

Legislative Analysis



VEHICLE REGISTRATION TRANSFERS

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House Bills 5195 and 5313 as enacted
Public Acts 102 and 103 of 2020
Sponsor: Rep. Jason M. Sheppard
House Committee: Government Operations
Senate Committee: Transportation and Infrastructure
Complete to 7-9-20

Analysis available at
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BRIEF SUMMARY:

House Bills 5195 and 5313 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 bills also revise definitions pertaining to electric vehicles for purposes of registration taxes. The bills take effect September 29, 2020.

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 the Secretary of State authority over the administration of the vehicle title and registration program.

Under section 216 of the 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 (STF), 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 code authorizes the Secretary of State (upon 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 one. 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 registration transfer provisions of section 809 affect primarily, if not exclusively, vehicles registered under section 801(1)(p) of the 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 that 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).

However, 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, prior to 2019, its systems were not capable of calculating the additional registration taxes due at the time of transfer.

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 Department 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 makes the following changes to section 809 of the Michigan Vehicle Code, 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, do all of the following:

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

Establish a new \$5 “registration difference fee.” This registration difference fee is apparently assessed in place of additional registration tax at time of transfer. Under provisions of section 810, this fee revenue is credited to the MTF. The registration difference fee is 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 to which the registration is being transferred has never previously been registered and the application for the last title issued was accompanied by a manufacturer certificate of origin. [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, do all of the following:

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

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

As a result of the above provisions, beginning September 29, 2020 (the effective date of the bill), the Department of State will assess a \$10 registration transfer fee for all registration transfers, in place of the current \$8 registration transfer fee. This fee revenue will be credited to the TACF as under current law. In addition, the department will no longer prorate ad valorem registration taxes at the time of transfer, except for transfers from a lower taxed vehicle to a higher taxed vehicle when there is no change in ownership. For all other registration transfers, other than transfers between qualified family members, the department will assess the new \$5 registration difference fee for credit to the MTF.

MCL 257.809

House Bill 5313 amends section 801(7) and (8) of the Michigan Vehicle Code to revise terminology concerning electric vehicles and the scope of their definitions. [According to committee testimony, the vehicle categories and descriptions in current law do not correspond to manufacturer or federal government vehicle classifications, making the relevant provisions difficult, if not impossible, to administer.]

Currently section 801(7) of the code imposes a \$30 registration tax surcharge on a “hybrid electric vehicle” with an empty weight of up to 8,000 pounds and a \$100 surcharge on a hybrid electric vehicle with an empty weight of over 8,000 pounds. “Hybrid electric vehicle” is defined as a vehicle that can be propelled at least in part by electrical energy, but is also capable of using gasoline, diesel fuel, or alternative fuel to propel the vehicle.

The bill retains the amount of the surcharge, but imposes it instead on a “plug-in hybrid electric vehicle,” which it defines as a vehicle that can use batteries to power an electric motor and use another fuel, such as gasoline or diesel, to power an internal combustion engine or other propulsion source, and that may use electricity from the grid to run the vehicle some or all of the time.

Similarly, the code currently imposes a \$100 registration tax surcharge on a “nonhybrid electric vehicle” with an empty weight of up to 8,000 pounds and a \$200 surcharge on a nonhybrid electric vehicle with an empty weight of over 8,000 pounds. “Nonhybrid electric vehicle” is defined as a vehicle that is propelled solely by electrical energy and that is not capable of using gasoline, diesel fuel, or alternative fuel to propel the vehicle.

The bill retains the amount of the surcharge, but imposes it instead on an “electric vehicle,” a term given the same definition as “nonhybrid electric vehicle” in current law (above).

The bill also amends section 801(8) to reflect the new terminology.

Finally, the bill amends section 801(1)(p) of the 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 unclear as to whether it had authority to prorate registration taxes at the time of a transfer.]

MCL 257.801

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 2018-19, the \$2 increase would result in a roughly \$2.3 million annual increase to the TACF. The TACF is the primary funding source to support Department of State administration and enforcement of vehicle registration and titling services. \$135.0 million was deposited into the TACF in FY 2018-19. TACF revenue sources include both vehicle registration and title service fees and “look-up fees” charged to companies for Department of State registration and driver history data.

The Department of State indicates that it would incur some additional costs to comply with the changes made in House Bill 5195. Specifically, the department would have costs associated

with the programming necessary to properly assess the new \$5 registration difference fee. These additional costs would be charged to the TACF.

The net impact of House Bills 5195 and 5313 on MTF revenue cannot be readily estimated at this time. House Bill 5195 would result in a loss of MTF revenue to the extent that the Secretary of State would no longer assess additional prorated registration taxes at the time of registration transfer for most ad valorem registration transfers from lower taxed to higher taxed vehicles. However, this loss of MTF revenue would be offset, at least in part, by the new registration difference fee. In addition, the bill would tend to eliminate or reduce the tax avoidance practice of regularly transferring registrations from lower taxed vehicles to higher taxed vehicles.

House Bill 5313 would increase MTF revenue with respect to hybrid vehicles. While the bill does not change the amount of the registration tax surcharge on hybrid vehicles, the bill does clarify the definition of the type of vehicle the surcharge is applied to. As a result, the bill allows the department to begin collecting the registration tax surcharge on hybrid vehicles it had previously not collected due to a flawed definition in current law.

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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.