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SALE OF STOLEN VEHICLES AND PARTS

House Bills 4698 - 4700

Sponsor: Rep. Derrick Hale

Committee: Criminal Law and Corrections

Complete to 7-26-99

A SUMMARY OF HOUSE BILLS 4698 - 4700 AS INTRODUCED 5-18-99

The bills would amend the Penal Code, the Motor Vehicle Service and Repair Act, and Michigan Vehicle Code, respectively, to redefine crimes, increase penalties and provide licensure sanctions for people who are convicted of theft and fraud concerning vehicles and vehicle parts. The organized theft and resale of stolen vehicles and vehicle parts are sometimes referred to as "chop shop" organizations. The bills are tie-barred to each other.

House Bill 4698 would amend the Penal Code (MCL 750.356a et al.) to increase penalties for some existing crimes, change the elements of certain crimes by expanding and clarifying the descriptions of the actions prohibited, and provide for additional crimes and penalties as well.

Chop shops. The bill would add wheels, air bags, and transfer cases to the list of parts of a motor vehicle that are considered major component parts and would add definitions for a converted major component part (a major component part that has been the subject of a false or fraudulent claim to an insurance company), and a converted motor vehicle (a vehicle that has been the subject of a false or fraudulent claim to an insurance company).

The penalty for the felony of owning or operating a chop shop would be increased to not more than 5 years imprisonment and/or a fine of no less than \$10,000 or more than \$100,000. A second conviction would be punishable by no more than 10 years imprisonment and/or a fine of no less than \$10,000 or more than \$100,000. If a person who was convicted of owning or operating a chop shop had two or more prior convictions for stealing a motor vehicle; joy riding; concealing or misrepresenting the identity of a motor vehicle; buying, receiving, possessing or concealing stolen property; or knowingly buying, receiving, possessing, concealing or aiding in the concealment of a stolen vehicle or a vehicle with stolen parts, the person could be punished by not more than 20 years imprisonment and/or a fine of not less than \$10,000 or more than \$100,000.

Forfeiture. Property seized in a chop shop would be subject to forfeiture. Proceedings for forfeiture would have to be promptly instituted. If the seizure was made without process and the total value of the property seized did not exceed \$100,000, the state or local unit of government (depending upon which had seized the property) would have to notify the property's owner of the seizure and the intent to forfeit and dispose of the property. Notice would have to be delivered

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to the owner or sent by certified mail. If the owner's name and address were not reasonably ascertainable or delivery of the notice could not reasonably be accomplished, notice could be published for ten consecutive days in a newspaper of general circulation in the county where the property had been seized.

Within 20 days after receiving notice or after the date of the first publication of the notice, a person could claim an interest in the seized property by filing a claim with the local unit or the state. The state or local unit would be required to transmit the claim with a list and description of the property to the attorney general, the prosecuting attorney for the county, or the attorney for the local unit of government where the property was seized. The attorney general, prosecuting attorney, or the attorney for the local unit of government would be required to promptly institute forfeiture proceedings after the 20-day period concluded. If no claim was filed, the state or local unit would be required to declare the property forfeited and would have to either return the property to its rightful owner or sell it as allowed by law.

Concealing or misrepresenting the identity of a motor vehicle. The crime of concealing or misrepresenting the identity of a motor vehicle, a mechanical device or a major component part would be clarified to specify that it would be a crime to do either of the following:

- a) Remove or deface the manufacturer's serial number, the engine or motor number, or any other number placed on a motor vehicle, major component part, or mechanical device by the manufacturer to identify the motor vehicle, part, or device.
- b) Replace a part of the motor vehicle, major component part, or mechanical device that has a serial number or any other identification number with a new or replacement part that does not have the appropriate serial number or other identification number.

Possession of a motor vehicle, major component part, or a mechanical device with an altered or removed identification number or with a replacement part that did not have a number (where the original had an identification number) would be considered prima facie evidence of a violation (sufficient evidence, without rebuttal or explanation, to support a finding). A vehicle, major component part, or mechanical device that cannot be identified because of a violation could be destroyed or sold at public auction.

A person who committed either of these acts without intending to mislead another person would be guilty of a misdemeanor punishable by imprisonment for no more than 93 days and/or a fine of not more than \$100. On the other hand, if the actions were done with the intent to mislead another person, the crime would be a felony punishable by imprisonment for no more than five years and/or a fine of no more than \$20,000. Provisions requiring the revocation of a person's dealer license if he or she were convicted of intentionally concealing or misrepresenting such information would be removed.

New felony. The bill would also create a new felony -- to purchase, receive, possess, conceal or aid in the concealment of a motor vehicle that the person knew was stolen or had one or more stolen or converted major component parts. A first conviction for this felony would be punishable by imprisonment for no more than five years and/or a fine of no more than \$5,000. A second conviction would be punishable by imprisonment for up to seven years and/or a fine of no more than \$10,000. If a person were convicted of this crime and had two or more prior convictions for violations or attempted violations of stealing a motor vehicle; joy riding; concealing or misrepresenting the identity of a motor vehicle; buying, receiving, possessing or concealing stolen property; or operating a chop shop, the person could be punished by not more than ten years imprisonment and/or a fine of no more than \$20,000 or more than \$100,000.

Other crimes. Stealing or attempting to steal a major component from a motor vehicle would be punishable by imprisonment for no more than five years and/or a fine of no more than \$20,000. A second or subsequent conviction for stealing or attempting to steal a motor vehicle or major component part would be punishable by imprisonment for no more than seven years and/or a fine of no more than \$20,000. A third or subsequent conviction would be punishable by no more than ten years imprisonment or a fine of no more than \$20,000, or both.

Intentionally starting a motor vehicle without the owner's permission; maliciously shifting or changing the starting device or gears; releasing the brake of a standing motor vehicle with the intent of damaging the vehicle or having it removed without the owner's consent; and intentionally damaging a motor vehicle or any major component part, or other part of a motor vehicle would be a felony punishable by not more than two years imprisonment and or a fine of not more than \$1,000.

House Bill 4699 would amend the Motor Vehicle Service and Repair Act (MCL 257.1322) to expand the circumstances where a registration, certificate, or mechanic training permit could be revoked, denied, or suspended. The bill would provide that a registration, certificate, or mechanic trainee permit could be denied, suspended, or revoked after notice and opportunity for a hearing if, among other things, there was a determination that the facility, mechanic, or trainee had been convicted of 1) unlawfully taking and driving away a motor vehicle; 2) concealing or misrepresenting the identity of a motor vehicle or mechanical device; 3) buying, receiving, possessing or concealing stolen, embezzled, or converted money, goods, or property; 4) owning, operating or conducting a chop shop; 5) buying, receiving, possessing, concealing, or aiding in the concealment of a motor vehicle that the person knows is stolen or contains one or more stolen or converted major component parts; or 6) a local ordinance or law of another state that is substantially similar to the preceding crimes. (Currently, only the first four crimes and substantially similar laws of other states allow for denial, suspension, or revocation.)

Further, House Bill 4699 would amend the definition of motor vehicle to include semi-trailers, and the definition of major component part to include air bags, transfer cases, wheels and any other part of a motor vehicle that the secretary of state determined was comparable in design or function to any of the parts listed in the definition.

House Bill 4700 would amend the Michigan Vehicle Code (MCL 257.249 et al.) to provide that the secretary of state could deny a person's application for a dealer license, or revoke or suspend an already issued license, if the applicant or licensee has been convicted of certain crimes. In addition to the current law, which allows for denial, revocation, or suspension of a license for unlawfully taking and driving away a motor vehicle, the bill would allow a license to be denied, revoked, or suspended for a) concealing or misrepresenting the identity of a motor vehicle or mechanical device; b) buying, receiving, possessing or concealing stolen, embezzled, or converted money, goods, or property; c) owning, operating or conducting a chop shop; d) buying, receiving, possessing, concealing, or aiding in the concealment of a motor vehicle that the person knows is stolen or contains one or more stolen or converted major component parts; or e) a local ordinance or law of another state that was substantially similar to the preceding crimes.

The bill would also provide for the same limitations on applications and licenses for automotive recyclers, used or secondhand vehicle parts dealers, vehicle scrap metal processors, or foreign salvage dealers.

In addition, House Bill 4700 would impose a punishment of not more than five years in prison or a fine of not more than \$20,000, or both, if a person was found guilty of knowingly making false statements in reference to the certificates of title for stolen motor vehicles or of receiving or transferring possession of a vehicle knowing that it was stolen or contains stolen components with the intent to procure or pass title to the vehicle. A person who had possession of a vehicle that he or she knew or had reason to believe was stolen would be guilty of a felony punishable by no more than 10 years imprisonment and/or a fine of no more than \$20,000. Currently the penalty for each of these crimes is ten years in prison, or a fine of not more than \$5,000, or both. The bill specifies that these crimes would not apply to peace officers who were performing their duties.

House Bill 4700 also would add a new section to set penalties for newly defined violations concerning title and other identifying markers. The bill would specify that the following would be guilty of a felony punishable by a prison term of not more than five years or a fine of not more than \$20,000, or both: 1) a person who knowingly sold, gave, or exchanged a motor vehicle certificate of title or identifying marker with the intent of deceiving another person as to the identity of the vehicle without also selling, giving, or exchanging the appropriate motor vehicle; 2) a person who sold or exchanged a certificate of title or identifying marker knowing the certificate will be used to disguise the identity of a stolen vehicle or vehicle parts; 3) a person who knowingly made or presented false documents to obtain a certificate of title. Furthermore, a person who bought, possessed, or received a certificate of title or identifying marker that belonged to another vehicle, without the intent to mislead as to the identity of a vehicle, would be guilty of misdemeanor punishable by up to 93 days imprisonment and/or a fine of no more than \$100. Prosecution for any of these crimes would not prohibit prosecution under any other appropriate larceny law.

The bill would also require a court clerk to forward an abstract of the court record to the secretary of state upon a person's conviction for, among other things, 1) concealing or misrepresenting the identity of a motor vehicle or mechanical device; 2) buying, receiving, possessing or concealing stolen, embezzled, or converted money, goods, or property; 3) owning, operating or conducting a chop shop; or 4) buying, receiving, possessing, concealing, or aiding in the concealment of a motor vehicle that the person knows is stolen or contains one or more stolen or converted major component parts.

Finally, House Bill 4700 also would amend the vehicle code's definition of major component part so that it would be identical to the term's definition in the Motor Vehicle Service and Repair Act as amended by House Bill 4699. "Identifying marker," "vehicle identification number," and "vehicle identification number derivative" would also be defined.

Effective date. The bills would take effect January 1, 2000.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.