



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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Senate Bill 196 (as enacted)  
Sponsor: Senator Tom Casperson  
Senate Committee: Transportation  
House Committee: Transportation and Infrastructure

**PUBLIC ACT 48 of 2015**

Date Completed: 7-6-16

**RATIONALE**

Generally, when damage to a vehicle in an accident results in a total loss, the automobile insurance company issues a payment to the policy holder or lienholder, and the vehicle owner surrenders the vehicle's certificate of title to the insurer. To facilitate ultimate disposition of the vehicle, the insurer surrenders the title to the Secretary of State (SOS) in exchange for a scrap or salvage certificate of title. In some cases, however, the owner does not surrender the title after receiving the settlement from the insurer. In the past, absent an explicit statutory mechanism for disposing of the vehicle without the title, the vehicle simply sat in the salvage pool to which it had been towed. In order to facilitate the timely processing of such vehicles, it was suggested that procedures be established to enable an insurer to obtain the scrap or salvage certificate without first receiving the title from the owner, and to authorize a salvage pool to dispose of a vehicle that is not claimed by the owner according to the Michigan Vehicle Code's provisions regarding abandoned vehicles.

**CONTENT**

**The bill amended the Michigan Vehicle Code to do the following:**

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

The bill took effect on September 7, 2015.

**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 pays a claim for total loss to the owner or the lienholder of record as kept by the SOS, or both if applicable, of a vehicle but the owner or lienholder fails 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 may apply to the SOS for a salvage or scrap certificate of title. At the time of the application, the insurance company must provide proof of the payment and that the company has 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 must be signed under the penalty of perjury.

When these requirements are met, the SOS must 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 may 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 has cleared the payer's account.
- In the case of payment by electronic transfer, evidence that the payment was charged to the payer's account.

Under the Code, 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 applies 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 applies except as provided in Section 248c. ("Vehicle salvage pool" means a person engaged in the business of 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 or lienholder of record as kept by the SOS, as applicable.
- A licensed salvage agent of an automotive recycler.
- A licensed salvage agent of a foreign salvage vehicle dealer.

(The bill added the reference to the lienholder of record.)

Under the bill, Section 248c also allows an insurance company to direct a salvage pool that obtains possession of a vehicle to release it to the owner or lienholder of record, as applicable. The insurance company must give the salvage pool a release statement authorizing the release. A release statement must 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 must send a notice to the owner and any lienholder of record that the vehicle is available for pickup by the owner or lienholder. The notice must be accompanied by an invoice for any outstanding charges owed to the salvage pool. The notice also must inform the owner and any lienholder of record that they have 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 must 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 does not pick up the vehicle within the 30-day period, the salvage pool may 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 is a distressed late-model

vehicle. If the vehicle is not a distressed late-model vehicle, the salvage pool may 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 must 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 must use the documentation to issue the appropriate salvage or scrap certificate 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 includes 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.

### **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**

Although provisions for the disposition of abandoned vehicles have existed in the Vehicle Code for some time, there was disagreement as to whether a salvage pool vehicle met the statutory criteria to be considered "abandoned" if the owner was known but had not surrendered the title to the insurer. By establishing procedures that include an alternative way for insurers to obtain the title, a final opportunity for an owner to claim his or her vehicle from the salvage pool, and explicit authority for a salvage pool to treat these vehicles as abandoned after a certain time period, the bill will ensure that the vehicles can be disposed of efficiently.

Legislative Analyst: Julie Cassidy

### **FISCAL IMPACT**

The bill will 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.