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House Bill 4545 (Substitute H-4 as passed by the House)
Sponsor: Representative Dale W. Zorn
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 9-15-14

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- **Prohibit a person from going to the scene of a motor vehicle accident or disabled vehicle and soliciting business for a towing service.**
- **Prescribe a civil sanction, and require payment of costs, for a violation of that prohibition.**
- **Require a vehicle owner or operator to be allowed to request a towing service of his or her choice, except under certain circumstances.**
- **Prohibit a local unit of government from requiring a towing service to pay a fee for responding to the scene of an accident, a disabled vehicle, or an abandoned vehicle as a term of a contract between the service and the local unit.**

The bill would take effect 90 days after its enactment.

Solicitation at Scene of Accident

The bill would prohibit a person from traveling to the scene of a motor vehicle accident or a disabled vehicle located on public property, property open to the public, or a State trunk line highway and soliciting business for a wrecker, recovery, or towing service. A person who violated the prohibition would be responsible for a civil infraction and would have to be ordered to pay a civil fine of \$1,000.

A person who violated the prohibition also would have to be ordered to pay costs, as provided under the Code. (Section 907(4) of the Code provides that, if a civil fine is ordered, the judge or district court magistrate must summarily tax and determine the costs of the action, which are not limited to costs taxable in ordinary civil actions, and may include all expenses the plaintiff has incurred in connection with the civil infraction, up to the entry of judgment. Costs may not be ordered in excess of \$100. Except as otherwise provided by law, costs are payable to the plaintiff's general fund.)

The solicitation prohibition would not apply under the following circumstances:

- A law enforcement agency having jurisdiction over the scene of the accident or disabled vehicle, or an individual involved in that accident or disabled vehicle, requested the owner or operator of a wrecker or towing service to come to the scene.
- A wrecker, recovery truck, or tow truck operator who did not travel to the scene for the purpose of soliciting business offered assistance to a stranded motorist without creating a nuisance or interfering with law enforcement's management of a motor vehicle accident.

Service of Owner's Choice

A law enforcement agency, dispatching authority, or local unit of government, or an entity dispatching towing, recovery, and wrecker services on behalf of a law enforcement agency or a local unit, would have to allow an owner or operator of a motor vehicle to request the towing, wrecker, or recovery service or roadside assistance service of his or her choice unless the vehicle was involved in a criminal activity, fatality, or law enforcement investigation; the vehicle created a road or safety hazard or was being impounded; or the requested preference was unavailable or could not respond within a timely manner as determined by law enforcement at the scene. A law enforcement agency, dispatching authority, local unit, or entity dispatching towing, recovery, and wrecker services on their behalf would have to follow procedures set forth in Section 252d of the Code. (That section authorizes a police agency or a governmental agency designated by the police agency to provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the vehicle owner's expense, under certain circumstances.)

Contract with a Local Unit

The bill would prohibit a local unit of government from requiring as a term of a contract with a wrecker, recovery, or towing service that the service pay a fee to the local unit for responding to the scene of an accident, disabled vehicle, or abandoned vehicle and providing wrecker, recovery, or towing services. This provision would apply to a contract between a local unit and a wrecker, recovery, or towing service that was entered into or renewed after the bill's effective date.

MCL 257.907d et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State government. The fines associated with civil infractions are directed to local public libraries (except as provided for violations involving commercial vehicles). The costs a violator would have to be ordered to pay would be directed to the general fund of the plaintiff.

Fiscal Analyst: John Maxwell

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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.