



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 4360 (Substitute H-1 as passed by the House)  
Sponsor: Representative Peter J. Lucido  
House Committee: Local Government  
Senate Committee: Local Government

Date Completed: 5-22-18

### **CONTENT**

**The bill would create a new law to prohibit a local government or law enforcement agency from operating a motor vehicle storage facility or accepting consideration from an authorized vendor that did so. Specifically, the bill would do the following:**

- Prohibit a local government or law enforcement agency from operating a motor vehicle storage facility, requiring an authorized vendor to deliver a motor vehicle to a facility, or accepting any consideration, financial or other, from an authorized vendor that operated a facility.**
- Allow an authorized vendor to bring an action against a local government or law enforcement agency that violated the prohibition.**
- Allow the owner or lessee of a motor vehicle that was held at a motor vehicle storage facility being operating in violation of the bill to bring an action against the local government or law enforcement agency.**
- Allow the continuation of existing operations of motor vehicle storage facilities operated by a local government or law enforcement agency before the bill's effective date, and make other exceptions.**

The bill would take effect 90 days after it was enacted.

### **Definitions**

"Motor vehicle storage facility" would mean a facility operated to hold motor vehicles that have been taken into custody for safekeeping. "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.

"Law enforcement agency" would mean the Michigan 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 enforcement of the criminal laws of the State. "Local government" would mean a county, city, village, township, or an authority established by law.

### **Prohibitions & Cause of Action**

Except as otherwise provided, beginning on the bill's effective date, a local government or law enforcement agency could not do any of the following:

- Operate a motor vehicle storage facility.
- Accept any consideration, financial or other, from an authorized vendor that operated 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.

If a local government or law enforcement agency violated the prohibition, an authorized vendor could bring an action against the local government or law enforcement agency and could recover the amount of the actual damages sustained, plus costs and reasonable attorney fees.

The owner or lessee of a motor vehicle that was held at a motor vehicle storage facility that was being operated in violation of the bill could bring an action against the local government or law enforcement agency and could recover all towing and storage fees paid by the owner or lessee or \$150, whichever was greater, plus costs and reasonable attorney fees.

The prohibition against operating a motor vehicle storage facility would not apply to a local government or law enforcement agency if that entity issued a request for proposals (RFP) for operating a facility and the RFP did not yield a bid. A local government or law enforcement agency would have to use the standard or customary RFP process it used for all other procurement matters when issuing the request for proposals for operating a motor vehicle storage facility.

#### Existing Operations & Agreements

If, on or before the bill's effective date, either 1) a local government or law enforcement agency were operating a motor vehicle storage facility, or 2) a local government or law enforcement agency accepted consideration, financial or other, from any authorized vendor that operated a motor vehicle storage facility, that local government or law enforcement agency could continue to operate that facility or accept consideration from any authorized vendor, respectively, after the bill's effective date.

In addition, if, on or before the bill's effective date, a local government or law enforcement agency required any authorized vendor to deliver a motor vehicle to a motor vehicle storage facility operated by a different authorized vendor, the local government or law enforcement agency could continue that practice after the bill's effective date.

Legislative Analyst: Drew Krogulecki

#### **FISCAL IMPACT**

The bill would have little fiscal impact on local government and no fiscal impact on the State. Few county and city law enforcement agencies operate motor vehicle storage facilities and would not be affected by the bill, which would allow agencies to continue operation of storage facilities already in use. If a local government or law enforcement agency were to operate a motor vehicle storage facility in violation of the bill, the government or agency could be liable for financial damages, in an amount that would depend on the facts of each case.

Fiscal Analyst: Bruce Baker  
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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.