

HOUSE BILL NO. 5382

November 14, 2023, Introduced by Reps. Wozniak, Jaime Greene, Aragona, DeBoyer, Borton, Kuhn, Johnsen, Alexander, Outman, DeBoer, BeGole, St. Germaine, Martin and Phil Green and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 625n (MCL 257.625n), as amended by 2010 PA 155.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 625n. (1) Except as otherwise provided in this section
2 and section 304 and in addition to any other penalty provided for
3 in this act, the judgment of sentence for a conviction for a
4 violation of section 625(1) described in section 625(9)(b) or (c),
5 a violation of section 625(3) described in section 625(11)(b) or
6 (c), a violation of section 625(4), (5), or (7), or a violation of

1 section 904(4) or (5), or, beginning October 31, 2010, a violation
2 of section 626(3) or (4), may require 1 of the following with
3 regard to the vehicle used in the offense if the defendant owns the
4 vehicle in whole or in part or leases the vehicle:

5 (a) Forfeiture of the vehicle if the defendant owns the
6 vehicle in whole or in part.

7 (b) Return of the vehicle to the lessor if the defendant
8 leases the vehicle.

9 (2) The vehicle may be seized under a seizure order issued by
10 the court having jurisdiction upon a showing of probable cause that
11 the vehicle is subject to forfeiture or return to the lessor.

12 (3) The forfeiture of a vehicle is subject to the interest of
13 the holder of a security interest ~~who~~**that** did not have prior
14 knowledge of or consent to the violation.

15 (4) Within 14 days after the defendant's conviction for a
16 violation described in subsection (1), the prosecuting attorney may
17 file a petition with the court for the forfeiture of the vehicle or
18 to have the court order return of a leased vehicle to the lessor.
19 The prosecuting attorney shall give notice by first-class mail or
20 other process to the defendant and ~~his or her~~**the defendant's**
21 attorney, to all owners of the vehicle, and to any person ~~holding~~
22 **that holds** a security interest in the vehicle that the court may
23 require forfeiture or return of the vehicle.

24 (5) If a vehicle is seized before disposition of the criminal
25 proceedings, a defendant who is an owner or lessee of the vehicle
26 may move the court ~~having~~**that has** jurisdiction over the
27 proceedings to require the seizing agency to file a lien against
28 the vehicle and to return the vehicle to the owner or lessee
29 pending disposition of the criminal proceedings. The court shall

1 hear the motion within 7 days after the motion is filed. If the
 2 defendant establishes at the hearing that ~~he or she~~ **the defendant**
 3 holds the legal title to the vehicle or that ~~he or she~~ **the**
 4 **defendant** has a leasehold interest and that it is necessary for ~~him~~
 5 ~~or her~~ **the defendant** or a member of ~~his or her~~ **the defendant's**
 6 family to use the vehicle pending the outcome of the forfeiture
 7 action, the court may order the seizing agency to return the
 8 vehicle to the owner or lessee. If the court orders the return of
 9 the vehicle to the owner or lessee, the court shall order the
 10 defendant to post a bond in an amount equal to the retail value of
 11 the vehicle, and shall also order the seizing agency to file a lien
 12 against the vehicle.

13 (6) Within 14 days after notice by the prosecuting attorney is
 14 given under subsection (4), the defendant, an owner, lessee, or
 15 holder of a security interest may file a claim of interest in the
 16 vehicle with the court. Within 21 days after the expiration of the
 17 period for filing claims, but before or at sentencing, the court
 18 shall hold a hearing to determine the legitimacy of any claim, the
 19 extent of any co-owner's equity interest, the liability of the
 20 defendant to any co-lessee, and whether to order the vehicle
 21 forfeited or returned to the lessor. In considering whether to
 22 order forfeiture, the court shall review the defendant's driving
 23 record to determine whether the defendant has multiple convictions
 24 under section 625 or a local ordinance **that** substantially
 25 ~~corresponding~~ **corresponds** to section 625, or multiple suspensions,
 26 restrictions, or denials under section 904, or both. If the
 27 defendant has multiple convictions under section 625 or multiple
 28 suspensions, restrictions, or denials under section 904, or both,
 29 that factor ~~shall~~ **must** weigh heavily in favor of forfeiture.

1 (7) If a vehicle is forfeited under this section, the unit of
2 government that seized the vehicle shall sell the vehicle pursuant
3 to the procedures under section 252g(1) and dispose of the proceeds
4 in the following order of priority:

5 (a) Pay any outstanding security interest of a secured party
6 ~~who~~**that** did not have prior knowledge of or consent to the
7 commission of the violation.

8 (b) Pay the equity interest of a co-owner who did not have
9 prior knowledge of or consent to the commission of the violation.

10 (c) Satisfy any order of restitution entered in the
11 prosecution for the violation.

12 (d) Pay any outstanding accrued towing and storage fees.

13 (e) Pay the claim of each person who shows that ~~he or she~~**the**
14 **person** is a victim of the violation to the extent that the claim is
15 not covered by an order of restitution.

16 (f) Pay any outstanding lien against the property that has
17 been imposed by a governmental unit.

18 (g) Pay the proper expenses of the proceedings for forfeiture
19 and sale, including, but not limited to, expenses incurred during
20 the seizure process and expenses for maintaining custody of the
21 property, advertising, and court costs.

22 (h) The balance ~~remaining~~**that remains** after the payment of
23 items **described in subdivisions** (a) ~~through to~~ (g) ~~shall~~**must** be
24 distributed by the court ~~having~~**that has** jurisdiction over the
25 forfeiture proceedings to the **treasurer of the** unit or units of
26 government substantially involved in effecting the forfeiture.
27 Seventy-five percent of the money received by a unit of government
28 under this subdivision ~~shall~~**must** be used to enhance enforcement of
29 the criminal laws **as appropriated by the entity that has budgetary**

1 authority over the unit or units of government substantially
2 involved in effecting the forfeiture with not more than 30%, or in
3 the alternative, an amount not exceeding an hourly rate agreed to
4 by the seizing agency and the appropriate prosecutor, being
5 directed to the prosecuting attorney for the county if the county
6 is the unit, or 1 of the units of government substantially involved
7 in effecting the forfeiture, and 25% of the money ~~shall~~ must be
8 used to implement the William Van Regenmorter crime victim's rights
9 act, 1985 PA 87, MCL 780.751 to 780.834. A unit of government
10 receiving money under this subdivision shall report annually to the
11 department of **technology**, management, and budget the amount of
12 money received under this subdivision that was used to enhance
13 enforcement of the criminal laws and the amount that was used to
14 implement the William Van Regenmorter crime victim's rights act,
15 1985 PA 87, MCL 780.751 to 780.834.

16 (8) The court may order the defendant to pay to a co-lessee
17 any liability determined under subsection (6). The order may be
18 enforced in the same manner as a civil judgment.

19 (9) The return of a vehicle to the lessor under this section
20 does not affect or impair the lessor's rights or the defendant's
21 obligations under the lease.

22 (10) A person who knowingly conceals, sells, gives away, or
23 otherwise transfers or disposes of a vehicle with the intent to
24 avoid forfeiture or return of the vehicle to the lessor under this
25 section is guilty of a misdemeanor punishable by imprisonment for
26 not more than 1 year, ~~or~~ a fine of not more than \$1,000.00, or
27 both.

28 (11) The failure of the court or prosecutor to comply with any
29 time limit specified in this section does not preclude the court

1 from ordering forfeiture of a vehicle or its return to a lessor,
2 unless the court finds that the owner or claimant suffered
3 substantial prejudice as a result of that failure.

4 (12) The forfeiture provisions of this section do not preclude
5 the prosecuting attorney from pursuing a forfeiture proceeding
6 under any other law of this state or a local ordinance **that**
7 substantially ~~corresponding~~ **corresponds** to this section.