

# HOUSE BILL No. 5365

October 29, 2001, Introduced by Reps. Thomas, Gilbert, Howell and Julian and referred to the Committee on Commerce.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 217 and 234 (MCL 257.217 and 257.234), section 217 as amended by 2000 PA 397 and section 234 as amended by 2000 PA 151.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 217. (1) An owner of a vehicle that is subject to reg-  
2 istration under this act shall apply to the secretary of state,  
3 upon an appropriate form furnished by the secretary of state, for  
4 the registration of the vehicle and issuance of a certificate of  
5 title for the vehicle. ~~Effective January 1, 1994, a~~ A vehicle  
6 brought into this state from another state or jurisdiction that  
7 has a rebuilt, salvage, scrap, or comparable certificate of title  
8 issued by that other state or jurisdiction shall be issued a  
9 rebuilt, salvage, or scrap certificate of title by the secretary

1 of state. The application shall be accompanied by the required  
2 fee. An application for a certificate of title shall bear the  
3 signature of the owner. The application shall contain all of the  
4 following:

5 (a) The owner's name, the owner's bona fide residence, and  
6 either of the following:

7 (i) ~~The owner's mailing address, if~~ IF the owner is an  
8 individual, THE OWNER'S MAILING ADDRESS.

9 (ii) ~~The owner's business address, if~~ IF the owner is a  
10 firm, association, PARTNERSHIP, LIMITED LIABILITY COMPANY, or  
11 corporation, THE OWNER'S BUSINESS ADDRESS.

12 (b) A description of the vehicle including the make or name,  
13 style of body, and model year; the number of miles, not including  
14 the tenths of a mile, registered on the vehicle's odometer at the  
15 time of transfer; whether the vehicle is to be or has been used  
16 as a taxi or police vehicle, or by a political subdivision of  
17 this state, unless the vehicle is owned by a dealer and loaned or  
18 leased to a political subdivision of this state for use as a  
19 driver education vehicle; whether the vehicle has previously been  
20 issued a salvage or rebuilt certificate of title from this state  
21 or a comparable certificate of title from any other state or  
22 jurisdiction; vehicle identification number; and the vehicle's  
23 weight fully equipped, if a passenger vehicle registered in  
24 accordance with section 801(1)(a), and, if a trailer coach or  
25 pickup camper, in addition to the weight, the manufacturer's  
26 serial number, or in the absence of the serial number, a number  
27 assigned by the secretary of state. A number assigned by the

1 secretary of state shall be permanently placed on the trailer  
2 coach or pickup camper in the manner and place designated by the  
3 secretary of state.

4 (c) A statement of the applicant's title and the names and  
5 addresses of the holders of security interests in the vehicle and  
6 in an accessory to the vehicle, in the order of their priority.

7 (d) Further information that the secretary of state reason-  
8 ably requires to enable the secretary of state to determine  
9 whether the vehicle is lawfully entitled to registration and the  
10 owner entitled to a certificate of title. If the secretary of  
11 state is not satisfied as to the ownership of a late model vehi-  
12 cle or other vehicle having a value over \$2,500.00, before regis-  
13 tering the vehicle and issuing a certificate of title, the secre-  
14 tary of state may require the applicant to file a properly exe-  
15 cuted surety bond in a form prescribed by the secretary of state  
16 and executed by the applicant and a company authorized to conduct  
17 a surety business in this state. The bond shall be in an amount  
18 equal to twice the value of the vehicle as determined by the sec-  
19 retary of state and shall be conditioned to indemnify or reim-  
20 burse the secretary of state, any prior owner, and any subsequent  
21 purchaser of the vehicle and their successors in interest against  
22 any expense, loss, or damage, including reasonable attorney's  
23 fees, by reason of the issuance of a certificate of title for the  
24 vehicle or on account of any defect in the right, title, or  
25 interest of the applicant in the vehicle. An interested person  
26 has a right of action to recover on the bond for a breach of the  
27 conditions of the bond, but the aggregate liability of the surety

1 to all persons shall not exceed the amount of the bond. The bond  
2 shall be returned at the end of 3 years, or before 3 years if the  
3 vehicle is no longer registered in this state and the currently  
4 valid certificate of title is surrendered to the secretary of  
5 state, unless the secretary of state has received notification of  
6 the pendency of an action to recover on the bond. If the secre-  
7 tary of state is not satisfied as to the ownership of a vehicle  
8 that is valued at \$2,500.00 or less and that is not a late model  
9 vehicle, the secretary of state shall require the applicant to  
10 certify that the applicant is the owner of the vehicle and enti-  
11 tled to register and title the vehicle.

12 (e) Except as provided in subdivision (f), an application  
13 for a commercial vehicle shall also have attached a scale weight  
14 receipt of the motor vehicle fully equipped as of the time the  
15 application is made. A scale weight receipt is not necessary if  
16 there is presented with the application a registration receipt of  
17 the previous year that shows on its face the empty weight of the  
18 motor vehicle as registered with the secretary of state that is  
19 accompanied by a statement of the applicant that there has not  
20 been structural change in the motor vehicle that has increased  
21 the empty weight and that the previous registered weight is the  
22 true weight.

23 (f) An application for registration of a vehicle on the  
24 basis of elected gross weight shall include a declaration by the  
25 applicant specifying the elected gross weight for which applica-  
26 tion is being made.

1 (g) If the application is for a certificate of title of a  
2 motor vehicle registered in accordance with section 801(1)(q),  
3 the application shall include the manufacturer's suggested base  
4 list price for the model year of the vehicle. Annually, the sec-  
5 retary of state shall publish a list of the manufacturer's sug-  
6 gested base list price for each vehicle being manufactured. Once  
7 a base list price is published by the secretary of state for a  
8 model year for a vehicle, the base list price shall not be  
9 affected by subsequent increases in the manufacturer's suggested  
10 base list price but shall remain the same throughout the model  
11 year unless changed in the annual list published by the secretary  
12 of state. If the secretary of state's list has not been pub-  
13 lished for that vehicle by the time of the application for regis-  
14 tration, the base list price shall be the manufacturer's sug-  
15 gested retail price as shown on the label required to be affixed  
16 to the vehicle under section 3 of the automobile information dis-  
17 closure act, Public Law 85-506, 15 U.S.C. 1232. If the  
18 manufacturer's suggested retail price is unavailable, the appli-  
19 cation shall list the purchase price of the vehicle as defined in  
20 section 801(4).

21 (2) ~~Beginning October 1, 1999, the secretary of state shall~~  
22 ~~require an~~ AN applicant for registration of a leased pickup  
23 truck or passenger vehicle that is subject to registration under  
24 this act, except a vehicle that is subject to registration tax  
25 under section 801g, ~~to~~ SHALL disclose in writing TO THE SECRE-  
26 TARY OF STATE the lessee's name, the lessee's bona fide  
27 residence, and either of the following:

1           (a) ~~The~~ IF THE LESSEE IS AN INDIVIDUAL, THE lessee's  
2 Michigan driver license number or Michigan personal identifica-  
3 tion number or, if the lessee does not have a Michigan driver  
4 license or Michigan personal identification number, the lessee's  
5 mailing address. ~~, if the lessee is an individual.~~

6           (b) ~~The lessee's business address, if~~ IF the lessee is a  
7 firm, association, PARTNERSHIP, LIMITED LIABILITY COMPANY, or  
8 corporation, THE LESSEE'S BUSINESS ADDRESS.

9           (3) The secretary of state shall maintain the information  
10 described in subsection (2) on the secretary of state's computer  
11 records.

12           (4) A dealer selling or exchanging vehicles required to be  
13 titled, within 15 days after delivering a vehicle to the purchas-  
14 er, and a person engaged in the sale of vessels required to be  
15 numbered by part 801 of the natural resources and environmental  
16 protection act, 1994 PA 451, MCL 324.80101 to 324.80199, within  
17 15 days after delivering a boat trailer weighing less than 2,500  
18 pounds to the purchaser, shall apply to the secretary of state  
19 for a new title, if required, and transfer or secure registration  
20 plates and secure a certificate of registration for the vehicle  
21 or boat trailer, in the name of the purchaser. The dealer's  
22 license may be suspended or revoked in accordance with section  
23 249 for failure to apply for a title when required or for failure  
24 to transfer or secure registration plates and certificate of reg-  
25 istration within the 15 days required by this section. If the  
26 dealer or person fails to apply for a title when required, and to  
27 transfer or secure registration plates and secure a certificate

1 of registration and pay the required fees within 15 days of  
2 delivery of the vehicle or boat trailer, a title and registration  
3 for the vehicle or boat trailer may subsequently be acquired only  
4 upon the payment of a transfer fee of \$15.00 in addition to the  
5 fees specified in section 806. The purchaser of the vehicle or  
6 boat trailer shall sign the application, including, when applica-  
7 ble, the declaration specifying the maximum elected gross weight,  
8 as required by subsection (1)(f), and other necessary papers to  
9 enable the dealer or person to secure the title, registration  
10 plates, and transfers from the secretary of state. IF THE SECRE-  
11 TARY OF STATE MAILS OR DELIVERS A PURCHASER'S CERTIFICATE OF  
12 TITLE TO A DEALER, THE DEALER SHALL MAIL OR DELIVER THE CERTIFI-  
13 CATE OF TITLE TO THE PURCHASER NOT MORE THAN 5 DAYS AFTER RECEIV-  
14 ING THE CERTIFICATE OF TITLE FROM THE SECRETARY OF STATE.

15 (5) If a vehicle is delivered to a purchaser who has valid  
16 Michigan registration plates that are to be transferred to the  
17 vehicle, and an application for title, if required, and registra-  
18 tion for the vehicle is not made before delivery of the vehicle  
19 to the purchaser, the registration plates shall be affixed to the  
20 vehicle immediately, and the dealer shall provide the purchaser  
21 with an instrument in writing, on a form prescribed by the secre-  
22 tary of state, which shall serve as a temporary registration for  
23 the vehicle for a period of 15 days from the date the vehicle is  
24 delivered.

25 (6) An application for a certificate of title that indicates  
26 the existence of a security interest in the vehicle or in an  
27 accessory to the vehicle, if requested by the security interest

1 holder, shall be accompanied by a copy of the security agreement  
2 which need not be signed. The request may be made of the seller  
3 on an annual basis. The secretary of state shall indicate on the  
4 copy the date and place of filing of the application and return  
5 the copy to the person submitting the application who shall for-  
6 ward it to the holder of the security interest named in the  
7 application.

8 (7) If the seller does not prepare the credit information,  
9 contract note, and mortgage, and the holder, finance company,  
10 credit union, or banking institution requires the installment  
11 seller to record the lien on the title, the holder, finance com-  
12 pany, credit union, or banking institution shall pay the seller a  
13 service fee of not more than \$10.00. The service fee shall be  
14 paid from the finance charges and shall not be charged to the  
15 buyer in addition to the finance charges. The holder, finance  
16 company, credit union, or banking institution shall issue its  
17 check or bank draft for the principal amount financed, payable  
18 jointly to the buyer and seller, and there shall be imprinted on  
19 the back side of the check or bank draft the following:

20 "Under Michigan law, the seller must record a first lien in  
21 favor of (name of lender) \_\_\_\_\_ on the vehicle with  
22 vehicle identification number \_\_\_\_\_ and title the vehi-  
23 cle only in the name(s) shown on the reverse side." On the front  
24 of the sales check or draft, the holder, finance company, credit  
25 union, or banking institution shall note the name(s) of the pro-  
26 spective owner(s). Failure of the holder, finance company,  
27 credit union, or banking institution to comply with these

1 requirements frees the seller from any obligation to record the  
2 lien or from any liability that may arise as a result of the  
3 failure to record the lien. A service fee shall not be charged  
4 to the buyer.

5 (8) In the absence of actual malice proved independently and  
6 not inferred from lack of probable cause, a person who in any  
7 manner causes a prosecution for larceny of a motor vehicle; for  
8 embezzlement of a motor vehicle; for any crime an element of  
9 which is the taking of a motor vehicle without authority; or for  
10 buying, receiving, possessing, or aiding in the concealment of a  
11 stolen, embezzled, or converted motor vehicle knowing that the  
12 motor vehicle has been stolen, embezzled, or converted, is not  
13 liable for damages in a civil action for causing the  
14 prosecution. This subsection does not relieve a person from  
15 proving any other element necessary to sustain his or her cause  
16 of action.

17 Sec. 234. (1) The purchaser or transferee, unless the  
18 person is a licensed dealer, shall present or cause to be  
19 presented the certificate of title and registration certificate  
20 if plates are being transferred to another vehicle, assigned as  
21 provided in this act, to the secretary of state accompanied by  
22 the fees as provided by law, whereupon a new certificate of title  
23 and registration certificate shall be issued to the assignee.  
24 The certificate of title shall be mailed or delivered to the  
25 owner or another person the owner may direct in a separate  
26 instrument in a form the secretary of state shall prescribe.

1           (2) IF THE SECRETARY OF STATE MAILS OR DELIVERS A  
2 PURCHASER'S OR TRANSFEREE'S CERTIFICATE OF TITLE TO A DEALER, THE  
3 DEALER SHALL MAIL OR DELIVER THAT CERTIFICATE OF TITLE TO THE  
4 PURCHASER OR TRANSFEREE NOT MORE THAN 5 DAYS AFTER RECEIVING THE  
5 CERTIFICATE OF TITLE FROM THE SECRETARY OF STATE.

6           (3) ~~-(2)-~~ Unless the transfer is made and the fee paid  
7 within 15 days, the vehicle is considered to be without registra-  
8 tion, the secretary of state may repossess the license plates,  
9 and transfer of the vehicle ownership may be effected and a valid  
10 registration acquired thereafter only upon payment of a transfer  
11 fee of \$15.00 in addition to the fee provided for in section  
12 806.

13           (4) ~~-(3)-~~ If a security interest is reserved or created at  
14 the time of the transfer, the parties shall comply with the  
15 requirements of section 238.