



DIEGO MORALES
SECRETARY OF STATE

STATE OF INDIANA
AUTO DEALER SERVICES DIVISION

June 17, 2024

ADVISORY MEMORANDUM

Electronic Deal Jackets

On June 12, 2024, the Auto Dealer Services Division (“Division”) was made aware of certain communications circulating within the Indiana dealer community involving Dealer Services Network (“DSN”) and the Automobile Dealers Association of Indiana (“ADAI”).

The communications provided to the Division include several misstatements of fact and law. Generally speaking, the Division speaks for itself, and only communications directly from the Division about its position on a given topic should be relied upon.

There are two separate issues involved that the Division seeks to clarify:

1. Electronic maintenance of deal jackets

Indiana Code 9-32-16-6(b) provides that “dealer records required to be maintained under this article may be maintained in any form of data storage acceptable to the secretary so long as the records are readily accessible and available to copy by an investigating employee of the secretary upon demand at the place of business of the dealer, electronically, or by mail.”

Earlier this year, the Division was approached by representatives of DSN seeking clarification as to whether a certain service they offered – electronic archival of deal jackets – would be permitted by the Division. The Division reviewed several sample records provided by DSN and discussed their processes. Based on these representations, the Division advised certain dealers that it did not anticipate that DSN’s process as displayed would result in Division enforcement action as it relates to the digitization, maintenance, or retention of dealer records. To date, no other service provider has approached the Division with such a request.

To be clear, the Division does not provide formal approval to specific service providers for any service. In the case of electronic maintenance of deal jackets, the Division will only confirm that any electronic documents of similar image quality to the sample documents provided by the service provider will not trigger any enforcement action for being illegible. As such, the absence of an advisement from the Division does not prevent any other provider from offering electronic archival services. The ultimate responsibility for ensuring compliance with Indiana law rests with the individual dealer.



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2. SECTION 7 of Senate Enrolled Act 222

Section 7 of SEA 222 amends IC 9-32-16-6, effective July 1, 2024, by adding subsection (d), which will provide:

If an investigating or auditing employee of the secretary requests dealer records required to be maintained under this article in an electronic format, the dealer must provide the dealer records to the investigating or auditing employee of the secretary not more than ten (10) business days after the request.

Therefore, a dealer must provide records electronically to the Division upon request only if the records being requested are otherwise required to be maintained electronically. **Currently, no dealer records are required to be maintained solely electronically.** The Division maintains its flexibility in working with dealers on all audits and examinations in the event records are required in the course of its investigations. This provision is intended to future-proof its statutory authority in preparation for the rollout of electronic titling.

Ultimately, questions regarding either of these issues should be directed to the Division at legal@sos.in.gov.

Reliance upon any third-party guidance, even guidance that purports to speak on the Division's or the Secretary's behalf, will not be a defense to any enforcement action in the event the Division discovers a violation of Indiana law.

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