



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 4360 (Substitute S-2)  
Sponsor: Representative Peter J. Lucido  
House Committee: Local Government  
Senate Committee: Local Government

Date Completed: 5-29-18

**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 towing operation 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 or towing operation, 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 individual or entity to bring an action against a local government or law enforcement agency that violated the prohibition.**
- Require a court to issue an injunctive order requiring the local government or law enforcement agency to cease and desist violating the proposed law if the court determined that the entity was in violation of its provisions.**
- Allow the continuation of existing operations of motor vehicle storage facilities or towing operations 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. "Towing operation" would mean the moving or removing of motor vehicles by providing wrecker, towing, or other recovery 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.

"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 or towing operation.
- 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 these provisions, an individual or entity could bring an action seeking injunctive relief against the local government or law enforcement agency. If a court determined a local government or law enforcement agency violated the proposed law, the court would have to issue an injunctive order requiring the local government or law enforcement agency to cease and desist from violating the law. An injunctive order would become effective 60 days after it was entered by the court. A local government or law enforcement agency that violated an injunctive order would be subject to a civil fine of up to \$1,000 for each day of violation, up to a maximum of \$10,000. An individual or entity that brought an action could recover costs and reasonable attorney fees. Any action taken by a local government or law enforcement agency to ensure compliance with the proposed law or any injunctive order issued would not be considered a violation of the order for purposes of the fines.

The prohibition against operating a motor vehicle storage facility or towing operation 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 bona fide 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 or towing operation.

## 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 towing operation, 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 or towing operations and would not be affected by the bill, which would allow agencies to continue towing operations and storage facilities already in use. If a local government or law enforcement agency were to operate a motor vehicle storage facility or towing operation in

violation of the bill, the government or agency could be liable for financial damages, the amount of which would depend on the facts of each case.

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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.