

# Legislative Analysis



## PROHIBIT NEW MOTOR VEHICLE STORAGE FACILITIES

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<http://www.house.mi.gov/hfa>

House Bill 4360 (S-2) as passed by the Senate  
Sponsor: Rep. Peter J. Lucido  
House Committee: Local Government  
Senate Committee: Local Government  
Complete to 6-12-18

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

*(Enacted as Public Act 327 of 2018)*

### SUMMARY:

House Bill 4360 proposes a new act that would prohibit a local government or law enforcement agency from operating a “motor vehicle storage facility,” or accepting financial consideration from a vendor that does so; prohibit a local government or law enforcement agency from operating a “towing operation”; and provide for the continued operation of existing storage facilities, towing operations, and vendor contracts.

Beginning on the effective date of the bill, a local government or law enforcement agency would not be allowed to do any of the following:

- Operate a **motor vehicle storage facility** or **towing operation**.
- Accept any consideration, financial or other, from an **authorized vendor** that operates a motor vehicle storage facility.
- Require an authorized vendor to deliver a motor vehicle to a motor vehicle storage facility operated by a different authorized vendor.

Under the bill, **motor vehicle storage facility** would mean a facility operated to hold motor vehicles that have been taken into custody for safekeeping. **Towing operation** would mean the moving or removing of motor vehicles by providing wrecker, towing, or other recovering services.

**Authorized vendor** would mean an individual or entity that a local government or law enforcement agency designates through contract, permit, practice, or license to have authority to remove or store motor vehicles at the request of the local government or law enforcement agency.

**Local government** would mean a county, city, village, township, or authority established by law.

**Law enforcement agency** would mean the Department of State Police, the Department of Natural Resources, or a law enforcement agency of a county, township, city, village or airport authority, that is responsible for the prevention and detection of crime and the enforcement of criminal laws.

If a local government or law enforcement agency was operating a motor vehicle storage facility or towing operation before the effective date of the bill, it could continue to operate

that facility or operation after the effective date of the bill; similarly, if before the effective date of the bill a local government or law enforcement agency was accepting consideration from an authorized vendor that operated a storage facility, it could continue to accept that consideration. Finally, if before the effective date of the bill a local government or law enforcement agency was requiring an authorized vendor to deliver a vehicle to a storage facility operated by a different authorized vendor, it could continue to do so.

If a local government or law enforcement agency issued a request for proposals for operating a motor vehicle storage facility or towing operation and the request did not yield a bona fide bid, the prohibition on operating a motor vehicle storage facility or towing operation would not apply. A request for proposals for operating a motor vehicle storage facility or towing operation would have to be the same as the standard or customary request for proposals used by the local government or law enforcement agency for all other procurement matters.

If a local government or law enforcement agency violated the above prohibitions, an individual or entity could bring an action seeking injunctive relief against the government or agency. If a court determined the government or agency violated the prohibitions, the court would issue an injunctive order requiring the government or agency to cease and desist from the violation. An order issued would become effect 60 days after being entered by the court. Any action taken by a government or agency to ensure compliance with the prohibitions or any order would not be considered a violation of the order for purposes of a fine.

A local government or law enforcement agency that violated an injunctive order would be subject to a civil fine of not more than \$1,000 per day of violation, up to a maximum of \$10,000. An individual or entity that brings an action could recover costs and reasonable attorney fees.

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

## **BRIEF DISCUSSION:**

According to testimony before the House Committee on Local Government on February 14, 2018, the bill is intended to protect the private towing and storage industry from public interference and competition. Supporters hold that these businesses should not have to compete with government entities and that there is simply no reason that a municipality should need to operate a vehicle storage facility. There are already numerous private businesses to meet this need. Proponents argue that, in fact, if a municipality owned a storage lot, it could create an incentive for the municipality to use it for financial benefit—that is, to tow and store more cars. Finally, the bill creates an exception for municipal storage facilities in operation today and makes no changes to existing arrangements with authorized vendors.

## **FISCAL IMPACT:**

The bill would have little to no fiscal impact on local law enforcement agencies. The Michigan Sheriffs' Association has indicated that only a few county sheriff offices operate motor vehicle storage facilities, generally the larger counties, in order to maintain evidentiary custody of vehicles involved in fatal vehicle accidents or criminal activity. Similarly, the Michigan Association of Chiefs of Police noted that very few local law enforcement agencies operate their own motor vehicle storage facility. Those law enforcement agencies that already have a motor vehicle storage facility in operation would not be affected by House Bill 4360, due to the provision included in Section 3, which would allow those agencies to continue operation of a motor vehicle storage facility.

## **POSITIONS:**

Representatives of the Michigan Towing Association testified in support of the bill. (2-14-18)

Representatives of the following entities indicated support for the bill:

Michigan Chamber of Commerce (2-14-18)

National Federation of Independent Business (2-14-18)

Legislative Analyst: Patrick Morris  
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Ben Gielczyk

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