

HOUSE BILL No. 4450

March 3, 2005, Introduced by Rep. Robertson and referred to the Committee on Banking and Financial Services.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 217 (MCL 257.217), as amended by 2002 PA 652.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 217. (1) An owner of a vehicle that is subject to
2 registration 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. A vehicle brought into this state from
6 another state or jurisdiction that has a rebuilt, salvage, scrap,
7 flood, or comparable certificate of title issued by that other
8 state or jurisdiction shall be issued a rebuilt, salvage, scrap, or
9 flood certificate of title by the secretary of state. The

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

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

6 (i) If the owner is an individual, the owner's mailing address.

7 (ii) If the owner is a firm, association, partnership, limited
8 liability company, or corporation, the owner's business address.

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

1 designated by the secretary of state.

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

5 (d) Further information that the secretary of state reasonably
6 requires to enable the secretary of state to determine whether the
7 vehicle is lawfully entitled to registration and the owner entitled
8 to a certificate of title. If the secretary of state is not
9 satisfied as to the ownership of a late model vehicle or other
10 vehicle having a value over \$2,500.00, before registering the
11 vehicle and issuing a certificate of title, the secretary of state
12 may require the applicant to file a properly executed surety bond
13 in a form prescribed by the secretary of state and executed by the
14 applicant and a company authorized to conduct a surety business in
15 this state. The bond shall be in an amount equal to twice the value
16 of the vehicle as determined by the secretary of state and shall be
17 conditioned to indemnify or reimburse the secretary of state, any
18 prior owner, and any subsequent purchaser or lessee of the vehicle
19 and their successors in interest against any expense, loss, or
20 damage, including reasonable attorney's fees, by reason of the
21 issuance of a certificate of title for the vehicle or on account of
22 any defect in the right, title, or interest of the applicant in the
23 vehicle. An interested person has a right of action to recover on
24 the bond for a breach of the conditions of the bond, but the
25 aggregate liability of the surety to all persons shall not exceed
26 the amount of the bond. The bond shall be returned at the end of 3
27 years, or before 3 years if the vehicle is no longer registered in

1 this state and the currently valid certificate of title is
2 surrendered to the secretary of state, unless the secretary of
3 state has received notification of the pendency of an action to
4 recover on the bond. If the secretary of state is not satisfied as
5 to the ownership of a vehicle that is valued at \$2,500.00 or less
6 and that is not a late model vehicle, the secretary of state shall
7 require the applicant to certify that the applicant is the owner of
8 the vehicle and entitled to register and title the vehicle.

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

19 (f) An application for registration of a vehicle on the basis
20 of elected gross weight shall include a declaration by the
21 applicant specifying the elected gross weight for which application
22 is being made.

23 (g) If the application is for a certificate of title of a
24 motor vehicle registered in accordance with section 801(1)(p), the
25 application shall include the manufacturer's suggested base list
26 price for the model year of the vehicle. Annually, the secretary of
27 state shall publish a list of the manufacturer's suggested base

1 list price for each vehicle being manufactured. Once a base list
2 price is published by the secretary of state for a model year for a
3 vehicle, the base list price shall not be affected by subsequent
4 increases in the manufacturer's suggested base list price but shall
5 remain the same throughout the model year unless changed in the
6 annual list published by the secretary of state. If the secretary
7 of state's list has not been published for that vehicle by the time
8 of the application for registration, the base list price shall be
9 the manufacturer's suggested retail price as shown on the label
10 required to be affixed to the vehicle under ~~section 3 of the~~
11 ~~automobile information disclosure act, Public Law 85-506,~~ 15
12 ~~U.S.C.—~~ **USC** 1232. If the manufacturer's suggested retail price is
13 unavailable, the application shall list the purchase price of the
14 vehicle as defined in section ~~801(4)~~ **801**.

15 (2) An applicant for registration of a leased pickup truck or
16 passenger vehicle that is subject to registration under this act,
17 except a vehicle that is subject to **A** registration ~~tax~~ **FEE** under
18 section 801g, shall disclose in writing to the secretary of state
19 the lessee's name, the lessee's bona fide residence, and either of
20 the following:

21 (a) If the lessee is an individual, the lessee's Michigan
22 driver license number or Michigan personal identification number
23 or, if the lessee does not have a Michigan driver license or
24 Michigan personal identification number, the lessee's mailing
25 address.

26 (b) If the lessee is a firm, association, partnership, limited
27 liability company, or corporation, the lessee's business address.

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

4 (4) Except as provided in subsection (5), a dealer selling,
5 leasing, or exchanging vehicles required to be titled, within 15
6 days after delivering a vehicle to the purchaser or lessee, and a
7 person engaged in the sale of vessels required to be numbered by
8 part 801 of the natural resources and environmental protection act,
9 1994 PA 451, MCL 324.80101 to 324.80199, within 15 days after
10 delivering a boat trailer weighing less than 2,500 pounds to the
11 purchaser or lessee, shall apply to the secretary of state for a
12 new title, if required, and transfer or secure registration plates
13 and secure a certificate of registration for the vehicle or boat
14 trailer, in the name of the purchaser or lessee. The dealer's
15 license may be suspended or revoked in accordance with section 249
16 for failure to apply for a title when required or for failure to
17 transfer or secure registration plates and certificate of
18 registration within the 15 days required by this section. If the
19 dealer or person fails to apply for a title when required, and to
20 transfer or secure registration plates and secure a certificate of
21 registration and pay the required fees within 15 days of delivery
22 of the vehicle or boat trailer, a title and registration for the
23 vehicle or boat trailer may subsequently be acquired only upon the
24 payment of a transfer fee of \$15.00 in addition to the fees
25 specified in section 806. The purchaser or lessee of the vehicle or
26 the purchaser of the boat trailer shall sign the application,
27 including, when applicable, the declaration specifying the maximum

1 elected gross weight, as required by subsection (1)(f), and other
2 necessary papers to enable the dealer or person to secure the
3 title, registration plates, and transfers from the secretary of
4 state. If the secretary of state mails or delivers a purchaser's
5 certificate of title to a dealer, the dealer shall mail or deliver
6 the certificate of title to the purchaser not more than 5 days
7 after receiving the certificate of title from the secretary of
8 state.

9 (5) A dealer selling or exchanging an off lease or buy back
10 vehicle shall apply to the secretary of state for a new title for
11 the vehicle within 15 days after it receives the certificate of
12 title from the lessor or manufacturer under section 235 and
13 transfer or secure registration plates and secure a certificate of
14 registration for the vehicle in the name of the purchaser. The
15 dealer's license may be suspended or revoked in accordance with
16 section 249 for failure to apply for a title when required or for
17 failure to transfer or secure registration plates and certificate
18 of registration within the 15-day period. If the dealer or person
19 fails to apply for a title when required, and to transfer or secure
20 registration plates and secure a certificate of registration and
21 pay the required fees within the 15-day time period, a title and
22 registration for the vehicle may subsequently be acquired only upon
23 the payment of a transfer fee of \$15.00 in addition to the fees
24 specified in section 806. The purchaser of the vehicle shall sign
25 the application, including, when applicable, the declaration
26 specifying the maximum elected gross weight, as required by
27 subsection (1)(f), and other necessary papers to enable the dealer

1 or person to secure the title, registration plates, and transfers
2 from the secretary of state. If the secretary of state mails or
3 delivers a purchaser's certificate of title to a dealer, the dealer
4 shall mail or deliver the certificate of title to the purchaser not
5 more than 5 days after receiving the certificate of title from the
6 secretary of state.

7 (6) If a vehicle is delivered to a purchaser or lessee who has
8 valid Michigan registration plates that are to be transferred to
9 the vehicle, and an application for title, if required, and
10 registration for the vehicle is not made before delivery of the
11 vehicle to the purchaser or lessee, the registration plates shall
12 be affixed to the vehicle immediately, and the dealer shall provide
13 the purchaser or lessee with an instrument in writing, on a form
14 prescribed by the secretary of state, which shall serve as a
15 temporary registration for the vehicle for a period of 15 days from
16 the date the vehicle is delivered.

17 (7) An application for a certificate of title that indicates
18 the existence of a security interest in the vehicle or in an
19 accessory to the vehicle, if requested by the security interest
20 holder, shall be accompanied by a copy of the security agreement
21 which need not be signed. The request may be made of the seller on
22 an annual basis. The secretary of state shall indicate on the copy
23 the date and place of filing of the application and return the copy
24 to the person submitting the application who shall forward it to
25 the holder of the security interest named in the application.

26 (8) If the seller does not prepare the credit information,
27 contract note, and mortgage, and the holder, finance company,

1 credit union, or banking institution requires the installment
2 seller to record the lien on the title, the holder, finance
3 company, credit union, or banking institution shall pay the seller
4 a service fee of not more than \$10.00. The service fee shall be
5 paid from the finance charges and shall not be charged to the buyer
6 in addition to the finance charges. The holder, finance company,
7 credit union, or banking institution shall issue its check or bank
8 draft for the principal amount financed, payable jointly to the
9 buyer and seller, and there shall be imprinted on the back side of
10 the check or bank draft the following:

11 "Under Michigan law, the seller must record a first lien in
12 favor of (name of lender) _____ on the vehicle with
13 vehicle identification number _____ and title the vehicle
14 only in the name(s) shown on the reverse side." On the front of the
15 sales check or draft, the holder, finance company, credit union, or
16 banking institution shall note the name(s) of the prospective
17 owner(s). Failure of the holder, finance company, credit union, or
18 banking institution to comply with these requirements frees the
19 seller from any obligation to record the lien or from any liability
20 that may arise as a result of the failure to record the lien. A
21 service fee shall not be charged to the buyer.

22 (9) In the absence of actual malice proved independently and
23 not inferred from lack of probable cause, a person who in any
24 manner causes a prosecution for larceny of a motor vehicle; for
25 embezzlement of a motor vehicle; for any crime an element of which
26 is the taking of a motor vehicle without authority; or for buying,
27 receiving, possessing, leasing, or aiding in the concealment of a

1 stolen, embezzled, or converted motor vehicle knowing that the
2 motor vehicle has been stolen, embezzled, or converted, is not
3 liable for damages in a civil action for causing the prosecution.
4 This subsection does not relieve a person from proving any other
5 element necessary to sustain his or her cause of action.

6 (10) RECEIPT BY THE SECRETARY OF STATE OF A PROPERLY TENDERED
7 APPLICATION FOR A CERTIFICATE OF TITLE ON WHICH A SECURITY INTEREST
8 IN A VEHICLE IS TO BE INDICATED IS A PERFECTION OF A SECURITY
9 INTEREST IN THE VEHICLE AND IS EQUIVALENT TO FILING A FINANCING
10 STATEMENT UNDER THE UNIFORM COMMERCIAL CODE, 1962 PA 174, MCL
11 440.1101 TO 440.11102, WITH RESPECT TO THE VEHICLE. WHEN A SECURITY
12 INTEREST IN A VEHICLE IS PERFECTED, IT HAS PRIORITY OVER THE RIGHTS
13 OF A LIEN CREDITOR.