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Senate Bill 1064 (Substitute S-1)
Sponsor: Senator Aric Nesbitt
Committee: Regulatory Reform

(Senate-passed version)

Date Completed: 6-14-22

CONTENT

- **Modify the definition of "established place of business" as it applies to a wholesaler and prescribe the definition of "established place of business" as it applies to a secondhand vehicle parts dealer, a vehicle salvage pool operator, a distressed vehicle operator, a broker, and an automotive recycler.**
- **Require a wholesaler to maintain regular hours of operation at an established place of business that included at least 15 regular business hours per week between the hours of 8 AM and 5 PM, Monday through Friday.**
- **Increase, from 15 days to 21 days, the time period a dealer selling, leasing, or exchanging certain vehicle or a person engaged in the sale of vessels has to apply for a new title and transfer or secure registration plates and secure a certificate of registration.**
- **Increase, from \$15 to \$50, the late transfer fee for a title.**
- **Increase, from 30 days to 60 days, the time period for which a special registration is valid.**
- **Specify that a provision specifying that a vehicle registration expires two years after the owner's birthday would apply, beginning October 1, 2022.**
- **Increase, from 15 days to 30 days, the maximum time period for which a temporary registration plate or maker is valid.**
- **Specify that certain odometer information would not apply to a scrap vehicle.**
- **Allow the Secretary of State (SOS) to accept an electronically signed odometer disclosure document that complied with certain requirements.**
- **Prohibit the SOS from renewing a new dealer's license if the applicant had not bought or sold more than five vehicles during the 12 months preceding the dealer's renewal application.**
- **Increase, from \$10,000 to \$25,000, the bond amount required for a new vehicle dealer or used secondhand vehicle dealer or broker license seeking licensure.**
- **Require the SOS or law enforcement officials to provide dealers with 36 hours' advance notice of an inspection.**
- **Modify certain license fees.**

Established Place of Business

Under the Act, with respect to a wholesaler, "established place of business" means premises that meet all of the following requirements:

- The premises contain a permanently enclosed building or structure that is either owned, leased, or rented and is not a commercial mailbox, tent, temporary stand, or other temporary quarters.

- All books, records, and files necessary to conduct the business of the wholesaler are maintained in the building or structure described above.
- The premises are not used for the display of vehicles; however, the premises may be used for the storage of vehicles purchased by the wholesaler before sale to a licensed vehicle dealer.
- The premises are identified by an exterior sign displaying the name of the wholesaler that is permanently affixed to the building or land with letters clearly visible from the roadway.
- The premises meet all applicable zoning requirements and any other applicable municipal requirements.

Under the bill, the following requirements also would apply to an established place of business:

- The premises contained a conspicuous posting of the wholesaler's regular hours of operation that included at least 15 regular hours business hours each week between the hours of 8 AM and 5 PM, Monday through Friday.
- If the wholesaler received its initial license on or after January 1, 2023, the premises could not be located within 200 feet of an established place of business for another licensed wholesaler.

Also, under the bill, for a used or secondhand vehicle parts dealer, vehicle scrap metal processor, vehicle salvage pool operator, distressed vehicle transporter, broker and automotive recycler, "established place of business" would mean premises that meet all the following requirements:

- The premises contain a permanently enclosed building or structure that is either owned, leased, or rented by the business and that is not a commercial mailbox, tent, temporary stand, or other temporary quarters.
- All books, records, and files necessary to conduct the business of the dealer are maintained in the building or structure.
- The premises is identified by an exterior sign displaying the name of the dealer that is permanently affixed to the building or land with letters clearly visible from the roadway.
- The premises meet all applicable zoning requirements and any other applicable municipal requirements.
- The premises contain a conspicuous posting of the business's regular hours of operation; the posted hours could not be less than 15 hours per week for not less than 48 weeks per year and five of the 15 hours would have to be between the hours of 8 AM and 5 PM, Monday through Friday.

Wholesaler

Under the Code, "wholesaler" means a person who is engaged in the business of selling used vehicles to or purchasing used vehicles from a licensed motor vehicle dealer and who does not sell or offer for sale motor vehicles of any classification to a person other than a licensed motor vehicle dealer. The Code prescribes certain requirements that apply to a wholesaler.

In addition to the current requirements, the bill would require a wholesaler to maintain regular hours of operation at an established place of business that included at least 15 regular business hours per week between the hours of 8 AM and 5 PM, Monday through Friday.

Late Transfer Fee

The Code prescribes circumstances under which a dealer selling, leasing, or exchanging certain vehicles required to be titled or a person engaging in the sale of vessels required to

be numbered by Part 801 (Marine Safety) of the Natural Resource and Environmental Protection Act (NREPA) must apply to the SOS for a new title within 15 days after delivery of the vehicle or boat trailer, as applicable, to the purchaser or lessee. A dealer's license may be suspended or revoked for failing to transfer or secure registration plates and certificate of registration within 15 days. If the dealer or person fails to apply for a title when required, and to transfer or secure registration plates and secure a certificate of registration and pay the required fees within 15 days of delivery, they may be required to pay a late transfer fee of \$15.

The bill would extend the time periods listed above from 15 to 21 days and would increase the late transfer fee from \$15 to \$50.

Insurance Claims

Generally, under the Code, if an insurance company pays a claim for total loss to the owner or lienholder and the owner or lienholder fails to surrender the certificate of title or other document necessary for the transfer of ownership of the vehicle to the insurance company within the expiration of 30 days the insurance company may apply to the SOS for a title. When the insurance company applies for the title, it must provide the information and meet the requirements specified in the Code. After meeting those requirements, the SOS must issue to the insurance company the appropriate certificate of title free of all liens.

The SOS also must notify the prior vehicle owner and lienholder a record as kept by the SOS, if any of that action in writing. The bill would delete this provision.

Special Registration

The Code allows the SOS to issue a special registration for each of the following:

- A new vehicle purchased or leased outside of Michigan and delivered in Michigan to the purchaser or lessee by the manufacturer of that vehicle for removal to a place outside of Michigan, if a certification is made that the vehicle will be primarily used, stored, and registered outside of Michigan and will not be returned to Michigan by the purchaser or lessee for use or storage.
- A vehicle purchased or leased in this state and delivered to the purchaser or lessee by a dealer or by the owner of the vehicle for removal to a place outside of this state, if a certification is made that the vehicle will be primarily used, stored, and registered outside of this state and will not be returned to this state by the purchaser or lessee for use or storage.

The special registration is valid for up to 30 days after the date of issuance. Instead, under the bill, the special registration would be valid for up to 60 days.

If a person other than the vehicle dealer sells or leases a vehicle to a purchaser or lessee who is qualified and eligible to obtain a special registration, the purchaser or lessee is required fulfill certain requirements for the issuance of the special registration. The certification must contain all the following:

- The address of the purchaser or lessee.
- A statement that the vehicle is purchased or leased for registration outside of the State.
- A statement that the vehicle must be primarily used, stored, and registered outside of the State.
- The name of the jurisdiction in which the vehicle is to be registered.
- Other information requested by the SOS.

Under the bill, the certification also would have to contain the name and address of the lienholder.

Vehicle Registration & Temporary Registration Plates

Under the Code, in the case of a vehicle owned by an individual, upon request of that individual, a vehicle registration that is issued by the SOS expires two years after the owner's birthday. Under the bill, this provision would apply beginning October 1, 2022.

The Code allows a temporary registration plate or marker to be issued to licensed dealers in vehicles and to persons engaged in the sale of vessels required to be numbered by Chapter 801 of NREPA, upon application accompanied by the proper fee, for the use by purchasers or lessees of vehicles for a period not exceeding 15 days. Instead, under the bill, the temporary registration plate or marker would be valid for a period not exceeding 30 days.

Transferring a Title

When the owner of a registered motor vehicle transfers his or her title or interest in that vehicle, the transferor must present to the transferee before delivery of the vehicle, written disclosure of odometer mileage by means of the certificate of title or a written statement signed by the transferor including the transferor's printed name and, among other things, odometer information.

The odometer information may not be required for certain classes of vehicles, including vehicles having a gross vehicle weight rating of more than 16,000 pounds or a vehicle that is not self-propelled. Under the bill, the odometer information also could not be used for a scrap vehicle.

In addition, under the bill, the SOS could accept an electronically signed odometer disclosure document that complied with all the following:

- Was submitted on a form that was approved by the SOS.
- Was signed using software that provided antitamper and identification verification technology and was approved for this use by the SOS.
- Was fully compliant with 49 CFR 580.

(Generally, 49 CFR 580 requires the retention of odometer disclosure statements by vehicle dealers and transferors and lessees of motor vehicles.)

The Code specifies that if the transferee of a vehicle is a new motor vehicle dealer or a used or secondhand vehicle dealer that acquires the vehicle for resale, the dealer is not required to obtain a new registration of the vehicle or forward the certificate of title to the SOS but must retain and have in the dealer's immediate possession the assigned certificated of the title with the odometer information properly completed, except as otherwise provided.

Under the bill, upon providing prior written notice to the SOS, the new motor vehicle dealer or used or secondhand vehicle dealer also could keep the required materials at a secondary location owned by the dealer that was located in the same county.

Special Plates

The Code allows a manufacturer, transporter, or dealer to apply to the Department for one or more special plates.

The bill would allow a dealer to apply on a form prescribed by the SOS for one or more special plates, which would be valid for the term in the license held by the dealer. After the application was approved, the fee for one or more special plates would be the term of years the license held by the dealer times the fee assessed under Section 803. (Except as otherwise provided, Section 803 permits the SOS to charge a \$10 fee for each special plate.)

Dealer Licensure

The Code requires an applicant for a new vehicle dealer or used or secondhand dealer or broker license to include a properly executed bond renewal certificate, approved by the SOS, with the license application. If a renewal certificate is used, the bond is considered renewed for each succeeding year in the same amount with the same effect as an original bond. The required bond is \$10,000. The bill would increase, from \$10,000 to \$25,000, the required bond amount.

The bill would prohibit the SOS from renewing a new dealer's license if the applicant had not bought or sold more than five vehicles during the 12 months preceding the dealer's renewal application.

Dealer Vehicles

Under the bill, a dealer could advertise or display to the public a vehicle that the dealer had acquired or that was available to the dealer directly from the manufacturer or distributor or the manufacturer or distributor subsidiary or affiliate within a reasonable period of time but was still waiting on possession of the vehicle's title. If displayed on the dealer's lot, the vehicle would have to be placed in a dedicated area at the dealership and arranged in a manner that clearly separated the vehicle from those available for immediate sale to the public with signage placed on the vehicle that indicated that the vehicle would not be available for final sale until the title was in the possession of the dealer. A dealer could park, store, hold, and repair vehicles owned under one dealer license on the lot or property held by the same dealer under a separate dealer license.

Complaints Against a Licensee

Under the bill, if the SOS received a complaint against a licensee that merited an investigation, the SOS would have to notify the licensee, and the complaint would have to be made available to the licensee at no charge.

Vehicle Records & Inventory

The Code requires each new vehicle dealer, used vehicle dealer, broker, and wholesaler to maintain a record of each type of vehicle that is bought, sold, leased, or exchanged by and from the dealer.

Each dealer record and inventory, including the record and inventory of a vehicle scrap metal processor not required to obtain dealer license is required to be open to inspection by a police officer or an authorized officer or investigator of the SOS during reasonable established business hours. Under the bill, an inspection would require 36 hours' advance notice.

A dealer licensed under the Code must maintain records for a period of five years. The records must be available for inspection by the SOS or other law enforcement officials. To determine compliance with Chapter 2 (Administration, Registration, Certificate of Title and Anti-Theft) or other applicable law, the SOS or any law enforcement officer may inspect a dealer whenever he or she determines it is necessary. Under the bill, an inspection would require 36

hours' advance notice. The SOS or other law enforcement officials would have to have proof of providing notice to the dealer in writing or verbally.

The Code requires the seller of a vehicle to deliver to the buyer in person, or by mail to the buyer's last known address, a duplicate of a written statement, a form prescribed by the SOS, in conjunction with the Department of Treasury, describing the information specified in the Code. Under the bill, the written statement could be delivered electronically if the buyer agreed to it.

License Fees

Except as otherwise provided, an applicant must include with an application for a license under Section 248 one of the following fees:

- \$75 for a full year's license.
- \$37.50 for a half year's license (after June 30).
- \$75 for a multiple year license.

Instead, under the bill, an application for a license would have to include one of the following fees:

- \$160 for a full year's license.
- \$80 for a half year's license (after June 30).
- \$160 for a multiple year license.

MCL 257.14 et al.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill would have a positive fiscal impact on the Department of State. Specifically, the proposed late title transfer fee increase would increase revenue for the Department. In fiscal year (FY) 2020-21, there were a total of 191,762 title transfers that were filed late and assessed the \$15 fee for an estimated revenue collected of \$2.9 million. The bill would increase the timeline to transfer a title from 15 to 21 days, which could result in fewer late fee assessments. However, the actual decrease in late fee assessments is indeterminate. Given the increase in the late fee from \$15 to \$50, the number of late fees would need to decline to below 58,000 transactions before the revenue would fall below the \$2.9 million collected in FY 2020-21.

The bill also would increase, from \$75 to \$160, the dealer license fee for a full-year license and would increase, from \$37.50 to \$80, the fee for a half-year license. Currently, a dealer may apply for a license that is valid for up to four years, provided the fee paid is equal to the fee multiplied by the number of years for which the license will be valid. In 2021, there were just under 5,200 dealer licenses issued in Michigan. Assuming all of those dealers renewed their licenses for a full year, at the proposed rate of \$160 for a full-year license, the fee revenue from dealer license fees would increase by \$442,000. The amount of increased revenue would depend on the number of actual dealers applying for licenses and how many were full-year licenses versus a half-year license.

Fiscal Analyst: Joe Carrasco, Jr.

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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.