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BILL



ANALYSIS

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Senate Bill 196 (as introduced 3-16-15)
Sponsor: Senator Tom Casperson
Committee: Transportation

(enacted version)

Date Completed: 3-18-15

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- **Allow an insurance company that paid a claim for total loss to the owner or lienholder of a vehicle but did not receive a surrendered certificate of title to apply to the Secretary of State (SOS) for a salvage or scrap certificate of title.**
- **Allow an insurance company to direct a salvage pool that possessed a vehicle to release it to an owner or lienholder, and allow the salvage pool to sell the vehicle if the owner or lienholder did not claim it within 30 days.**
- **Extend provisions regarding the removal and disposition of abandoned vehicles to a vehicle that could not be disposed of under the bill within 60 days.**

The bill would take effect 90 days after it was enacted.

Certificate of Title: Total Loss

Section 217c of the Code governs situations in which an insurance company acquires ownership of a vehicle through payment of a claim. In the case of a late model vehicle (except one that has been stolen and recovered and is undamaged, or is damaged and not salvageable), the vehicle owner must assign the certificate of title to the insurance company. The insurance company then must surrender the certificate of title to the SOS and apply for a salvage or scrap certificate of title. If the insurance company permits the owner to retain ownership, the company must require the owner to sign an application for a salvage or scrap certificate of title, and the company must apply for the certificate on the owner's behalf.

Under the bill, if an insurance company paid a claim for total loss to the owner and/or the lienholder of record, as kept by the SOS, of a vehicle but the owner or lienholder failed to surrender the certificate of title or other document necessary for the transfer of ownership to the insurance company within 30 days after the claim payment, the insurance company could apply to the SOS for a salvage or scrap certificate of title. At the time of the application, the insurance company would have to provide proof of the payment and that the company had requested in writing on at least two separate occasions that the owner or lienholder of record surrender the certificate of title or other document necessary for the transfer of ownership. The application would have to be signed under the penalty of perjury.

When these requirements were met, the SOS would have to issue to the insurance company the appropriate certificate of title free of all liens and give written notice of that action to the prior vehicle owner and lienholder of record, if any.

Proof of payment of the claim would be satisfied only by one of the following:

- In the case of payment by check, either a copy of the front and back of the endorsed check or evidence that the check had cleared the payer's account.
- In the case of payment by electronic transfer, evidence that the payment was charged to the payer's account.

Currently, if an insurance company acquires ownership of a vehicle other than a late model vehicle through payment of damages due to an accident, the company must surrender a properly assigned title to the buyer upon delivery. Under the bill, this would apply except as provided above.

Vehicle Salvage

The Code prohibits a vehicle salvage pool operator or broker from selling, assigning, or otherwise disposing of a vehicle for which a salvage certificate of title is required, unless a salvage or scrap certificate of title has been issued for the vehicle by the Department of State. Under the bill, this prohibition would apply except as provided in Section 248c. ("Vehicle salvage pool" means a person engaged in the business or storing or displaying damaged or distressed vehicles as an agent or escrow agent of an insurance company.)

Under Section 248c, a vehicle salvage pool, auction, or broker may not sell, transfer, or release a distressed, late model vehicle to anyone other than one or more of the following:

- The vehicle's former owner.
- A licensed salvage agent of an automotive recycler.
- A licensed salvage agent of a foreign salvage vehicle dealer.

The bill would refer to the vehicle's former owner or lienholder of record as kept by the SOS, as applicable.

Under the bill, Section 248c also would allow an insurance company to direct a salvage pool that obtained possession of a vehicle to release it to the owner or lienholder of record, as applicable. The insurance company would have to give the salvage pool a release statement authorizing the release. A release statement would have to contain the following information:

- The claim number relating to the vehicle.
- The name and address of the vehicle's owner.
- The vehicle identification number and a description of the vehicle.
- The signature of an authorized representative of the insurance company.

Upon receiving a release statement, a salvage pool would have to send a notice to the owner and any lienholder of record that the vehicle was available for pickup by the owner or lienholder. The notice would have to be accompanied by an invoice for any outstanding charges owed to the salvage pool. The notice also would have to inform the owner and any lienholder of record that they had 30 days from the date of the notice and upon payment of applicable charges to pick up the vehicle from the salvage pool. The salvage pool would have to send the notice to the applicable address on record with the SOS by certified mail or by another commercially available delivery service providing proof of delivery.

If the owner or lienholder of record did not pick up the vehicle within the 30-day period, the salvage pool could sell it for parts only to a licensed salvage agent of an automotive recycler or to a licensed salvage agent of a foreign salvage vehicle dealer if the vehicle were a distressed late-model vehicle. If the vehicle were not a distressed late-model vehicle, the salvage pool could sell it to a licensed salvage agent of an automotive recycler, to a licensed salvage agent of a foreign salvage vehicle dealer, or to a vehicle scrap metal processor. In any case, the salvage pool would have to give the buyer and the SOS a copy of the release

statement, proof of the required notice to the owner and lienholder of record, and a bill of sale. The SOS would have to use the documentation to issue the appropriate salvage or scrap certificate of title.

(The Code defines "automotive recycler" as a person who engages in business primarily for the purpose of selling at retail salvage vehicle parts and secondarily for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal. "Foreign salvage vehicle dealer" means a person who is a licensed dealer in another state and is engaged in Michigan in the business of purchasing, selling, or otherwise dealing on a wholesale basis in salvageable parts or vehicles of a type required to have a salvage or scrap certificate of title under the Code.)

Abandoned Vehicle

The Code prescribes procedures for the removal, redemption, and disposition of abandoned vehicles. "Abandoned vehicle" means a vehicle that has remained on private property without the consent of the owner; or a vehicle that has remained on public property for at least 48 hours or on a State trunk line highway, under either of the following circumstances:

- If a valid registration plate is affixed to the vehicle, for a period of at least 18 hours.
- If a valid registration plate is not affixed to the vehicle.

Under the bill, "abandoned vehicle" also would include a vehicle, other than a late-model vehicle, to which all of the following apply:

- An insurance company has not acquired ownership of the vehicle under Section 217c.
- The vehicle cannot be disposed of under Section 248c.
- The vehicle has remained in the custody of a vehicle salvage pool or broker site without the consent of the salvage pool operator or broker for at least 60 days.

MCL 257.217c et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

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

Fiscal Analyst: Joe Carrasco

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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.