

## **MICHIGAN VEHICLE CODE AMENDMENTS: MOBILITY DEALERS, DEALER TRAINING, ETC.**

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5577 as introduced**  
**Sponsor: Rep. Eric Leutheuser**  
**Committee: Regulatory Reform**  
**Complete to 5-11-16**

Analysis available at  
<http://www.legislature.mi.gov>

### **SUMMARY:**

House Bill 5577 would amend several existing sections of the Michigan Vehicle Code while also adding new sections. Taken together, these amendments would revise provisions relating to dealer licensure under the act, add a new category of licensure, as a mobility dealer, while also making other changes that would not significantly impact current meaning. The bill would take effect 90 days after the date it is enacted into law.

#### Dealer Training Program

House Bill 5577 would require the Secretary of State (SOS) to establish each of the following dealer training programs:

- A *prelicensure* dealer training program that meets all of the following:
  - Is conducted by the Department of State or another person designated by the SOS and is offered at least twice each calendar quarter. If approved by the department, the training program may be conducted online or by other electronic means.
  - Is available to any individual who is an applicant for a dealer license or is a partner or officer of an applicant for a dealer license.
  - Includes training related to this act and any other subject matter selected by the SOS.
- A training program for *licensed* dealers that meets all of the following:
  - Is conducted by the department or another person designated by the SOS and is offered at least twice each calendar quarter. If approved by the department, the training program may be conducted online or by other electronic means.
  - Is available to any individual who is a licensed dealer, is a partner or officer of a licensed dealer, or is an employee who is responsible for preparing title documents for a licensed dealer.
  - Includes training in transferring vehicle titles, documentation of title transfers, record keeping, and any other subject matter selected by the SOS.

In the 6-month period preceding the date of the application for an initial dealer license, each individual who is the applicant, each partner of the applicant, or each officer of the applicant, as applicable, for the initial dealer license would be required to complete the prelicensure dealer training program described above. This would not apply to either an applicant or an application for the renewal of a dealer license, or to the holder of an initial dealer license that was granted before, and is valid on, the effective date of the bill.

In the 6-month period following the issuance of an initial or renewal dealer license, the licensed dealer must ensure that an employee of the dealer who is responsible for preparing title documents for the dealer completes the licensed dealer training program and must provide the department with the name of that employee.

If the dealer does not designate an employee under this subsection, or if a designated employee does not complete the training within the 6-month time period, the licensee, if the licensee is an individual, each individual who is a partner of the licensee, or each officer of the licensee, as applicable, must complete the licensed dealer training program in that 6-month period. This subsection does not apply to the holder of an initial or renewal dealer license that was granted before, and is valid on, the effective date of the amendatory act that added this subsection during the term of that license.

As part of the application process for a dealer license, the bill would add a requirement that the applicant, the partners of the applicant, or the principal officers of the applicant, as applicable, complete the dealer training program within the 6-month period preceding the date of application and include the program completion certificate. This requirement would not apply to an application to renew a license and also would not apply to any new license that was granted before, and is valid on, the effective date of the bill.

#### Mobility Dealer Endorsement

The bill would allow the Secretary of State to create a mobility dealer endorsement for the purposes of this act. All of the following would apply to such an endorsement if created:

- Only a licensed used or secondhand vehicle dealer would be eligible for a mobility dealer endorsement.
- The SOS would have to prescribe the form and content of an application for a mobility dealer endorsement and the application shall require the signature of the applicant.
- A mobility dealer would not be prohibited from also obtaining a broker license, if that broker license is issued for the sole purpose of brokering new vehicles that are modified by the addition of permanently affixed ambulatory assistance devices.
- Notwithstanding any other law of this state, a mobility dealer would be able to do any of the following:
  - Display, hold in inventory, demonstrate, solicit the sale of, or offer for sale a mobility vehicle, regardless of the chassis make of the mobility vehicle.
  - If the transaction occurs through or by a franchised dealer of the motor vehicle's chassis line make, arrange for the sale and delivery of a new mobility motor vehicle to a purchaser at the mobility dealer's place of business.
  - Sell and install mobility equipment and accessories and other goods and services to meet the particular needs of disabled drivers and passengers.
  - Provide mobility vehicle maintenance and repair services. A mobility dealer could perform repairs on parts that are unique to a mobility vehicle, do not alter the operating condition of a mobility vehicle, and were not part of the original manufactured motor vehicle without a license as a repair facility under the Motor Vehicle Service and Repair act. Otherwise, a mobility dealer would be prohibited from performing repairs on mobility vehicles or other motor vehicles without a license.

A mobility dealer would be prohibited from doing any of the following:

- Representing that it is engaged in the sale of new motor vehicles.
- Selling or transferring, or offering to sell or transfer, a new motor vehicle by assigning the vehicle's certificate of origin.
- Selling or offering to sell an adapted vehicle that does not have proof that it has been adapted or modified in compliance with federal law (49 CFR Part 568 or 49 CFR Part 595.)

The follow terms would be added by the bill:

"Mobility dealer" would mean a used or secondhand vehicle dealer that holds an endorsement as a mobility dealer from the Department of State.

"Mobility equipment" would mean mechanical or electronic devices, parts, or accessories that are specifically designed to facilitate the use of a motor vehicle by an aging or disabled individual, in compliance with 49 CFR part 571, and that are permanently attached to or incorporated in the vehicle.

"Mobility vehicle" would mean a motor vehicle that is specially designed and equipped to transport an individual with a disability, in compliance with 49 CFR Part 568 or 49 CFR Part 595, and that meets all of the following:

- Is designed and built or modified to allow vehicle ingress and egress for an individual who is in a wheelchair or scooter.
- Is equipped with one or more of the following:
  - An electronic or mechanical wheelchair, scooter, or platform lift that enables an individual to enter or exit the vehicle while occupying a wheelchair or scooter.
  - An electronic or mechanical wheelchair ramp.
  - A system to secure a wheelchair or scooter that allows for safe transportation of an individual while he or she is occupying the wheelchair or scooter and that is installed as an integral part or permanent attachment to the vehicle's chassis.

#### License placed on probation

Under the bill, as an alternative, or in addition, to administrative action for violations of certain specified sections of the act, the Secretary of State may, by written agreement with a person that holds the license described in that section, place that license on probation and include conditions of probation in the agreement.

Currently, the potential penalties for a violation of these sections could include one of the following:

- Placement of a limitation on the person's license.
- Suspension or revocation of a license.
- Denial of an original or renewal application.
- A civil fine paid to the department in an amount not to exceed \$25,000.
- Condition of probation.
- A requirement to take affirmative action, including payment of restitution.

- A letter of censure.

If the Secretary of State determines after notice and opportunity for a hearing that a person has violated this chapter, the SOS may then issue an order requiring the person to cease and desist from the violation or to take an affirmative action that in the judgment of the Secretary of State would carry out the purposes of this act, including, but not limited to, payment of restitution to a customer.

If the SOS makes a written finding of fact that the public interest will be irreparably harmed by a delay in issuing an order, he or she may issue a temporary cease and desist order. Before issuing a temporary cease and desist order, the SOS, when possible, must notify the person that violated this chapter, by telephone or otherwise, of the intention to issue a temporary cease and desist order. In its terms, a temporary cease and desist order must include a provision that the SOS will, on request, hold a hearing within 30 days to determine whether or not the order shall become permanent.

In the newly added Section 250c, the bill would add language stating that the remedies and sanctions under Chapter 2 are independent and cumulative. The use of a remedy or sanction under this chapter, including, but not limited to, administrative action by the SOS under Sections 248h(1), 249, or 249a(1), an agreement for probation under Section 250a, or an order under Section 250b, would not bar other lawful remedies and sanctions against a person and does not limit a person's criminal or civil liability under law.

#### Surety reimbursement

Presently, the surety required as part of new vehicle dealer and used or secondhand vehicle dealer licensing must make indemnification or reimbursement for a monetary loss only after judgment based on fraud, cheating, or a misrepresentation has been entered in a court of record against the licensee. HB 5577 would add language stating that a final order issued by the SOS after an administrative hearing would also trigger indemnification or reimbursement. This change would also apply to a provision stating that the bond must also indemnify or reimburse the state for any sales tax or use tax deficiency only after a final judgment has been entered in a court of record against the license.

#### Temporary Registration Plates

The bill also would allow the Secretary of State to charge a fee in an amount determined to reflect the actual cost of administering the temporary registration plates and markers program. Currently, statute allows the Secretary of State to charge \$5 for each group of 5 temporary plates or markers.

### **FISCAL IMPACT:**

A fiscal analysis is in process.

Legislative Analyst: Josh Roesner  
Fiscal Analyst: Perry Zielak

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.