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House Bill 4839 (Substitute H-2 as passed by the House)
Sponsor: Representative Barbara Farrah
House Committee: Transportation
Senate Committee: Transportation

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CONTENT

The bill would amend the Michigan Vehicle Code to revise the procedures for removing and disposing of abandoned vehicles.

Abandoned Vehicle

The Code prohibits a person from abandoning a vehicle in the State.

"Abandoned vehicle" means a vehicle that has remained on private property without the consent of the owner, or one that has remained on public property for at least 48 hours, or on a State trunk line highway as follows:

- If a valid registration plate is affixed to the vehicle, for at least 18 hours.
- If a valid registration plate is not affixed to the vehicle.

If a vehicle has remained on public property for the period of time described, a police agency with jurisdiction over the vehicle must determine whether the vehicle has been reported stolen and may affix to the vehicle a written notice stating, among other things, the date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

If a vehicle is considered abandoned and taken into custody under those provisions, the owner may contest the fact that the vehicle is abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing.

Under the bill, in addition to requesting a hearing, the owner would have to post a bond equal to \$40 plus the amount of the accrued towing and storage fees.

Removal of Vehicle

Under certain circumstances, the Code permits a police agency to provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner.

Under the bill, the removal would be at the expense of the last-titled owner. In addition, the bill would permit removal if the vehicle had been involved in a traffic crash and could not be operated safely from the scene of the crash.

Under the Code, a police agency that authorizes the removal of a vehicle under those provisions must check to determine if the vehicle has been reported stolen. The bill would require the agency to conduct that check before authorizing the removal of the vehicle.

Removal from Private Property

Under the Code, if a vehicle has remained on private property without the property owner's consent, the property owner may have the vehicle taken into custody as an abandoned vehicle by contacting a local towing agency.

Before removing the vehicle from private property, the towing agency must notify a police agency with jurisdiction over the vehicle that the vehicle is being removed. The bill would require the agency to provide reasonable notice to the police agency, by telephone or otherwise.

(The bill specifies that a local towing agency would be considered a towing agency if its storage lot were located within 15 miles from the border of the local unit of government having jurisdiction over the abandoned vehicle.)

Before removing the vehicle from private property, the Code requires the police agency to determine if the vehicle has been reported stolen and have the vehicle entered into the Law Enforcement Information Network (LEIN) as an abandoned vehicle.

Under the bill, verification by the police agency of compliance with those provisions would not be necessary and would not be a predicate to the entry of the vehicle into LEIN.

Exceptions to Removal Procedures

A police agency that authorizes the removal of a vehicle from public or private property must follow specific procedures set forth in the Code.

The bill also would require a police agency to enter the vehicle into LEIN as abandoned at least seven days after authorizing the removal. This would not apply to vehicles impounded under the following circumstances:

- There was reasonable cause to believe that the vehicle or any part of the vehicle was stolen.
- The vehicle had to be seized to preserve evidence of a crime, or there was reasonable cause to believe that the vehicle was used in the commission of a crime.
- The vehicle had been involved in a traffic crash and could not be operated safely from the scene of the crash.

A vehicle impounded under those provisions would have to be released by the police agency that authorized the removal before the towing agency or custodian could release the vehicle to its owner.

Not less than 20 days or more than 30 days after a vehicle had been released under that provision, the towing agency or custodian would have to notify the police agency to enter the vehicle as abandoned, and the police agency would have to follow the procedures set forth in the Code for abandoned vehicles if the impounded vehicle had not been redeemed.

Hearing

The Code gives the district court and a municipal court jurisdiction to determine if a police agency has acted properly in processing a vehicle. Under the bill, those courts also would

have jurisdiction to determine if a towing agency or custodian or private property owner had acted properly in reporting a vehicle under the Code.

The bill provides that the remedies under Sections 252 through 254 (which deal with abandoned and stolen vehicles) would be the exclusive remedies for the disposition of abandoned vehicles.

Once a petition is filed by the owner of a vehicle contesting the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees as provided in the Code, the court must schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.

The court also must notify the owner, towing service, custodian of the vehicle, and police agency of the time and place of the hearing. Under the bill, if the vehicle were removed from private property, the court also would have to notify the private property owner.

At the hearing, the police agency has the burden of showing that it has complied with the requirements of the Code in processing the abandoned or removed vehicle. Under the bill, if the vehicle were removed from private property, the private property owner would have the burden of showing that it had complied with the requirements of the Code in reporting the abandoned or removed vehicle.

The court may make a decision that includes one or more specific findings, including that the towing fees and daily storage fees were unreasonable. The court then may issue an order directing an appropriate reduction. The bill would permit the court to issue an order directing the towing agency or custodian of the vehicle to provide the last titled owner of the vehicle with an appropriate reduction or refund.

Under the bill, the court also could make a decision that included a finding that the owner of the real property complied with the provisions of Section 252k or 252l. (Those sections require the property owner or lessor to post notice at each vehicular access point that unauthorized vehicles will be towed at the owner's expense, unless the property is part of a single- or dual-family residence, or unless notice has been given personally to the owner or operator of the vehicle.) The decision also could find that the owner of the real property did not comply with the provisions of those sections. The court then could issue an order requiring the property owner to reimburse the last-titled owner of the vehicle for the accrued towing and storage charges.

In addition, the county's decision could include a finding that the towing agency did not comply with the procedures established for the proper removal and reporting of an abandoned vehicle removed under Section 252a(10), 252b, or 252d. The court then would have to issue an order directing that the vehicle immediately be released to the owner and that the towing agency was responsible for the accrued towing and storage charges. The court also would have to order any fee or bond posted by the owner to be returned to the owner. Alternatively, the court could find that the towing agency did comply with the procedures established for the proper removal and reporting of an abandoned vehicle removed under Section 252a(10), 252b, or 252d.

(Section 252a(10) deals with the removal of a vehicle from private property. Section 252b deals with the removal of unregistered abandoned scrap vehicles. Section 252d authorizes a police agency or its designee to remove a vehicle from public or private property under certain conditions.)

Sale & Disposition

A public sale for a vehicle and its contents that has been determined to be abandoned or has been removed under the Code must be conducted under the control of the police agency or its designee or the custodian of the vehicle or the custodian's designee. The bill would require the auction to be conducted under the control of the police agency, although a police agency could designate the custodian of the vehicle of a third party to conduct the auction.

Except as otherwise provided, a sale must be held at least five days after public notice of the sale has been published. The public notice must be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned.

The bill also would permit the public notice to be published in a manner provided for on the Secretary of State's website.

Upon disposition of the vehicle, the police agency must provide the Secretary of State (SOS) with the vehicle's disposition and the name of the agency that disposed of it. Under the bill, the police agency, towing agency, or custodian would have to provide the SOS and the police agency, if that agency did not conduct the sale, with the vehicle's disposition and the name of the agency that disposed of it.

At least 25 days after the date of notice, if the police agency did not provide a copy of the bill of sale by the police agency for the abandoned vehicle to the towing agency or custodian or police agency's designee, the towing agency or custodian or designee could obtain an original of the bill of sale by submitting an application to the SOS in a form he or she determined.

MCL 257.11 et al.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

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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.