

Notice of First Public Comment Period
LSA Document #24-418

AUTO DEALER SERVICES DIVISION FINES AND CIVIL PENALTIES RULE

PURPOSE OF NOTICE

The Secretary of State – Auto Dealer Services Division (division) is soliciting public comment on adding rules at [75 IAC 6-5](#) concerning fines and civil penalties, as required by House Enrolled Act (HEA) 1623-2023. The division seeks comment on the affected citations listed and any other provisions of Title 75 that may be affected by this rulemaking.

ADDITIONAL DOCUMENTS

Regulatory Analysis: [20241030-IR-075240418RAA](#)

Notice of Public Hearing: [20241030-IR-075240418PHA](#)

CITATIONS AFFECTED: [75 IAC 6-5](#)

AUTHORITY: [IC 9-32-16-13](#); [IC 9-32-16-14](#); [IC 9-32-17-1](#); [IC 9-32-17-9](#)

OVERVIEW

Basic Purpose and Background

The division regulates entities related to the automotive industry doing business in Indiana, including auto dealers, manufacturers, salvage recyclers, and transport operators. The division regulates those entities through enforcing Indiana laws codified in [IC 9-32](#), and through the promulgation of rules under its authority granted by [IC 9-32-3-1](#).

When a violation of either is discovered, [IC 9-32-16-2](#), [IC 9-32-16-13](#), [IC 9-32-17-1](#), and [IC 9-32-17-9](#) enable the division to take a variety of actions based on the circumstances. Specifically, the division is authorized to issue a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation.

While what constitutes a violation is clearly defined through rule or statute, the exact amount of civil penalty issued for any violation has historically been set by policy. With the passage of HEA 1623-2023, that policy must now be promulgated in rule. The proposed rule establishes fine amounts for specific violations of Indiana law.

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jerry Bonnet
General Counsel
Indiana Secretary of State
200 West Washington Street, Room 201
Indianapolis, IN 46204
jbonnet@sos.in.gov
(317) 232-6534

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

REQUEST FOR PUBLIC COMMENT

The division is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #24-418 Auto Dealer Services Division Fines and Civil Penalties Rule
 Kyle Bonick, Codirector
 302 West Washington Street, Room E-111
 Indianapolis, IN 46204

- (2) By email to legal@sos.in.gov. PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.
 (3) Attend scheduled public hearing.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than December 2, 2024.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the Indiana Secretary of State – Auto Dealer Services Division, 302 West Washington Street, Room E-111, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the Secretary of State – Auto Dealer Services Division office.

If the division does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

PROPOSED RULE

SECTION 1. [75 IAC 6-5](#) IS ADDED TO READ AS FOLLOWS:

Rule 5. Enforcement

[75 IAC 6-5-1](#) Fines and civil penalties

Authority: [IC 9-32-16-13](#); [IC 9-32-16-14](#); [IC 9-32-17-1](#); [IC 9-32-17-9](#)

Affected: [IC 6-2.5-2-1](#); [IC 9-32](#); [IC 24-4-6-1](#); [IC 25-37.5-1-9](#)

Sec. 1. (a) The division may impose fines and civil penalties against a dealer that fails to comply with [IC 9-32](#) or a rule promulgated by the division.

(b) Fines are imposed by the division under the following schedule:

Violation	Fine Amount	IC / IAC
Offsite sale	\$1,000	IC 9-32-11-10
Multiple issuances of interim plates	\$500	75 IAC 6-3-8(b)(1)
Misuse of interim plates	\$500	75 IAC 6-3-8
Issuance of interim plates to salvage vehicles	\$1,000	75 IAC 6-3-8(b)(5)
Misuse of dealer plates	\$500	IC 9-32-6-10 ; 75 IAC 6-3-8(b)(5)
Failure to disclose salvage or rebuilt status of vehicle	\$1,000	IC 9-32-13-6
Failure to maintain complete records	\$100	IC 9-32-4-1(b)(3) ; IC 9-32-6-14 ; IC 9-32-11-21 ; IC 9-32-16-6
Failure to produce records	\$500	IC 9-32-4-1(b)(3) ; IC 9-32-6-14 ; IC 9-32-11-21 ; IC 9-32-16-6
Purchase of detached catalytic converter without affidavit	\$1,000	IC 25-37.5-1-9
Failure to pay off trade-in within 10 days	\$500	IC 9-32-4-1(h)
Failure to collect and remit sales tax	\$500 + uncollected sales tax	IC 6-2.5-2-1 ; IC 9-32-13-5
Failure to add all dealer owners and/or submit to background check	\$250	IC 9-32-16-11(f)
Failure to notify the division of change of name/address/entity	\$250	IC 9-32-11-6(b)

Unauthorized consignment sale	\$500	75 IAC 6-2-8
Sunday sale	\$500	IC 24-4-6-1

(c) A fine assessed under this rule:

- (1) shall be issued for each violation of the identified statute or rule; and
- (2) may be issued in conjunction with any other action taken by the division under [IC 9-32](#) or a rule promulgated by the division.

(d) The division may waive a fine imposed under this article if:

- (1) the division is proposing to fine the dealer for a single violation;
- (2) the dealer has not been fined by the division within one (1) calendar year before the date the fine is imposed; and
- (3) the division has not waived a fine within one (1) calendar year before the date the fine is imposed.

The division shall notify the dealer of the violation and waiver of the fine under this subsection.

(Secretary of State; [75 IAC 6-5-1](#))

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An [html](#) version of this document.