

Department of Planning and Budget

2007 Fiscal Impact Statement

1. Bill Number: HB1779

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Engrossed
Second House	<input checked="" type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Cosgrove

3. Committee: Transportation

4. Title: Provides means to award reasonable attorney fees from the Motor Vehicle Transaction Recovery Fund.

5. Summary/Purpose: This bill provides a means by which the Motor Vehicle Dealer Board may award reasonable attorney fees from the Motor Vehicle Transaction Recovery Fund, based on the portion of the fees that are for services rendered as they relate to that portion of the judgment that is compensable from the Fund. Current law states that “interest, or punitive or exemplary damages” are not compensable from the Fund. The bill clarifies the current language by excluding for payment from the Fund any sums for any loss or damage for pain, suffering, mental anguish, emotional pain and suffering, physical injury or impairment, comfort, counseling, or other nonpecuniary injury.”

6. No Fiscal Impact.

7. Budget amendment necessary: No.

8. Fiscal implications: Under current law, the maximum to be paid from the Fund, per claim, is \$20,000 and only actual damages, attorney fees, and court costs are compensable. Recent experience has revealed that in uncontested cases, attorney’s fees approved by the court and subsequently paid from the Fund appear to be higher than one might expect, considering a case is uncontested.

Judgments, especially default judgments, rarely itemize or breakdown an award in this respect and the Board is therefore unable to determine which portion of the attorney’s fees for services rendered would have been related to the statutory limitations and which portion of the fees was related to other services rendered, such as for work related to building a case for punitive damages. As a result, payments from the Fund to attorneys may include fees not related to that portion of the judgment that is legally compensable from the Fund. To cite an actual case for illustrative purposes – A consumer “won” a judgment in the amount of \$373,125. The consumer’s actual damages were \$6,724. Included in that \$373,125 were attorney fees of \$63,906. Without a breakdown of which portion of the attorney’s fee related to the actual damages, the Fund was obligated to pay this claimant the full \$20,000. The proposed legislation, for this example, would require an itemized breakdown of attorney fees that would identify that portion of the fees attributable to the compensable damages.

9. Specific agency or political subdivisions affected: Motor Vehicle Dealer Board.

10. Technical amendment necessary: None.

11. Other comments: None.

Date: 2/5/07/jlv

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cc: Secretary of Transportation