Senate Bill 246 (Substitute S-1 as enrolled)
Sponsor: Senator Jud Gilbert, II
Committee: Economic Development, Small Business and Regulatory Affairs

Date Completed: 5-13-03

RATIONALE

In recent years, leasing has become a popular method for individuals to obtain vehicles. Typically, an individual leases a new car from a dealer for a period of years specified in the lease. When the lease expires or is otherwise terminated, the vehicle is considered to be "off lease".

The Michigan Vehicle Code prescribes the conditions under which a person is or is not considered a dealer. A dealer is required to be licensed as prescribed in the Code, and comply with certain requirements. Public Act 652 of 2002 amended the Code to revise and expand the definition of "dealer", among other things. The term now includes a person engaged in the business of leasing vehicles. The Code, as amended, also specifies that a dealer does not include a person whose business is the financing of the purchase, sale, or lease of vehicles, and who is not otherwise engaged in activities that would, under the Code, meet the definition of "dealer". It has been pointed out that this provision has resulted in a potential problem regarding the sale of off lease vehicles.

Usually, an off lease vehicle is sold to the lessee by the dealer that leased the vehicle, sold at auction, or sold by the dealer as a used vehicle. Reportedly, these are the methods used by Ford and General Motors, among others, to dispose of vehicles returned by a lessee. Vehicles leased by Daimler Chrysler are processed through a subsidiary, Daimler Chrysler Financial Services Trust (DCFST). When a lessee returns a vehicle to a Daimler Chrysler dealer, and wishes to purchase the vehicle, DCFST purchases the vehicle from Daimler Chrysler and then sells it to the lessee.   Under the Code, this means that DCFST is engaging in activities that make it a

dealer. It has been suggested that a company engaging in these transactions should not be considered a dealer.

CONTENT

The bill would amend the Michigan Vehicle Code to specify that the term "dealer" would not include a lessor selling one or more off lease vehicles.

MCL 257.11

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument
Under the Code, a financial corporation that is in the business of financing the purchase, sale, or lease of vehicles is not considered a "dealer", unless it otherwise engages in activities such as purchasing, selling, or leasing vehicles. Because of the method Daimler Chrysler uses to sell its off lease vehicles, that is, through DCFST instead of through a dealership, this means that DCFST is considered a dealer when it sells an off lease vehicle to the lessee upon the expiration of a lease. Even though it is actually a financial corporation, DCFST technically is engaging in the business of purchasing and selling vehicles, not simply leasing or financing them. This subsidiary of Daimler Chrysler, however, has no storage lot, garage, or facility to show a vehicle, and does not actually take possession of a vehicle; its only involvement is the financial transaction and, therefore, it is a "dealer" in name only. By allowing a lessor to sell an off lease vehicle without being

considered a dealer, the bill would make it unnecessary for DCFST, and others in the same position, to obtain a dealer license and comply with the attendant requirements.

Legislative Analyst: George Towne

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Craig Thiel