

APPEALS PROCESS FOR DISCIPLINED CERTIFIED SALVAGE VEHICLE INSPECTORS

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House Bill 4185 (reported from committee as H-1)
Sponsor: Rep. Julie Plawecki
Committee: Regulatory Reform
Complete to 6-9-15

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

SUMMARY:

House Bill 4185 would amend Section 217c of the Michigan Vehicle Code to create an appeals process for individuals (officers) who have had a certificate for salvage vehicle inspection revoked, suspended, or denied.

The vehicle code says that the secretary of state cannot issue a certificate of title or registration plates for a vehicle for which a salvage certificate of title has been issued unless a specially trained officer certifies that the vehicle identification numbers and parts identification numbers are correct; that the applicant has proof of ownership of repair parts used; and that the vehicle complies with the act's equipment standards. The SOS issues certificates to such officers it has specially trained to conduct salvage vehicle inspections, and only such persons can perform these inspections.

The department on its own initiative or in response to complaints can investigate the conduct of officers and gather evidence about violations of the law. House Bill 4185 addresses cases when such an officer's ability to carry out these functions has been revoked, suspended, or denied.

New appeal process

The bill would require the secretary of state to notify the individual, in writing, of the revocation, suspension, or denial, of the certificate at the time it occurs, if the suspension or denial was related to the individual:

- Violating the act, or a rule promulgated under the act.
- Performing improper, careless, or negligent salvage vehicle inspections.
- Making a false statement of a material fact in his or her certification of a salvage vehicle inspection or any record concerning a salvage vehicle inspection.

The notification would include a statement that a request for an appeal made under this provision must be made no later than 30 days after the revocation, suspension, or denial. An officer making an appeal under this subsection may request a hearing at the time the appeal is made.

The secretary of state, or a designee, would deny or grant an appeal within a reasonable period, either in writing, or stated in the record if a hearing is held, and would include findings of fact and conclusions of law. If the secretary of state revokes a certificate and

denies an appeal of the revocation, the officer may apply for a new certificate no earlier than five years after the revocation.

Current provisions

The secretary of state may suspend, revoke, or deny a certificate after an investigation if the secretary of state determines that the officer did one of the following:

- Violated the act or a rule promulgated under the act.
- Was found guilty of a fraudulent act in connection with the inspection, purchase, sale, lease, or transfer of a salvage vehicle.
- Was found guilty of the theft, embezzlement, or misappropriation of salvage vehicle inspection fees.
- Performed improper, careless, or negligent salvage vehicle inspections.
- Ceased to function as a police officer because of suspension, retirement, dismissal, disability, or termination of employment.
- Was convicted of a violation or attempted violation contained in PA 119 of 1986, which relates to a dealer or agent who knowingly fails to make an entry of any material matter in his or her record of transactions as required by that bill.
- Made a false statement of a material fact in his or her certification of a salvage vehicle inspection or any record concerning a salvage vehicle inspection.

An officer specially trained as provided by the secretary of state and authorized by the secretary of state to conduct a salvage vehicle inspection is either of the following:

- An on-duty or off-duty police officer.
- A previously certified police officer who is appointed by the local police agency as a limited enforcement officer to conduct salvage vehicle inspections. The local police agency shall give this officer access to the agency's law enforcement information network system and the authority to confiscate any stolen vehicle or vehicle parts discovered during an inspection. The local police agency may give the officer the authority to arrest a person suspected of having unlawful possession of a stolen vehicle or vehicle parts.

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

BACKGROUND AND DISCUSSION:

According to testimony presented by the bill sponsor during committee, the rationale for introducing this legislation is the current lack of an avenue that salvage officers can use to appeal a denial or suspension of a license.

FISCAL IMPACT:

House Bill 4185 would have no significant fiscal impact on the Michigan State Police or local law enforcement.

The bill would have an indeterminate fiscal impact for the state. The Department of State estimates that an appeal would cost up to \$5,000. It cannot be determined how many

officers would be suspended or face a denied or revoked permit while seeking an appeal every year. Nor is there an estimate of how much revenue would be collected from fines. There would be no fiscal impact for local governments as a result of the bill.

POSITIONS:

Police Officers Association of Michigan indicated support for HB 4185 (6-3-15)

Secretary of State indicated neutrality on HB 4185.

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