

PROHIBIT NEW MOTOR VEHICLE STORAGE FACILITIES

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House Bill 4360 (reported from committee as H-1)
Sponsor: Rep. Peter J. Lucido
Committee: Local Government
Complete to 2-26-18

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

SUMMARY:

House Bill 4360 proposes a new act that would prohibit a local government or law enforcement agency from operating a “motor vehicle storage facility,” or accepting financial consideration from a vendor that does so, and provide for the continued operation of existing storage facilities, towing operations, and vendor contracts.

Beginning on the effective date of the bill, a local government or law enforcement agency would not be allowed to do any of the following:

- Operate a *motor vehicle storage facility*.
- Accept any consideration, financial or other, from an *authorized vendor* that operates a motor vehicle storage facility.
- Require an authorized vendor to deliver a motor vehicle to a motor vehicle storage facility operated by a different authorized vendor.

Under the bill, *motor vehicle storage facility* would mean a facility operated to hold motor vehicles that have been taken into custody for safekeeping.

Authorized vendor would mean an individual or entity that a local government or law enforcement agency designates through contract, permit, practice, or license to have authority to remove or store motor vehicles at the request of the local government or law enforcement agency.

Local government would mean a county, city, village, township, or authority established by law.

Law enforcement agency would mean the Department of State Police, the Department of Natural Resources, or a law enforcement agency of a county, township, city, village or airport authority, that is responsible for the prevention and detection of crime and the enforcement of criminal laws.

If a local government or law enforcement agency violated the above prohibitions, an authorized vendor could bring a cause of action against the local government or law enforcement agency and could recover the amount of damages sustained, plus costs and reasonable attorney fees.

The owner or lessee of a vehicle held at a storage facility operated in violation of the above prohibitions could bring a cause of action against the local government or law enforcement agency and could recover all towing and storage fees paid by the owner or lessee or \$150, whichever is greater, plus costs and reasonable attorney fees.

If a local government or law enforcement agency issued a request for proposals for operating a motor vehicle storage facility and the request did not yield a bid, the prohibition on operating a motor vehicle storage facility would not apply. A request for proposals for operating a motor vehicle storage facility would have to be the same as the standard or customary request for proposals used by the local government or law enforcement agency for all other procurement matters.

If a local government or law enforcement agency was operating a motor vehicle storage facility before the effective date of the bill, it could continue to operate that facility after the effective date of the bill; similarly, if before the effective date of the bill a local government or law enforcement agency was accepting consideration from an authorized vendor that operated a storage facility, it could continue to accept that consideration. Finally, if before the effective date of the bill a local government or law enforcement agency was requiring an authorized vendor to deliver a vehicle to a storage facility operated by a different authorized vendor, it could continue to do so.

The bill would take effect 90 days after being enacted into law.

BRIEF DISCUSSION:

According to testimony before the House Committee on Local Government on February 14, 2018, the bill is intended to protect the private towing and storage industry from public interference and competition. Supporters hold that these businesses should not have to compete with government entities and that there is simply no reason that a municipality should need to operate a vehicle storage facility. There are already numerous private businesses to meet this need. Proponents argue that, in fact, if a municipality owned a storage lot, it could create an incentive for the municipality to use it for financial benefit—that is, to tow and store more cars. Finally, the bill creates an exception for municipal storage facilities in operation today and makes no changes to existing arrangements with authorized vendors.

FISCAL IMPACT:

The bill would have little to no fiscal impact on local law enforcement agencies. The Michigan Sheriffs' Association has indicated that only a few county sheriff offices operate motor vehicle storage facilities, generally the larger counties, in order to maintain evidentiary custody of vehicles involved in fatal vehicle accidents or criminal activity. Similarly, the Michigan Association of Chiefs of Police noted that very few local law enforcement agencies operate their own motor vehicle storage facility. Those law enforcement agencies that already have a motor vehicle storage facility in operation would

not be affected by House Bill 4360, due to the provision included in Section 3, which would allow those agencies to continue operation of a motor vehicle storage facility.

POSITIONS:

Representatives of the Michigan Towing Association testified in support of the bill. (2-14-18)

Representatives of the following entities indicated support for the bill:

Michigan Chamber of Commerce (2-14-18)

National Federation of Independent Business (2-14-18)

Legislative Analyst: Patrick Morris
Fiscal Analysts: Kent Dell
Ben Gielczyk

■ 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.