



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5174 (Substitute H-1 as reported without amendment)
Sponsor: Representative Gino Polidori
House Committee: Military and Veterans Affairs and Homeland Security
Senate Committee: Senior Citizens and Veterans Affairs

Date Completed: 5-5-08

RATIONALE

When military personnel are deployed on active duty, they or their families typically have a lot of personal and financial matters to address before the deployment. Often, one of those matters involves a motor vehicle lease. If a service member has such a contract, he or she may be unable to cancel it without paying an early termination penalty, even though the service member likely will not be able to use the vehicle while deployed. Also, some military personnel reportedly are reluctant to enter into a motor vehicle lease agreement out of concern that they would not be able to cancel the agreement if they are deployed. Some people believe that service members who are deployed on active duty for an extended period should be able to terminate their vehicle lease agreements without penalty.

CONTENT

The bill would create the "Military Personnel Motor Vehicle Leasing Act" do all of the following:

- **Allow a service member, or his or her spouse, to terminate a motor vehicle lease if the service member were deployed on active duty for at least 180 days.**
- **Provide for termination to be effective when the lessor was notified of the intention to terminate and given a copy of the orders calling the service member to active duty, and the vehicle was returned.**

- **Require a lessee who terminated a lease under the bill to pay any past due lease payments owed on the effective date of termination as well as taxes, court costs, title or registration fees, and any other obligations or liabilities under the terms of the lease, but prohibit the lessor from imposing an early termination charge.**
- **Authorize a lessor to bring a civil action, before the effective date of a lease termination, to obtain equitable relief from the lessor's obligations.**
- **Authorize the Attorney General to file a civil action for a violation of the bill, and allow the court to order a civil fine.**
- **Require money recovered under the bill to be deposited in the Military Family Relief Fund.**

Specifically, the bill would allow a service member who was deployed on active duty for at least 180 days, or the service member's spouse, to terminate any motor vehicle lease that was entered into on or after the bill's effective date and was executed by or on behalf of the service member as a lessee before the service member was deployed on active duty.

A termination under the bill would be effective on the date all of the following were met:

- The service member deployed on active duty, or his or her spouse, provided the lessor, by certified mail, a written notice

of the service member's intention to terminate the lease, a copy of the military or gubernatorial orders calling the service member to active duty, and a copy of any orders further extending the service member's period of active duty.

- The motor vehicle subject to the lease was returned to the custody or control of the lessor within 15 days after the delivery of the written notice.

If a motor vehicle lease were terminated under the bill, the lessee would have to pay any past due lease payments owed to the lessor as of the effective date of the termination and a pro rata share of any current lease payments owed as of that date. The lessor could not impose an early termination charge, but the lessee would have to pay any taxes, court costs, title or registration fees, and any other obligation and liability of the lessee under the terms of the lease. This would include reasonable charges for excess wear, use, and mileage, that were due and unpaid as of the effective date of termination. The lessor would have to refund to the lessee any lease amounts paid in advance for a period after the effective date of the termination, within 30 days after that date.

Before the effective date of a motor vehicle lease termination under the bill, the lessor could bring a civil action and, if appropriate, obtain equitable relief from all or part of the lessor's obligations to the lessee under the bill.

In addition to any other penalty provided by law, the Attorney General could file a civil action in which the court could impose on a lessor that violated the proposed Act a civil fine of up to \$1,000 for each violation. Money recovered under this provision would have to be forwarded to the State Treasurer for deposit into the Military Family Relief Fund.

Under the bill, "active duty" would mean active duty pursuant to an executive order of the U.S. President, an act of Congress, or an order of the Governor. "Service member" would mean a member of the Armed Forces, a reserve branch of the Armed Forces, or the Michigan National Guard.

"Armed forces" would mean that term as defined in the Veteran Right to Employment

Services Act (the Army, Air Force, Navy, Marine Corps, Coast Guard, or other military force designated by Congress as a part of the Armed Forces of the United States). "Michigan national guard" would mean that term as defined in the Michigan Military Act (the Army National Guard and the Air National Guard).

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

In recent years, many Michigan citizens have been deployed on active duty, as part of regular, reserve, or National Guard units. When a service member is deployed, he or she must make arrangements for various personal and financial matters before shipping out. One issue that a deployed service member may have to address is a motor vehicle lease. Typically, these are multiple-year agreements, with financial penalties for early termination. Since someone who serves in the military, and is deployed on active duty for an extended period of time, does so out of duty and not out of personal choice, he or she should not have to pay a fee to cancel a vehicle lease. Also, concerns about not being able to get out of a lease agreement upon deployment should not serve to deter military personnel from leasing vehicles. Allowing a service member or his or her spouse to terminate a vehicle lease agreement without an early termination charge, if the service member were deployed on active duty for at least 180 days, would recognize the sacrifice made by Michigan's military personnel, and would ease their burden of preparing for deployment. Michigan's men and women in service should not be financially tethered to the terms of a lease agreement on an unusable vehicle at a time when they are providing a great service to the people of Michigan and the United States.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the judiciary. Any civil fines collected under the bill would be deposited into the Military Family Relief Fund created to provide grants to military families in need of financial

assistance. The amount of revenue to the Fund would depend on the number of enforcement actions. Currently, the Military Family Relief Fund is funded primarily by donations via a check-off on the Michigan income tax return. Since its beginning in tax year 2004, the Fund has received donations totaling \$2,577,000.

Fiscal Analyst: Stephanie Yu

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.