

APPEALS PROCESS FOR DISCIPLINED CERTIFIED SALVAGE VEHICLE INSPECTORS

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House Bill 4185 as enacted
Public Act 369 of 2016
Sponsor: Rep. Julie Plawecki
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform
Complete to 7-12-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4185 would amend Section 217c of the Michigan Vehicle Code to create an appeals process for agencies whose officers have had a certificate for salvage vehicle inspection revoked, suspended, or denied.

The Vehicle Code says that the secretary of state cannot issue a certificate of title or registration plates for a vehicle for which a salvage certificate of title has been issued unless a specially trained officer certifies that (1) the vehicle identification numbers and parts identification numbers are correct; (2) that the applicant has proof of ownership of repair parts used; and (3) that the vehicle complies with the act's equipment standards. The SOS issues certificates to such officers it has specially trained to conduct salvage vehicle inspections, and only such persons can perform these inspections.

The bill would add that the officer must also certify (4) that any repairs performed on the vehicle were done in a workmanlike manner, as certified on a form provided by the Michigan Department of State (MDOS) by a properly licensed mechanic in the appropriate specialty.

The MDOS on its own initiative or in response to complaints can investigate the conduct of officers and gather evidence about violations of the law. House Bill 4185 addresses cases when such an officer's ability to carry out these functions has been revoked, suspended, or denied.

New appeal process

The bill would require the secretary of state to notify the officer and the officer's law enforcement agency of the agency's right to appeal the revocation, suspension, or denial of the certificate at the time it occurs, if the suspension or denial was related to the individual:

- Violating the act, or a rule promulgated under the act;
- Performing improper, careless, or negligent salvage vehicle inspections;
- Making a false statement of a material fact in his or her certification of a salvage vehicle inspection or any record concerning a salvage vehicle inspection; or
- Charging a fee in excess of \$100.

The notification would include a statement that a request for an appeal made under this provision must be made no later than 30 days after the revocation, suspension, or denial. An agency making an appeal under this subsection may request a hearing at the time the appeal is made.

The secretary of state, or a designee, would deny or grant an appeal within a reasonable period, either in writing, or stated in the record if a hearing is held. If the secretary of state revokes a certificate and denies an appeal of the revocation, the officer may apply for a new certificate no earlier than five years after the revocation.

Officers authorized to conduct salvage vehicle inspections

Currently, an officer specially trained as provided by the secretary of state and authorized by the secretary of state to conduct a salvage vehicle inspection is either of the following:

- An on-duty or off-duty police officer.
- A previously certified police officer who is appointed by the local police agency as a limited enforcement officer to conduct salvage vehicle inspections. The local police agency shall give this officer access to the agency's law enforcement information network system and the authority to confiscate any stolen vehicle or vehicle parts discovered during an inspection. The local police agency may give the officer the authority to arrest a person suspected of having unlawful possession of a stolen vehicle or vehicle parts.

The bill would add that an employee of MDOS would also qualify as an officer specially trained and authorized to conduct a salvage vehicle inspection.

Fees collected for salvage vehicle inspections

Police agencies must charge a fee for this inspection, not to exceed \$100. Under the bill, the fee will typically be deposited with the police agency's local authority and used solely for law enforcement purposes related to stolen vehicles, stolen vehicle parts, and salvage vehicle inspections. (Currently, a local police agency shall compensate an off-duty and limited enforcement officer for an inspection; the bill would state that it may compensate the officer.) The bill would also add that if the inspection is conducted by an MDOS employee, the fee will be deposited with the MDOS and used for the administration of the salvage vehicle inspection program and may not lapse to the general fund.

The bill would take effect 90 days after it is enacted into law.

BACKGROUND AND DISCUSSION:

According to testimony presented by the bill sponsor during committee, the rationale for introducing this legislation is the current lack of an avenue that salvage officers can use to appeal a denial or suspension of a license.

FISCAL IMPACT:

House Bill 4185 would have no significant fiscal impact on the Michigan State Police or local law enforcement.

The bill would have an indeterminate fiscal impact for the state. The Department of State estimates that an appeal would cost up to \$5,000. It cannot be determined how many officers would be suspended or face a denied or revoked permit while seeking an appeal every year. Nor is there an estimate of how much revenue would be collected from fines. There would be no fiscal impact for local governments as a result of the bill.

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