, the term would not apply to a person who leases five or more vehicles, or any number of vehicles with a gross weight of 26,001 pounds or more, to a single entity for commercial business or other nonhousehold use.

Under the bill, there would be a rebuttable presumption that a person who in a 12-month period buys and sells, exchanges, brokers, leases, or deals in five or more vehicles, or buys and sells, exchanges, brokers, or deals in salvageable parts for five or more vehicles, or who buys five or more vehicles to sell vehicle parts to process into scrap metal, is engaged in business as a dealer.

Currently, the code includes as a "dealer" a person engaged in the business of buying vehicles to sell vehicle parts or in the business of buying vehicles to process into scrap metal. The bill would include such a business only if it was engaged in buying five or more vehicles in a 12-month period and would also include as a "dealer" a person engaged in the business of purchasing, selling, exchanging, brokering, or dealing in salvageable parts of five or more vehicles.

Also, the bill would exclude from the term "dealer" a financial institution or a bank holding company; a person whose business is the financing of the purchase, sale, or lease of vehicles of a type required to be titled and who is not otherwise involved in dealer-related activities; an employee or agent of a dealer acting in the scope of his or her employment or agency; or an insurance company.

The bill also would eliminate obsolete language from the vehicle code.

MCL 257.11 et al.

House Bill 5363 (5-2-02)

FISCAL IMPLICATIONS:

The Department of State reports that the fiscal impact from the bill will be minimal. This is because it already licenses and regulates vehicle dealers, and receives and reviews complaints about leases. The department says it would not need additional resources or any lead time to implement the bill. There might be a slight increase in the number of preliminary or compliance conferences held with dealers. (Departmental analysis provided to House Committee on Commerce)

The Michigan Credit Union League has indicated support for the substitute bill. (4-30-02)

The American Auto Leasing Association has indicated support for the substitute bill. (4-30-02)

The House Fiscal Agency has pointed out that the bill would have an indeterminate impact on state licensing fee revenue and on related enforcement and investigation costs. The language adding leasing activities could increase the number of licensees; the "five or more vehicles" definition could reduce the number of licensees. The HFA says that a standard dealer license costs \$10 per year and dealer licenses generate between \$200,000 and \$250,000 annually for the state. (HFA committee analysis dated 4-17-02)

ARGUMENTS:***For:***

The bill will provide the Department of State with the clear authority to treat consumer vehicle lease transactions the same way that it treats vehicle sales. Generally speaking, those engaging in leasing vehicles will be treated as dealers, and the rights and protections provided under state law to customers buying vehicles will be provided to those leasing vehicles.

POSITIONS:

The Department of State supports the bill. (5-1-02)

The Auto Dealers of Michigan, LLC, supports the bill. (5-2-02)

The Michigan Bankers Association has indicated support for the substitute bill. (4-30-02)

The Michigan Insurance Federation has indicated support for the substitute bill. (4-30-02)

Analyst: C. Couch

■ 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.