

VEHICLE REGISTRATION TRANSFERS

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House Bill 5195 (H-2) as reported from committee
House Bill 5313 (H-1) as reported and amended on the House Floor
Sponsor: Rep. Jason M. Sheppard
Committee: Government Operations
Complete to 1-23-20

Analysis available at
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BRIEF SUMMARY:

Taken together, House Bills 5195 and 5313 would amend Michigan Vehicle Code provisions regarding fees assessed when a registration is transferred from one vehicle to another, as well as the treatment of registration taxes at the time of registration transfer.

The current treatment of registration transfers is first described in detail in **Background Information**, below, followed by a description of **The Content of the Bills**.

BACKGROUND INFORMATION:

Chapter II of the Michigan Vehicle Code establishes provisions governing titling and registration of motor vehicles in the state and gives to the Michigan Secretary of State authority over the administration of the vehicle title and registration program.

Under section 216 of the Michigan Vehicle Code, motor vehicles driven or moved on a public street or highway, with certain specific exceptions, are subject to the titling and registration provisions of the Code. Vehicle registrations are subject to registration taxes under section 801 of the Code. Registration taxes are constitutionally dedicated for transportation purposes and are statutorily dedicated to the Michigan Transportation Fund (MTF) under section 810 of the Code.

The MTF is the primary collection and distribution fund for state restricted transportation revenue. MTF revenue is distributed to the State Trunkline Fund, to local road agencies, and to other targeted or categorical transportation programs in accordance with 1951 PA 51. In FY 2018-19, vehicle registration tax revenue credited to the MTF totaled \$1.4 billion.

Section 237 of the Michigan Vehicle Code authorizes the Secretary of State [on request of the applicant and subject to certain conditions] to transfer a registration from one vehicle to another. In practice, this is commonly done when someone purchases a new vehicle and transfers a valid registration, and the associated registration plate, from the older vehicle to the new vehicle. Section 809 of the Code provides for a registration transfer fee and directs the use of fee revenue.

Section 809 was part of the 1949 codification of the Michigan Vehicle Code. At that time, the section provided for a \$1 transfer of registration fee. There have been a number of amendments to section 809 since 1949, including a 1987 amendment that increased the transfer of registration fee to \$8 (1987 PA 238) and a 2005 amendment (2005 PA 141) that redirected fee revenue from the MTF to the Transportation Administration Collection Fund (TACF).

House Bills 5195 and 5313 deal with the transfer fees assessed when a registration is transferred from one vehicle to another, as well as the treatment of registration taxes at the time of registration transfer. Although not stated explicitly in House Bill 5195, or in current section 809, the transfer of registration provisions of section 809 affect primarily, if not exclusively, vehicles registered under section 801(1)(p) of the Michigan Vehicle Code, the subdivision that establishes ad valorem tax rates for most passenger cars, vans, and light trucks of model year 1984 and newer. The ad valorem tax established under this subdivision is based on the manufacturer's suggested base list price for the vehicle.¹

Prior to February 2019, the Department of State did not collect additional ad valorem registration taxes at the time of registration transfer, even when the registration tax on the “new” vehicle would have been higher than the registration tax already paid for the “old” vehicle. The Department only collected the \$8 transfer of registration fee. The vehicle owner would not have to pay the higher registration tax until the second registration after the transfer registration. Department representatives indicate that some vehicle owners regularly transferred registrations from a lower taxed—in some cases derelict—vehicle to a more expensive (higher list price) vehicle to avoid paying the higher ad valorem registration tax.

The Department of State did not collect additional ad valorem registration taxes at the time of registration transfer, in part, because of the provisions of section 801(1)(p), which provide a 12-month tax schedule “for the first registration that is not a transfer registration under section 809 and for the first registration after a transfer registration under section 809.” The Department of State did not believe that it had clear authority to collect additional registration taxes, at the time of registration transfer, for registration transfers between vehicles registered under section 801(1)(p).

Starting in February 2019, the Department of State did begin requiring the collection of additional registration tax on registration transfers between vehicles registered under section 801(1)(p), in addition to the \$8 transfer of registration fee. The department made this administrative change as a result of an internal reassessment of the language of section 801(1)(p). In addition, the department indicates that its systems were not capable of calculating the additional registration taxes due at the time of transfer prior to 2019.

In committee testimony, representatives of Michigan auto manufacturers testified that as common practice company executives are assigned new production vehicles to drive, and sometimes several different vehicles over the course of a year. As a result of the Secretary of State's February 2019 policy change, these manufacturers were frequently assessed additional registration taxes each time a registration was transferred from one company vehicle to another. This resulted in additional registration tax paid by auto manufacturers, as well as an increased administrative burden in monitoring registration transfers.

In addition, since some registration functions are actually performed by auto dealers, the Department of State's policy change resulted in an additional administrative burden for auto dealers.

¹ The registration tax basis for passenger cars was changed from a weight-based tax to an ad valorem tax for passenger vehicles registered after September 30, 1983 under 1983 PA 165; vans and most light trucks were moved from a weight-based registration basis to the ad valorem tax schedule under 1997 PA 80.

THE CONTENT OF THE BILLS:

House Bill 5195 would make the following changes to section 809, dealing with transfer of registrations:

Section 809(1): The amendments to this subsection, which deal only with transfers from a lower taxed vehicle to higher taxed vehicle, would do all of the following:

Increase the current transfer of registration fee from \$8 to \$10. Fee revenue would be credited to the TACF as under current law.

Establish a new \$5 “registration difference fee.” This registration difference fee would apparently be assessed in place of additional registration tax at time of transfer. Under provisions of current section 810, this fee revenue would be credited to the MTF. The registration difference fee would be assessed as follows:

Under subdivision (a), if the sale is *not exempt* from use tax [i.e., the sale is not a qualified family transfer].

Under subdivision (b), if the vehicle has never been previously titled. [This provision addresses the concerns of auto manufacturers and auto dealers.]

Under subdivision (c), if there is no transfer of ownership, “then the difference [i.e., the prorated difference between the old registration tax and the new registration tax] shall be collected.”

Section 809(2): The amendments to this subsection, which deal only with transfers from a higher taxed vehicle to a lower taxed vehicle, would do all of the following:

Increase the current transfer of registration fee from \$8 to \$10. Fee revenue would be credited to the TACF as under current law.

Establish a new \$5 “registration difference fee” for credit to the MTF under section 810.

Section 809(3): The amendment to this subsection would eliminate a current sunset (expiration date) of October 1, 2023, on the TACF earmark for transfer of registration fees.

MCL 257.809

House Bill 5313 would amend section 801(1)(p) of the Michigan Vehicle Code to eliminate current language referencing transfer of registration with respect to the assessment of the ad valorem tax schedule. The Department of State believed that the language currently in the law was confusing and unclear as to whether or not it had authority to prorate registration taxes at the time of a transfer.

MCL 257.801

The bills are tie-barred to one another, meaning that neither could take effect unless both were enacted. Each bill would take effect 90 days after its enactment.

FISCAL IMPACT:

House Bill 5195 would increase the revenue to the TACF by increasing the transfer of registration fee from \$8 to \$10. Based on revenue collected from these fees in Fiscal Year (FY) 2018-19, the \$2 increase would result in a roughly \$2.3 million annual increase to TACF. TACF is the primary funding source to support DOS administration and enforcement of vehicle registration and titling services. \$135.0 million was deposited into TACF in FY 2018-19. TACF revenue sources include both vehicle registration and title service fees and “look-up fees” charged to companies for DOS registration and driver history data.

The impact of House Bills 5195 and 5313 on MTF revenue cannot be readily estimated at this time. The bills would result in a loss of MTF revenue to the extent that the Secretary of State would not assess additional registration taxes at the time of registration transfer for most ad valorem registration transfers. However, this loss of MTF revenue would be offset, at least in part, by the new registration difference fee. In addition, the bills would tend to eliminate or reduce the tax avoidance practice of regularly transferring registrations from lower taxed vehicles to higher taxed vehicles.

POSITIONS:

Representatives of the following entities testified in support of the bills (1-14-20):

- Secretary of State
- Auto Dealers of Michigan

A representative of General Motors testified in support of HB 5195. (1-14-20)

The following entities indicated support for HB 5195 (1-14-20):

- Michigan Manufacturers Association
- Ford Motor Company

A representative of the Michigan Environmental Council testified in opposition to HB 5313. (1-14-20)

The following entities indicated opposition to HB 5313 (1-14-20):

- Ecology Center
- Michigan Conservative Energy Forum
- Michigan League of Conservation Voters

[**Note:** Opposition to HB 5313 was based on a proposed change to the definition of “hybrid electric vehicle” that was removed from the bill by amendment adopted on the House Floor.]

Fiscal Analysts: William E. Hamilton
Michael Cnossen

■ 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.