ARTICLE 5. WATERCRAFT

Rule 1. Definitions

75 IAC 5-1-1 Applicability

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 1. The definitions in this rule apply throughout this article. *(Secretary of State; 75 IAC 5-1-1; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2347; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-1) to the Secretary of State (75 IAC 5-1-1) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-2 "Bill of sale" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 2. "Bill of sale" means a written instrument sufficient to support an intent to transfer ownership of a watercraft and must include the following:

(1) The purchase price of the boat and motor.
(2) The name of the purchaser.
(3) The date of purchase.
(4) A description of the watercraft describing the following:
  (A) Year.
  (B) Make.
  (C) Model or boat type.
  (D) Length.
  (E) Hull identification number, if any.
(5) The signature, printed name, and address of the seller.

(Secretary of State; 75 IAC 5-1-2; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2347; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-3) to the Secretary of State (75 IAC 5-1-2) by P.L.106-2008, SECTION 54, effective July 1, 2008.

75 IAC 5-1-3 "Boat" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 6-6-11-1; IC 9-13-2; IC 9-31

Sec. 3. "Boat" has the meaning set forth in IC 6-6-11-1. *(Secretary of State; 75 IAC 5-1-3; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2347; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-4) to the Secretary of State (75 IAC 5-1-3) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-4 "Boat dealer" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 6-6-11-1; IC 9-13-2

Sec. 4. "Boat dealer" means a person who sells to the general public for delivery in Indiana at least six (6) boats per year. *(Secretary of State; 75 IAC 5-1-4; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2347; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-5) to the Secretary of State (75 IAC 5-1-4)*

by P.L.106-2008, SECTION 54, effective July 1, 2008.

75 IAC 5-1-5 "Bureau" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-14-1; IC 9-31

Sec. 5. "Bureau" means the bureau of motor vehicles. *(Secretary of State; 75 IAC 5-1-5; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2347; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-7) to the Secretary of State (75 IAC 5-1-5) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-6 "Consignee" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 6. "Consignee" means the boat dealer who receives a watercraft for the purpose of offering the watercraft for sale where title is held by another person. *(Secretary of State; 75 IAC 5-1-6; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2348; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-9) to the Secretary of State (75 IAC 5-1-6) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-7 "Consignment sale" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 7. "Consignment sale" refers to a sale, or offer of sale, of a watercraft by a consignee, whether or not for compensation. *(Secretary of State; 75 IAC 5-1-7; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2348; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-10) to the Secretary of State (75 IAC 5-1-7) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-8 "Consignor" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 8. "Consignor" means the person who owns a watercraft which is consigned to a boat dealer. *(Secretary of State; 75 IAC 5-1-8; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2348; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-11) to the Secretary of State (75 IAC 5-1-8) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-9 "Dealer plates" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 9. "Dealer plates" means the two (2) plates provided to a boat dealer which must be displayed on a watercraft while the watercraft is being tested or demonstrated. *(Secretary of State; 75 IAC 5-1-9; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2348; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC*

9-1-12) to the Secretary of State (75 IAC 5-1-9) by P.L.106-2008, SECTION 54, effective July 1, 2008.

75 IAC 5-1-10 "Dealer registration" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2

Sec. 10. "Dealer registration" means a certificate of registration under IC 9-31-4 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* which identifies a dealership and information pertinent to the testing and demonstrating of a watercraft by the dealership. *(Secretary of State; 75 IAC 5-1-10; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2348; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-13) to the Secretary of State (75 IAC 5-1-10) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-11 "Discount dealer" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 11. "Discount dealer" means a person, other than a dealer or manufacturer, who is engaged in the business of selling at least six (6) watercraft during a license year to the general public. *(Secretary of State; 75 IAC 5-1-11; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2348; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-14) to the Secretary of State (75 IAC 5-1-11) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-12 "Distributor" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 12. "Distributor" means a person, other than a manufacturer or a wholesale dealer, who is engaged in the business of selling watercraft to dealers located in Indiana. The term includes a branch office or representative of the distributor. *(Secretary of State; 75 IAC 5-1-12; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2348; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-15) to the Secretary of State (75 IAC 5-1-12) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-13 "Hull identification number" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31-2-8

Sec. 13. "Hull identification number" means the standard coast guard approved twelve (12) digit number placed on a watercraft by the manufacturer or assigned by the bureau under IC 9-31-2-8 or by another state. *(Secretary of State; 75 IAC 5-1-13; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2348; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-16) to the Secretary of State (75 IAC 5-1-13) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-14 "Manufacturer" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 14. "Manufacturer" means a person who is engaged in the business of constructing watercraft for sale to a boat dealer or to the general public. *(Secretary of State; 75 IAC 5-1-14; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2348; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-19) to the Secretary of State (75 IAC 5-1-14) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-15 "Person" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2-124; IC 9-31

Sec. 15. "Person" has the meaning set forth in IC 9-13-2-124. *(Secretary of State; 75 IAC 5-1-15; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2349; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-21) to the Secretary of State (75 IAC 5-1-15) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-16 "Probation" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2

Sec. 16. "Probation" means a period of time a boat dealer has to rectify a requirement under IC 9-31-4 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* or satisfactorily conduct the business operation. *(Secretary of State; 75 IAC 5-1-16; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2349; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-23) to the Secretary of State (75 IAC 5-1-16) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-17 "Revocation" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2

Sec. 17. "Revocation" means to withdraw and revoke the license of a boat dealer for the remainder of the license term as stated under IC 9-31-4-6 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]*. *(Secretary of State; 75 IAC 5-1-17; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2349; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-24) to the Secretary of State (75 IAC 5-1-17) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-18 "Special dealer permit" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31-3-6

Sec. 18. "Special dealer permit" refers to the documentation described in IC 9-31-3-6. *(Secretary of State; 75 IAC 5-1-18; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2349; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-25) to the Secretary of State (75 IAC 5-1-18) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-19 "Suspension" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2

Sec. 19. "Suspension" means to temporarily cease operations by a boat dealer for a period specified by the department for a failure to meet or comply with IC 9-31-4-6 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]*. *(Secretary of State; 75 IAC 5-1-19; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2349; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-26) to the Secretary of State (75 IAC 5-1-19) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-20 "Transfer dealer" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 20. "Transfer dealer" means a financial institution, a lending institution, or a person, other than a boat dealer or a manufacturer, who transfers at least six (6) watercraft during a license year as part of the person's primary business function. *(Secretary of State; 75 IAC 5-1-20; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2349; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-27) to the Secretary of State (75 IAC 5-1-20) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-21 "Watercraft" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2-198.5; IC 9-31

Sec. 21. "Watercraft" has the meaning set forth in IC 9-13-2-198.5. *(Secretary of State; 75 IAC 5-1-21; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2349; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-28) to the Secretary of State (75 IAC 5-1-21) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-1-22 "Wholesale dealer" defined

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-13-2; IC 9-31

Sec. 22. "Wholesale dealer" means a person who is engaged in the business of buying or selling watercraft for resale to another boat dealer or to other persons other than the general public. *(Secretary of State; 75 IAC 5-1-22; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2349; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-1-29) to the Secretary of State (75 IAC 5-1-22) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

Rule 2. Boat Dealers

75 IAC 5-2-1 General requirements

Authority: IC 9-14-2-2
Affected: IC 6-2.5; IC 9-29-15

Sec. 1. (a) This section describes general requirements which must be satisfied by each boat dealer.

(b) A boat dealer shall have a license issued by the bureau to qualify the dealer for the receipt of dealer registrations.

(c) Only one (1) boat dealer can be licensed from a single established place of business under subsection (d) or from a single address.

(d) A boat dealer shall, for the entire license period, have an established place of business which meets each of the specifications contained in this subsection. The established place of business shall meet the following requirements:

(1) Have an Indiana address other than a post office box.

(2) Allow for the display of at least ten (10) watercraft of the kind and type which the dealer is licensed to sell.

(3) Not be attached to, or part of, a residence.

(4) Not violate a local zoning requirement.

(e) An established place of business which is located in a strip office mall, a garage, or a similar facility, and which otherwise satisfies subsection (d), may be approved if the following requirements are met:

(1) A separate entrance is maintained.

(2) A separate address is maintained.

(3) An adequate display area is provided.

(4) The general public is provided with a distinct impression of its separate business status.

(f) A boat dealer shall provide the bureau with its retail merchant certificate number obtained from the department of state revenue and its federal identification number.

(g) A boat dealer shall provide proof of liability insurance covering the established place of business under IC 9-31-4-7 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]*.

(h) A boat dealer shall provide the bureau with photographs of the established place of business with the initial application for a boat dealer license. The photographs must include the following:

(1) Any major sales or storage lot.

(2) The primary exterior advertising sign.

(3) The primary display and office building.

The photographs must be at least three (3) inches by five (5) inches large. The photographs must be updated if the dealership is moved or if its facilities are substantially altered or modified.

(i) Except for a boat dealer engaged primarily in the sale of used watercraft, the dealer shall provide the bureau, with the initial licensing application, evidence of the franchise or contract agreement with a manufacturer.

(j) The boat dealer shall maintain, at the established place of business, a conspicuous and permanent sign identifying the dealer by the name in which the dealer is operating and setting forth the hours of operation of the dealership. *(Secretary of State; 75 IAC 5-2-1; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2355; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-1) to the Secretary of State (75 IAC 5-2-1) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-2 Manufacturer's and importer's certificate of origin

Authority: IC 9-14-2-2
Affected: IC 9-31

Sec. 2. (a) A boat dealer shall not purchase or acquire a new watercraft without obtaining from the seller of the watercraft a manufacturer's certificate of origin or an importer's certificate of origin.

(b) A manufacturer's certificate of origin or an importer's certificate of origin must include the following:

(1) A description of the watercraft. The description must include the following:

(A) The year.

(B) The length.

(C) Dry weight.

(D) Series or model.

(E) Make.

(F) Horsepower rating.
(G) Hull type.
(H) Hull identification number.
(2) A certification of the date of transfer of the watercraft to a distributor, boat dealer, or other person.
(3) The name and address of the distributor, boat dealer, or other person to whom the watercraft was transferred.
(4) A certification that the transfer is the first transfer of the watercraft in ordinary trade and commerce.
(5) The signature and address of a representative of the transferor.
(c) An assignment of a manufacturer's certificate or an importer's certificate must be printed on the reverse side of the certificate. The assignment must include the name and address of the transferee, a certification that the watercraft is new, and a warranty that the title at the time of delivery is subject only to liens and encumbrances that are set forth and fully described on the assignment. *(Secretary of State; 75 IAC 5-2-2; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2356; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-2) to the Secretary of State (75 IAC 5-2-2) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-3 Dealer registration; plates and restrictions

Authority: IC 9-14-2-2
Affected: IC 9-29-15; IC 9-31-3-19

Sec. 3. (a) This section governs the issuance to, and maintenance by, a boat dealer of a dealer registration and two (2) dealer plates under IC 9-31-3-19. A boat dealer registration is effective for not more than twelve (12) months.
(b) In addition to the requirements for a certificate of registration under IC 9-31-3, the following requirements must be met by a boat dealer who holds a dealer registration:
(1) A boat dealer who wishes to receive a dealer registration shall be licensed and make an application for the dealer registration. A fee of ten dollars ($10) must accompany the application for a dealer registration.
(2) A dealer registration (and two (2) plates) must not be used to test or demonstrate more than one (1) watercraft at a time.
(3) A dealer registration must be used exclusively in the usual and customary conduct and operation of the business of the boat dealer.
(4) A dealer registration must not be used on a watercraft for which a boat dealer charges or receives compensation from a person other than an employee of the dealer.
(5) A dealer registration must not be used on a watercraft leased or rented by the boat dealer to another person.
(6) A dealer registration must not be used on a watercraft in excess of ten (10) days by a prospective buyer or service customer.
(7) A dealer registration must not be used for the personal use of a boat unless the boat dealer or an employee of the boat dealer is present on the watercraft during its operation. To qualify as an employee under this subdivision, a bona fide employment relationship must be established by the boat dealer with the individual who claims to be an employee.
(8) A dealer registration must not be used to circumvent the watercraft registration requirements under IC 9-31-4 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* and 140 IAC 9-4, including those requirements relating to taxation. An unlawful use of a dealer registration may be demonstrated by a boat dealer's possession of a watercraft on which a dealer registration is affixed:
(A) beyond the usual and customary period of time in the industry for holding a watercraft in inventory; or
(B) outside of the boat dealer's inventory for sale.
(9) A dealer registration must not be loaned, leased, or sold to a person who is not authorized to use the dealer registration or to a person who has or could obtain a classification of dealer registration as a result of that person's business.
(Secretary of State; 75 IAC 5-2-3; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2356; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-3) to the Secretary of State (75 IAC 5-2-3) by P.L.106-2008, SECTION 54, effective July 1, 2008.

75 IAC 5-2-4 Temporary permits

Authority: IC 9-14-2-2
Affected: IC 4-21.5-3-8; IC 9-29-15; IC 9-31-3-6

Sec. 4. (a) This section governs the issuance and use of a temporary permit by a boat dealer issued under IC 9-31-3-6.

(b) A boat dealer shall not issue more than one (1) temporary permit to the purchaser of a watercraft. A boat dealer cannot renew a temporary permit issued under this subsection, and a temporary permit must not be used for more than thirty-one (31) days.

(c) A boat dealer shall not apply a temporary permit to a watercraft owned or in the inventory of a boat dealer.

(d) A boat dealer who wishes to assign a temporary permit to another boat dealer shall, before making the assignment, record the temporary permit and registration in a log according to the control number on the temporary permit.

(e) A boat dealer who is assigned a temporary permit from another boat dealer must, upon receipt, record in a log the temporary permit and the name of the boat dealer who made the assignment.

(f) A boat dealer shall provide a bill of sale or another ownership document which establishes the purchase date to the purchaser at the time of the issuance of a temporary permit.

(g) A boat dealer shall pay a fee of one dollar ($1) for each temporary permit which is purchased.

(h) The log required under this section must be maintained in the possession of the boat dealer for at least three (3) years following the final entry made in that log. In addition to any other requirements contained in this section, the log must include the following information:

(1) The temporary permit control number issued in its sequence.

(2) The name and address of the person to whom the temporary permit was issued.

(3) The make, model, and year of the watercraft to which the temporary permit is to be affixed.

(4) The hull identification number.

(5) The date of issuance of the temporary permit.

(i) Under IC 4-21.5-3-8, the department may suspend the license of a boat dealer who misuses a temporary permit or registration. *(Secretary of State; 75 IAC 5-2-4; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2356; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-4) to the Secretary of State (75 IAC 5-2-4) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-5 Dealer certificates of registration or temporary permits to be issued to a dealer or manufacturer

Authority: IC 9-14-2-2
Affected: IC 9-29-15

Sec. 5. (a) The following table shall be used to establish the maximum number of dealer certificates of registration to be issued on an annual basis:

Dealer Registrations

Annual Boat Sales	Maximum Number of Registrations
6–40	2
41–75	4
76–150	6
151–250	8
251–500	10

(Maximum is thirty (30) registrations.)

Manufacturer Registrations

Annual Boats Made	Maximum Number of Registrations
6–200	4
201–500	6
501–1,000	8

1,000–2,500	10
2,501–5,000	20

(Maximum is fifty (50) registrations.)

(b) The commissioner of the bureau may also limit the number of registrations issued.

(c) The commissioner of the bureau may limit the number of temporary permits issued based upon the number of watercraft sold or based upon the extent of the dealer's projected sales. *(Secretary of State; 75 IAC 5-2-5; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2357; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-5) to the Secretary of State (75 IAC 5-2-5) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-6 Transfer dealer license

Authority: IC 9-14-2-2
Affected: IC 9-31-4-7

Sec. 6. (a) To act as a transfer dealer, a person shall be licensed under this section.

(b) The application must show that the applicant possesses the following:

(1) A retail merchant certificate obtained from the department of revenue.

(2) A federal identification number.

(c) The application must show that the transfer dealer will operate from a place of business located in a permanent building. A tent, temporary stand, permanent quarters temporarily occupied, or residence does not qualify under this subsection.

(d) The application must show the place of business has parking or storage facilities for at least ten (10) watercraft.

(e) The application must include photographs of the place of business with the initial application under this section. The photographs must include the major sales, storage, and office space to be used by the transfer dealer. The photographs must be at least three (3) inches by five (5) inches large. The photographs must be updated if the place of business is moved or if its facilities are substantially altered or modified.

(f) The applicant shall provide and maintain business liability insurance for its place of business under IC 9-31-4-7 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]*.

(g) The applicant must provide a statement of the type and extent of the transfer dealer's business.

(h) Except as otherwise provided in this section, the provisions under this rule applicable to a boat dealer also apply to a transfer dealer. *(Secretary of State; 75 IAC 5-2-6; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2357; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-6) to the Secretary of State (75 IAC 5-2-6) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-7 Discount dealer license

Authority: IC 9-14-2-2
Affected: IC 9-31-4-7

Sec. 7. (a) To act as a discount dealer, a person shall be licensed under this section.

(b) The application must show that the applicant possesses the following:

(1) A retail merchant certificate obtained from the department of revenue.

(2) A federal identification number.

(c) The application must show that the discount dealer will operate from a place of business which is related to the sale of watercraft. A post office box or residence does not qualify under this subsection. Any sale of watercraft must be a secondary business which does not exceed fifty percent (50%) of the gross income which is derived from the place of business.

(d) The application must show that the place of business has an inventory of at least ten (10) watercraft.

(e) The application must include photographs of the place of business with the initial application under this section. The photographs must show the major sales and display of the watercraft inventory. The photographs must be at least three (3) inches by five (5) inches large. The photographs must be updated if the place of business is moved or if its facilities are substantially

altered or modified.

(f) The applicant shall provide and maintain business liability insurance for its place of business under IC 9-31-4-7 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]*.

(g) The applicant shall provide a statement of the type and extent of the discount dealer's business.

(h) Except as otherwise provided under this section, the provisions of this rule applicable to a boat dealer also apply to a discount dealer. *(Secretary of State; 75 IAC 5-2-7; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2358; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-7) to the Secretary of State (75 IAC 5-2-7) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-8 Determining the number of boats or watercraft sold

Authority: IC 9-14-2-2
Affected: IC 9-31-4

Sec. 8. For the purpose of determining the number of boats or watercraft sold, or anticipated to be sold, under IC 9-31-4 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* or this rule, the period of twelve (12) months which immediately follows issuance of the boat dealer license shall be used. *(Secretary of State; 75 IAC 5-2-8; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2358; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-8) to the Secretary of State (75 IAC 5-2-8) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-9 Providing documentation to purchaser

Authority: IC 9-14-2-2
Affected: IC 9-31

Sec. 9. A boat dealer shall provide each person who purchases a boat or watercraft from the dealership with all documentation needed to transfer the title to the boat or watercraft to the purchaser. The documentation must be provided within ten (10) days of the sale or delivery of the watercraft. *(Secretary of State; 75 IAC 5-2-9; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2358; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-9) to the Secretary of State (75 IAC 5-2-9) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-10 Consignment sales

Authority: IC 9-14-2-2
Affected: IC 9-31-2

Sec. 10. (a) A consignor, who consigns a watercraft to a consignee to be offered for sale and sold by the consignee on behalf of the consignor to a third person, must either:

(1) provide the third person with a signed bill of sale or certificate of title correctly assigned; or

(2) provide the consignee with the certificate of title and either:

(A) a power of attorney to designate the consignee as the agent of the consignor; or

(B) a duly executed consignment agreement between the consignor and the consignee.

(b) A consignment agreement under subsection (a) must include the following information:

(1) The name and current address of the following:

(A) The person who is identified on the certificate of title as the owner.

(B) The person who holds possession of the certificate of title.

(C) Any person who holds a lien on the title.

(D) The person to whom the watercraft was consigned for sale.

(2) A description of the watercraft, including the make, model, and hull identification number.

(3) A statement to show that the consignee has been appointed by the consignor as the agent to offer the watercraft for sale.

(4) Any sales condition which must be met by the consignee.

(Secretary of State; 75 IAC 5-2-10; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2358; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-10) to the Secretary of State (75 IAC 5-2-10) by P.L.106-2008, SECTION 54, effective July 1, 2008.

75 IAC 5-2-11 Investigation and evaluation of qualifications

Authority: IC 9-14-2-2
Affected: IC 9-31-2

Sec. 11. (a) The bureau, or a person authorized by the bureau, may conduct an investigation of a boat dealer, transfer dealer, or discount dealer and of any place of business which is regulated under this rule to determine if the requirements of IC 9-31-4 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* and this rule are being satisfied, or would be satisfied, upon the issuance of a license.

(b) Upon the request of the bureau, or a person authorized by the bureau, a person who is subject to investigation under subsection (a) must provide any documentation or records necessary or reasonably required as follows:

(1) To identify and record the sale of a watercraft.

(2) To evaluate whether an applicant meets each of the requirements to be licensed.

(3) To establish that insurance policies required under IC 9-31-4-7 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* or this rule are current and valid.

(4) To identify and describe a franchise or contract agreement between a boat dealer and a manufacturer.

(5) To identify the authority of a person to sell a particular watercraft held in inventory.

(6) If a place of business houses both a primary business and a secondary business, to identify the respective gross incomes of those businesses.

(7) To describe any other function or transaction which is subject to regulation under IC 9-31-4 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* or this rule.

(Secretary of State; 75 IAC 5-2-11; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2359; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-11) to the Secretary of State (75 IAC 5-2-11) by P.L.106-2008, SECTION 54, effective July 1, 2008.

75 IAC 5-2-12 Validity of license; change of business name or location

Authority: IC 9-14-2-2
Affected: IC 9-29-15

Sec. 12. (a) Any person who surrenders a license a full twelve (12) months prior to its expiration date may be refunded one-half (1/2) of the license fee.

(b) If a business name or location is changed, the holder of a license issued under this rule must notify the bureau on a bureau form. The license must be surrendered within ten (10) days of the change, and the bureau shall collect a fee of five dollars ($5). The bureau shall endorse the change on the license unless the bureau determines that the change violates another provision of this rule or IC 9-31-4 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]*. *(Secretary of State; 75 IAC 5-2-12; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2359; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-12) to the Secretary of State (75 IAC 5-2-12) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-13 Denial, suspension, or revocation of the dealer license and plates

Authority: IC 9-14-2-2
Affected: IC 4-21.5

Sec. 13. (a) The bureau shall make the initial determination with respect to an application for the issuance of a boat dealer's license and plates. Based upon the application and investigation, the bureau shall either issue plates to the applicant or deny the issuance of the boat dealer plates.

(b) Within fifteen (15) days of the bureau's initial determination with respect to the application, the applicant may make a written request for a hearing for a redetermination of the status of the application. At the hearing, the applicant may present evidence to substantiate the applicant's claim to either boat dealer registration plates or to a specific classification of boat dealer registration plates. The hearing will be conducted in accordance with IC 4-21.5. Any further review of the bureau's determination shall be afforded through the circuit or superior court in which the person's principal place of business is located.

(c) A license or plates under this section may be denied, suspended, revoked, or placed upon probation for:

(1) a material misrepresentation in application for a license filed with the bureau;

(2) a lack of fitness under the standards set forth in IC 9-31-4 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* or this rule;

(3) a willful failure to comply with IC 9-31-4 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* or this rule; or

(4) a willful violation of any federal or state law relating to the sale, distribution, financing, or insuring of boats.

(d) Any probation, suspension, or revocation of a boat dealer's license or boat dealer's plates must be made by the bureau after notice of specific charges and hearing in accordance with IC 4-21.5. Any further review of the bureau's determination shall be afforded through the circuit or superior court in which the person's principal place of business is located. *(Secretary of State; 75 IAC 5-2-13; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2359; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-13) to the Secretary of State (75 IAC 5-2-13) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

75 IAC 5-2-14 Issuance of cease and desist order by commissioner

Authority: IC 9-14-2-2
Affected: IC 9-31-4-2

Sec. 14. All businesses engaged in the business activities as identified in IC 9-31-4-2 *[IC 9-31-4 was repealed by P.L.92-2013, SECTION 77, effective July 1, 2013.]* must be licensed to carry out such business activities and functions. Failure to obtain a license or having a license suspended or revoked by the bureau shall be cause for an order to cease and desist all such business activities to be issued by the bureau. The bureau shall notify the superintendent of the Indiana state police of all such orders issued to cease and desist business. *(Secretary of State; 75 IAC 5-2-14; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2359; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-3-14) to the Secretary of State (75 IAC 5-2-14) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

Rule 3. Registration

75 IAC 5-3-1 Dealer's and manufacturer's identification number; display

Authority: IC 9-14-2-2; IC 9-31-1-5
Affected: IC 9-31-3

Sec. 1. (a) The manufacturer's and dealer's application and certificate shall be the same as the approved form.

(b) The description of the boat will be omitted since the number of the registration certificate awarded may be transferred from one (1) boat to another, owned by said dealer or manufacturer.

(c) In lieu of the description, the word "manufacturer" or "dealer", as appropriate, will be plainly marked on each certificate. The manufacturer or dealer may have the number awarded printed upon or attached to a removable sign to be temporarily but firmly mounted upon or attached to the boat being demonstrated or tested, so long as the display meets the requirements under section 2 of this rule. *(Secretary of State; 75 IAC 5-3-1; filed Jun 7, 1993, 10:00 a.m.: 16 IR 2360; readopted filed Jul 30, 2001, 10:31 a.m.: 24 IR 4232; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA; readopted filed Nov 13, 2013, 3:25 p.m.: 20131211-IR-075130451RFA) NOTE: Transferred from the Bureau of Motor Vehicles (140 IAC 9-4-5) to the Secretary of State (75 IAC 5-3-1) by P.L.106-2008, SECTION 54, effective July 1, 2008.*

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