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House Bill 5260 (as passed by the House)
Sponsor: Representative Angela Witwer
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 1-18-22

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- **Modify provisions governing prelicensure dealer training programs, training programs for designated individuals, and continuing education training programs.**
- **Modify the definition of "eligible used vehicle dealer".**
- **Specify that certain training requirements described in the Act could be satisfied by attending a training program that was conducted by the Secretary of State (SOS) or a qualified trade organization approved by the Department.**
- **Allow the training programs established by the SOS and any training program approved by the Department to be conducted online or by other electronic means.**
- **Allow the SOS to charge an initial application fee of up to \$500 and an application renewal fee in an amount not exceeding 50% of the initial application fee.**

Prelicensure Dealer Training Program

The Code requires the Secretary of State to establish a prelicensure dealer training program that is available to any individual who is, or is a partner or officer of, an eligible used vehicle dealer applying for an original dealer license and includes training related to the Code and any other subject matter approved by the SOS, such as consumer protection and sales and use tax collection.

The prelicensure dealer training program also must be conducted by the SOS, or a qualified trade organization approved by the SOS, and is offered at least two times each calendar quarter. If approved by the SOS, the training program may be conducted online or by other electronic means. The bill would delete these provisions.

The Code defines "eligible used vehicle dealer" means a person that is licensed as a used or secondhand vehicle dealer, or is applying for licensure as a used or secondhand vehicle dealer, and is not licensed or seeking licensure as a new vehicle dealer. Instead, under the bill, the term would mean a person that is licensed as a used or secondhand vehicle dealer, or is applying for licensure as a used or secondhand vehicle dealer, and is not *an owner, partner, corporate officer, or director of a licensed new vehicle dealer* or seeking licensure as *an owner, partner, corporate officer, or director of a new vehicle dealer*.

Training Program for Designated Individuals

The Code requires the SOS to establish a training program for designated individuals that is available to any designated individual and includes training in transferring vehicle titles, documentation of title transfers, record keeping, and any other subject matter considered appropriate by the SOS, such as consumer protection and sales and use tax collection.

Under the bill, the SOS could consult with other departments to evaluate and develop course content it considered appropriate.

The Code also requires the training program for designated individuals to be conducted by the SOS or another person designated by the SOS and is offered at least two times each calendar quarter. If approved by the SOS, the training program could be conducted online or by other electronic means. The bill would delete these provisions and, instead, would require the training program to be offered at least two times each calendar quarter.

Continuing Education Training Program

The Code requires the SOS to establish a continuing education training program that meets all of the following:

- Is conducted at least two times in each calendar quarter.
- Includes at least two hours of training.
- Includes subject matter considered appropriate by the SOS, such as transferring vehicle titles, documentation of title transfers, record keeping, consumer protection, and sales and use tax collection.

The SOS may consult with any other departments it considers appropriate to evaluate and develop course content.

Additionally, the continuing education training program must be conducted by the SOS or a qualified trade organization that is approved by the SOS. The SOS may evaluate an approved qualified trade organization to determine whether it meets the requirements of this provision. The SOS may, after a hearing, suspend or revoke a qualified trade organization's approval to offer this training for failure to comply with those requirements. The bill would delete these provisions.

Used Vehicle Dealer Licensure

Under the Code, in the six-month period preceding the date of the application for an original eligible used vehicle dealer license, each individual who is the applicant, each partner of the applicant, or each officer of the applicant, as applicable, for the original eligible used vehicle dealer license must complete a prelicensure dealer training program. This provision does not apply to either of the following:

- An applicant, or application, for the renewal of an eligible used vehicle dealer license.
- The holder of an original eligible used vehicle dealer license that was granted before, and is valid on, March 20, 2019.

Under the bill, the provision requiring the completion of a prelicensure dealer training program also would not apply to the owner, partner, corporate officer, or director of a new vehicle dealer license.

Department-Approved Training Program

Under the bill, the training requirements described in the Act could be satisfied by attending a training program that was conducted by the SOS or a qualified trade organization approved by the Department.

A qualified trade organization could apply to the SOS for approval to conduct the training programs. A qualified trade organization could not conduct a training program unless it obtained the Department's approval. Within 30 days after the bill's effective date, the SOS would have to develop and make available an application form.

The SOS would have to establish an application procedure for a qualified trade organization to obtain the Department's approval to conduct the training programs that included all of the following requirements:

- Any documentation required for establishing that the applicant was a qualified trade organization.
- A training program plan or curriculum for each training program the qualified trade organization intended to conduct that was consistent with the training programs
- Any other information or requirements the SOS considered necessary for purposes of approving an application.

The training programs established by the SOS and any training program approved by the Department could be conducted online or by other electronic means.

Within 30 days after receiving an application from a qualified trade organization to conduct training programs, the Department would have to approve or deny the application. The Department would have to provide the approval or denial in writing and, if denied, it would have to list the reasons for the denial. Regardless of the reason for denial, the applicant could resubmit the application correcting the deficiencies identified by the Department in the denial letter. The Department would have 10 business days to review a resubmitted application and either approve or deny it. If a resubmitted application were denied, the denial would have to be in writing to the applicant and the applicant would have an opportunity to correct any deficiencies identified by the Department in the denial letter.

If a qualified trade organization that had received the approval failed to comply with the requirements of the training programs, the SOS, after a hearing conducted in accordance with the Administrative Procedures Act, could suspend or revoke the approval.

The Department could charge an initial application fee of up to \$500 for a submitted application and an application renewal fee in an amount not exceeding 50% of the initial application fee set by the Department.

Rule Promulgation

The Department could promulgate rules and procedures in accordance with the Administrative Procedures Act to Section 248I of the Code, which the bill would amend.

MCL 257.248I

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill could have a negative fiscal impact on the Department of State in that it would create new administrative costs for the Department. These costs would be incurred in the creation

of the application approval process. The Department also would incur costs to oversee a third-party training organization's curriculum and training services. Additional staff could be required to process applications and to provide oversight for third-party organizations.

The magnitude of the potential costs is indeterminate, and they could be recaptured via the proposed application fee (\$500) and renewal fee (\$250) depending on the actual number of applications and renewals. However, if that revenue were insufficient, the average total cost for salary, benefits, and retirement for a State civil servant is an estimated \$125,000 Gross, \$67,500 General Fund/General Purpose.

Fiscal Analyst: Joe Carrasco

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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.