

**IC 9-32**

**ARTICLE 32. DEALER SERVICES**

**IC 9-32-1**

**Chapter 1. Application**

**IC 9-32-1-1**

**Bureau of motor vehicles; authority not limited to administer title**

Sec. 1. This article may not be construed to limit the authority of the bureau to administer this title.

*As added by P.L.92-2013, SEC.78.*

## **IC 9-32-2**

### **Chapter 2. Definitions**

#### **IC 9-32-2-1**

##### **Definitions**

Sec. 1. The definitions in this chapter apply throughout this article.  
*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-2**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.30.)*

#### **IC 9-32-2-3**

##### **"Advisory board"**

Sec. 3. "Advisory board" refers to the motor vehicle sales advisory board established by IC 9-32-10-1.  
*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-4**

##### **"Automobile auctioneer"**

Sec. 4. "Automobile auctioneer" means a person who is engaged in providing a place of business or facilities for the purchase and sale of more than three (3) motor vehicles, on the basis of bids by persons acting for themselves or others, per calendar year. The term includes an auctioneer who, as part of the business of the auctioneer, participates in providing a place of business or facilities for the purchase and sale of motor vehicles on the basis of bids by persons acting for themselves or others. The term does not include a person acting only as an auctioneer under IC 25-6.1-1.  
*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-5**

##### **"Automobile salvage rebuilder"**

Sec. 5. "Automotive salvage rebuilder" means a person, firm, limited liability company, corporation, or other legal entity engaged in the business:

- (1) of acquiring salvage motor vehicles for the purpose of restoring, reconstructing, or rebuilding the vehicles; and
- (2) of reselling these vehicles for use on the highway.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-6**

##### **"Broker"**

Sec. 6. "Broker" means a person who, for a fee, a commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new or used motor vehicle and who is not:

- (1) a dealer or an employee of a dealer;
- (2) a distributor or an employee of a distributor; or
- (3) at any point in the transaction, the bona fide owner of the vehicle involved in the transaction.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-7**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.31.)*

#### **IC 9-32-2-8**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.32.)*

#### **IC 9-32-2-9**

##### **"Charge back"**

Sec. 9. "Charge back" means a manufacturer induced return of incentive payments to a manufacturer by a dealer. The term includes a manufacturer drawing funds from an account of a dealer.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-10**

##### **"Director"**

Sec. 10. "Director" refers to the director of the dealer services division within the office of the secretary of state who is appointed under IC 4-5-1-12(b).

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-10.5**

##### **"Distributor representative"**

Sec. 10.5. "Distributor representative" means a person that is certified by the secretary to be an agent of a licensed distributor to act on behalf of a distributor licensed under this article.

*As added by P.L.151-2015, SEC.33.*

#### **IC 9-32-2-11**

##### **"Division"**

Sec. 11. "Division" refers to the dealer services division within the office of the secretary of state established by IC 4-5-1-12(a).

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-12**

##### **"Existing franchise"**

Sec. 12. "Existing franchise" means the franchise in effect on the date of a franchisee's death or incapacity.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-13****"Franchise"**

Sec. 13. "Franchise" means an oral or a written agreement for a definite or an indefinite period in which a manufacturer or distributor grants to a dealer a right to use a trade name, trade or service mark, or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or related services at retail or otherwise.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-14****"Franchisee"**

Sec. 14. "Franchisee" means a dealer to whom a franchise is granted.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-15****"Franchisor"**

Sec. 15. "Franchisor" means a manufacturer or distributor who grants a franchise to a dealer.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-16****"Labor rate"**

Sec. 16. "Labor rate" means the hourly labor rate charged by a franchisee for service, filed periodically with the division as the division may require, and posted prominently in the franchisee's service department.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-17****Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.34.)*

**IC 9-32-2-18****Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.35.)*

**IC 9-32-2-18.5****"Manufacturer representative"**

Sec. 18.5. "Manufacturer representative" means a person that is certified by the secretary to be an agent of a licensed manufacturer to act on behalf of a manufacturer licensed under this article.

*As added by P.L.151-2015, SEC.36.*

**IC 9-32-2-19****"Record"**

Sec. 19. "Record" includes, but is not limited to, the following:

- (1) Bills of sale.
- (2) Finance agreements.
- (3) Titles.
- (4) Inventory records.
- (5) Sales receipts from auctions.
- (6) Form ST-108 (department of state revenue certificate of gross retail or use tax paid on the purchase of a motor vehicle or watercraft).
- (7) Interim plate log.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-20**

##### **"Relevant market area"**

Sec. 20. "Relevant market area" means the following:

- (1) With respect to a new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000), the area within a radius of six (6) miles of the intended site of the relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the relocated new motor vehicle dealer's place of business.
- (2) With respect to a:
  - (A) proposed new motor vehicle dealer; or
  - (B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of not more than one hundred thousand (100,000);the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer. The ten (10) mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-2-21**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.37.)*

#### **IC 9-32-2-22**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.38.)*

#### **IC 9-32-2-23**

**"Sale"**

Sec. 23. "Sale" includes every contract of sale, contract to sell, or disposition of a motor vehicle or interest in a motor vehicle for value.  
*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-24**

**"Secretary"**

Sec. 24. "Secretary" refers to the secretary of state holding office as set forth in IC 4-5-1-1.  
*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-25**

**"Transfer dealer"**

Sec. 25. "Transfer dealer" means a person, other than a dealer, manufacturer, or wholesale dealer, who has the necessity of transferring at least twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.  
*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-26**

**"Uniform time standards manual"**

Sec. 26. "Uniform time standards manual" means a schedule established by a manufacturer or distributor setting forth the time allowances for the diagnosis and performance of warranty work and service.  
*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-27**

**"Used parts dealer"**

Sec. 27. "Used parts dealer" means a person who primarily buys, sells, barter, exchanges, or deals in used major component parts. The term does not include a scrap metal processor.  
*As added by P.L.92-2013, SEC.78.*

**IC 9-32-2-28**

**"Wholesale dealer"**

Sec. 28. "Wholesale dealer" means a person who is engaged in the business of buying or selling motor vehicles for resale to other dealers, wholesale dealers, transfer dealers, or persons other than the general public.  
*As added by P.L.92-2013, SEC.78.*

### **IC 9-32-3**

#### **Chapter 3. Powers and Duties of the Division**

##### **IC 9-32-3-1**

###### **Rights, duties, and obligations under article, rules; emergency rules**

Sec. 1. The secretary may delegate any or all of the rights, duties, or obligations of the secretary under this article to:

- (1) the director; or
- (2) another designee under the supervision and control of the secretary.

The individual delegated has the authority to adopt and enforce rules under IC 4-22-2 as the secretary under IC 4-5-1-11. The secretary shall adopt emergency rules in the manner set forth in IC 4-22-2-37.1 to carry out the secretary's duties under this article. The emergency rules must be adopted before January 1, 2014. The emergency rules expire June 30, 2014. Before July 1, 2014, the secretary shall, under IC 4-2-22, adopt rules to carry out the secretary's duties under this article that supersede the emergency rules.

*As added by P.L.92-2013, SEC.78.*

##### **IC 9-32-3-2**

###### **Secretary; responsibilities and duties**

Sec. 2. The secretary shall do the following:

- (1) Administer and enforce:
  - (A) this article concerning the division; and
  - (B) the policies and procedures of the division.
- (2) Organize the division in the manner necessary to carry out the duties of the division.
- (3) Perform other duties as required by the division.

*As added by P.L.92-2013, SEC.78.*

##### **IC 9-32-3-3**

###### **Emergency rules; elimination of dealer-wholesale license plates and wholesale dealer licenses**

Sec. 3. (a) Notwithstanding any other law or rules, and not later than October 1, 2014, the secretary shall adopt emergency rules under IC 4-22-2-37.1 to do the following:

- (1) Eliminate dealer-wholesale license plates and wholesale dealer licenses.
- (2) Administer the transition process from wholesale dealer to dealer.

(b) This section expires July 1, 2015.

*As added by P.L.216-2014, SEC.158.*

## **IC 9-32-4**

### **Chapter 4. Obtaining, Expiration, Replacement, and Transfer of Certificate of Title**

#### **IC 9-32-4-1**

##### **Transfer of title; sale of vehicle without certificate of title; failure to deliver certificate of title; timely payment to third party**

Sec. 1. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is transferred in any manner other than by a transfer on death conveyance under IC 9-17-3-9, in addition to complying with IC 9-17-3-3.4, the person who holds the certificate of title must do the following:

(1) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.

(2) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under this article.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.

(C) The vehicle dealer provides the purchaser or transferee with an affidavit under section 2 of this chapter.

(D) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) Keep proof of delivery of the certificate of title with the dealer records.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(1) or (a)(2) at the time of the sale.

(c) A vehicle dealer who fails to deliver the certificate of title within the time specified under subsection (a) is subject to the following civil penalties:

(1) One hundred dollars (\$100) for the first violation in a calendar year.

(2) Two hundred fifty dollars (\$250) for the second violation in a calendar year.

(3) Five hundred dollars (\$500) for all subsequent violations in a calendar year.

Payment shall be made to the secretary of state and deposited in the dealer enforcement account established under IC 9-32-7-2.

(d) If a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or

transferee has the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser or transferee. The relief referenced in this subsection is relief for the purchaser or transferee only and does not preclude the ability of the division to collect civil penalties under subsection (c).

(e) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party one hundred dollars (\$100). If:

(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(f) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle shall deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(g) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within ten (10) days after the date of sale.

(h) Except as provided in subsection (i), a person who violates this section commits a Class C infraction.

(i) A person who knowingly or intentionally violates subsection (a)(1), (a)(2), or (d) commits a Class B misdemeanor.

(j) For purposes of this section, "deliver the certificate of title" means to deliver the certificate of title to the purchaser or transferee by postmark dated mail, certified mail with return receipt, or hand delivery.

*As added by P.L.92-2013, SEC.78. Amended by P.L.262-2013, SEC.139; P.L.217-2014, SEC.163; P.L.151-2015, SEC.39.*

**IC 9-32-4-2**

**Affidavit form**

Sec. 2. The affidavit required by section 1(a)(2)(C) of this chapter must be printed in the following form:

STATE OF INDIANA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

I affirm under the penalties for perjury that all of the following are true:

- (1) That I am a dealer licensed under IC 9-32.
- (2) That I cannot deliver a valid certificate of title to the retail purchaser of the vehicle described in paragraph (3) at the time of sale of the vehicle to the retail purchaser. The identity of the previous seller or transferor is \_\_\_\_\_. Payoff of lien was made on (date)\_\_\_\_\_. I expect to deliver a valid and transferable certificate of title not later than (date)\_\_\_\_\_ from the State of (state)\_\_\_\_\_ to the purchaser.
- (3) That I will undertake reasonable commercial efforts to produce the valid certificate of title. The vehicle identification number is \_\_\_\_\_.

Signed \_\_\_\_\_, Dealer

By \_\_\_\_\_

Dated \_\_\_\_\_, \_\_\_\_\_

CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AFFIDAVIT.

\_\_\_\_\_  
Customer Signature

**NOTICE TO THE CUSTOMER**

If you do not receive a valid certificate of title within twenty-one (21) days after the date of sale, you have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and after the vehicle dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the vehicle dealer in the same or similar condition as when it was delivered to you, the vehicle dealer shall pay you the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount that you paid to the vehicle dealer. If a lien is present on the previous owner's certificate of title, it is the responsibility of the third party lienholder to timely deliver the certificate of title in the third party's possession to the dealer not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to deliver a valid certificate of title to you within the above-described ten (10) day period results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer, the dealer may be entitled to claim against the third party the damages allowed by law.

*As added by P.L.92-2013, SEC.78. Amended by P.L.262-2013,  
SEC.140.*

## **IC 9-32-5**

### **Chapter 5. Manufacturers, Converter Manufacturers, and Dealers; Manufacturers' Certificates of Origin**

#### **IC 9-32-5-1**

##### **Applicability; exception**

Sec. 1. This chapter does not apply to an off-road vehicle.  
*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-5-2**

##### **Sale or transfer of motor vehicle for display or resale; delivery of certificate of origin**

Sec. 2. A dealer may not sell or otherwise dispose of a new motor vehicle to another person, to be used by the person for purposes of display or resale, without delivering to the person a manufacturer's certificate of origin under this chapter that indicates the assignments of the certificate of origin necessary to show the ownership of the title to a person who purchases the motor vehicle.  
*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.40.*

#### **IC 9-32-5-3**

##### **Purchaser of new motor vehicle; receipt of certificate of origin**

Sec. 3. A person may not purchase or acquire a new motor vehicle without obtaining a valid manufacturer's certificate of origin from the seller of the motor vehicle.  
*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-5-4**

##### **Form of certificates of origin and assignments of origin**

Sec. 4. (a) Except as provided in subsection (b), certificates of origin and assignments of certificates of origin must be in a form:

- (1) prescribed by the bureau; or
- (2) approved by the bureau.

(b) A manufacturer's certificate of origin for a low speed vehicle must indicate that the motor vehicle is a low speed vehicle.  
*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-5-5**

##### **Dealer; required certificates or proof of ownership or right of possession**

Sec. 5. A dealer must have:

- (1) a certificate of title;
- (2) an assigned certificate of title;
- (3) a manufacturer's certificate of origin;
- (4) an assigned manufacturer's certificate of origin; or
- (5) other proof of ownership or evidence of right of possession as determined by the secretary;

for a motor vehicle, semitrailer, or recreational vehicle in the dealer's possession.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.41.*

#### **IC 9-32-5-6**

##### **Dealer possession of motor vehicle without certificate of title; application; time limitation; delinquent title fee**

Sec. 6. (a) If a dealer purchases or acquires ownership of a:

- (1) motor vehicle;
- (2) semitrailer; or
- (3) recreational vehicle;

in a state that does not have a certificate of title law, the dealer shall apply for an Indiana certificate of title for the motor vehicle, semitrailer, or recreational vehicle not more than thirty-one (31) days after the date of purchase or the date ownership of the motor vehicle, semitrailer, or recreational vehicle was acquired.

(b) The bureau shall collect a delinquent title fee as provided in IC 9-29-4-4 if a dealer fails to apply for a certificate of title for a motor vehicle, semitrailer, or recreational vehicle as described in subsection (a).

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-5-7**

##### **Forms for applications**

Sec. 7. The bureau shall provide forms on which applications for certificates of title and assignments of certificates of title must be made under this chapter.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-5-8**

##### **Assigned certificates of title or certificates of origin; delivery**

Sec. 8. A dealer shall deliver an assigned certificate of title or certificate of origin to a person entitled to the certificate of title or certificate of origin.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.42.*

#### **IC 9-32-5-9**

##### **Inspection of certificates and motor vehicles**

Sec. 9. (a) In order to obtain or maintain a dealer's license from the secretary, a person must agree to allow a police officer or an authorized representative of the secretary to inspect:

- (1) certificates of origin, certificates of title, assignments of certificates of origin and certificates of title, or other proof of ownership or evidence of right of possession as determined by the secretary; and
- (2) motor vehicles, semitrailers, or recreational vehicles that are held for resale by the dealer;

in the dealer's place of business during reasonable business hours.

(b) A certificate of title, a certificate of origin, and any other proof of ownership described under subsection (a):

(1) must be readily available for inspection by or delivery to the proper persons; and

(2) may not be removed from Indiana.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.43.*

## **IC 9-32-6**

### **Chapter 6. Dealer License Plates**

#### **IC 9-32-6-1**

##### **Applications; registration numbers; certificates of registration; plates**

Sec. 1. A person licensed under IC 9-32-11 may apply for a dealer license plate. The application must include any information the secretary reasonably requires. Upon application, two (2) certificates of registration and two (2) metal license plates shall then be issued to the applicant. A dealer may apply for and receive additional dealer plates as set forth in section 5 of this chapter.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.11; P.L.151-2015, SEC.44.*

#### **IC 9-32-6-2**

##### **Classifications of dealer license plates**

Sec. 2. (a) The secretary shall issue dealer license plates under this chapter according to the following classifications:

- (1) Dealer-new.
- (2) Dealer-used.
- (3) Manufacturer.
- (4) Dealer-wholesale.

The secretary may not issue a license plate described in subdivision (4) after June 30, 2015.

(b) The secretary may adopt rules under IC 4-22-2 to establish additional classifications of dealer license plates, and may prescribe the general conditions for usage of an additional classification. The secretary shall establish the classification of dealer promotional license plates.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.12; P.L.151-2015, SEC.45.*

#### **IC 9-32-6-3**

##### **Research and development license plates; issuance; rules; fees; display**

Sec. 3. (a) The secretary shall:

- (1) issue a research and development license plate under this chapter to a manufacturer of a vehicle subcomponent system; and
- (2) adopt rules under IC 4-22-2 to prescribe the general conditions for the:
  - (A) application;
  - (B) issuance; and
  - (C) use;

of research and development license plates for manufacturers of vehicle component systems.

(b) The fee for a research and development license plate for a manufacturer of a vehicle subcomponent system is the fee under

IC 9-29-17-2.

(c) A research and development license plate for a manufacturer of a vehicle subcomponent system shall be displayed in accordance with subsection (a)(2).

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-6-4**

##### **Design of dealer license plates**

Sec. 4. The secretary shall determine the color, dimension, and style of the letters and the information required on a dealer license plate issued under this chapter.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-6-5**

##### **Additional dealer license plates**

Sec. 5. Upon payment of the fee under IC 9-29-17-1(b), an applicant may obtain additional dealer license plates of the same category. The applicant must demonstrate the applicant's need for additional plates by stating the applicant's number of employees, annual sales, and other supporting factors. The secretary shall determine whether the applicant may receive additional plates.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.13.*

#### **IC 9-32-6-6**

##### **Expiration of dealer license plates**

Sec. 6. (a) This section applies to dealer license plates (other than dealer-wholesale license plates) issued before January 1, 2015.

(b) Dealer license plates issued to licensed dealers under this article are valid from the issue date through the expiration date as follows:

- (1) Dealer license plates of a person whose business name begins with the letters A through B expire March 1, 2015.
- (2) Dealer license plates of a person whose business name begins with the letters C through D expire April 1, 2015.
- (3) Dealer license plates of a person whose business name begins with the letters E through G expire May 1, 2015.
- (4) Dealer license plates of a person whose business name begins with the letters H through I expire June 1, 2015.
- (5) Dealer license plates of a person whose business name begins with the letters J through L expire July 1, 2015.
- (6) Dealer license plates of a person whose business name begins with the letters M through O expire August 1, 2015.
- (7) Dealer license plates of a person whose business name begins with the letters P through R expire September 1, 2015.
- (8) Dealer license plates of a person whose business name begins with the letters S through T expire October 1, 2015.
- (9) Dealer license plates of a person whose business name begins with the letters U through Z expire November 1, 2015.

Dealer license plates issued to a sole proprietor expire based upon the name of the sole proprietorship.

(c) This section expires January 1, 2017.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.14.*

### **IC 9-32-6-6.3**

#### **Validity of dealer-wholesale license plates**

Sec. 6.3. (a) This section applies only to dealer-wholesale license plates.

(b) A dealer-wholesale license plate issued before July 1, 2014, is valid from the issue date through the applicable expiration date set forth in section 6(b) of this chapter.

(c) A dealer-wholesale license plate issued after June 30, 2014, and before July 1, 2015, expires June 30, 2015.

(d) This section expires January 1, 2016.

*As added by P.L.62-2014, SEC.15.*

### **IC 9-32-6-6.5**

#### **Expiration of dealer license plates issued after December 31, 2014**

Sec. 6.5. (a) This section applies to dealer license plates (other than dealer-wholesale license plates) issued after December 31, 2014.

(b) Dealer license plates issued to licensed dealers under this article are valid from the issue date through the expiration date as follows:

(1) Dealer license plates of a person whose business name begins with the letters A through B expire February 1 of each year.

(2) Dealer license plates of a person whose business name begins with the letters C through D expire March 1 of each year.

(3) Dealer license plates of a person whose business name begins with the letters E through F expire April 1 of each year.

(4) Dealer license plates of a person whose business name begins with the letters G through H expire May 1 of each year.

(5) Dealer license plates of a person whose business name begins with the letters I through J expire June 1 of each year.

(6) Dealer license plates of a person whose business name begins with the letters K through L expire July 1 of each year.

(7) Dealer license plates of a person whose business name begins with the letters M through N expire August 1 of each year.

(8) Dealer license plates of a person whose business name begins with the letters O through P expire September 1 of each year.

(9) Dealer license plates of a person whose business name begins with the letters Q through R expire October 1 of each year.

(10) Dealer license plates of a person whose business name begins with the letters S through T expire November 1 of each year.

year.

(11) Dealer license plates of a person whose business name begins with the letters U through V expire December 1 of each year.

(12) Dealer license plates of a person whose business name begins with the letters W through Z expire January 1 of each year.

Dealer license plates issued to a sole proprietor expire based upon the name of the sole proprietorship.

(c) Notwithstanding subsection (b), a dealer license plate issued in 2015 expires as follows:

Plate issued to a person with a business name beginning with:	Plate expiration date:
A through B	February 1, 2016
C through D	March 1, 2016
E through F	April 1, 2016
G through H	May 1, 2016
I through J	June 1, 2016
K through L	July 1, 2016
M through N	August 1, 2016
O through P	September 1, 2016
Q through R	October 1, 2016
S through T	November 1, 2016
U through V	December 1, 2016
W through Z	January 1, 2017

This subsection expires January 2, 2017.

(d) This subsection expires December 31, 2017. For a dealer license plate issued in 2015, the dealer services division shall impose a fee for the dealer license plate under IC 9-29-17 in the amount that bears the same proportion to the annual fee for the dealer license plate as the number of months the dealer license plate is valid bears to twelve (12).

*As added by P.L.62-2014, SEC.16.*

### **IC 9-32-6-7 Version a**

#### **Use restrictions of license plates**

*Note: This version of section effective until 7-1-2015. See also following version of this section, effective 7-1-2015.*

Sec. 7. (a) Except as provided in sections 8 and 9 of this chapter, dealer-new, dealer-used, manufacturer, and dealer-wholesale license plates may be used only on motor vehicles in the:

- (1) dealer's inventory being held for sale;
- (2) usual operation of the manufacturer's or dealer's business;
- (3) movement of the manufacturer's or dealer's inventory; or
- (4) inventory of a manufacturer or dealer that is unattended by the manufacturer or dealer or the dealer's agent for a maximum of ten (10) days by a prospective buyer or a service customer.

(b) The license plates referenced in subsection (a) must be:

- (1) primarily used or stored at an address within Indiana; or
- (2) displayed on a vehicle being transported for purposes of sale by a licensed Indiana dealer.

(c) A person who violates this section commits a Class A infraction.

(d) This subsection expires January 1, 2016. A dealer-wholesale license plate may not be issued or displayed after June 30, 2015.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.17; P.L.217-2014, SEC.164; P.L.5-2015, SEC.31.*

#### **IC 9-32-6-7 Version b**

##### **Use restrictions of license plates**

*Note: This version of section effective 7-1-2015. See also preceding version of this section, effective until 7-1-2015.*

Sec. 7. (a) Except as provided in section 8 of this chapter, dealer-new, dealer-used, manufacturer, and dealer-wholesale license plates may be used only on motor vehicles in the:

- (1) dealer's inventory being held for sale;
- (2) usual operation of the manufacturer's or dealer's business;
- (3) movement of the manufacturer's or dealer's inventory; or
- (4) inventory of a manufacturer or dealer that is unattended by the manufacturer or dealer or the dealer's agent for a maximum of ten (10) days by a prospective buyer or a service customer.

(b) The license plates referenced in subsection (a) must be:

- (1) primarily used or stored at an address within Indiana; or
- (2) displayed on a vehicle being transported for purposes of sale by a licensed Indiana dealer.

(c) A person who violates this section commits a Class A infraction.

(d) This subsection expires January 1, 2016. A dealer-wholesale license plate may not be issued or displayed after June 30, 2015.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.17; P.L.217-2014, SEC.164; P.L.5-2015, SEC.31; P.L.151-2015, SEC.46.*

#### **IC 9-32-6-8**

##### **Unrestricted use of license plates under rules prohibiting tax avoidance**

Sec. 8. Dealer-new, dealer-used, manufacturer, and dealer-wholesale license plates may be used by a manufacturer, a dealer, or an employee of a manufacturer or a dealer without restriction if the use is in compliance with section 7 of this chapter and rules adopted by the secretary to prohibit use of the plates solely to avoid payment of applicable taxes. However, a dealer-wholesale license plate may not be used or displayed after June 30, 2015.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.18; P.L.151-2015, SEC.47.*

#### **IC 9-32-6-9**

## **Repealed**

*(As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.19. Repealed by P.L.151-2015, SEC.48.)*

### **IC 9-32-6-10**

#### **License plate use prohibited on leased vehicles**

Sec. 10. (a) Dealer-new, dealer-used, manufacturer, and dealer-wholesale license plates may not be used on a vehicle that:

- (1) is required to be registered; and
- (2) has a fee charged by dealers to others for the use of the vehicle.

However, a dealer-wholesale license plate may not be used or displayed after June 30, 2015.

(b) A person who violates this section commits a Class A infraction.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.20; P.L.217-2014, SEC.165; P.L.5-2015, SEC.32.*

### **IC 9-32-6-11**

#### **Interim dealer or manufacturer license plates; violation**

Sec. 11. (a) The secretary may issue an interim license plate to a dealer or manufacturer who is licensed and has been issued a license plate under section 2 of this chapter.

(b) The secretary shall prescribe the form of an interim license plate issued under this section. However, an interim license plate must bear the assigned registration number and provide sufficient space for the expiration date as provided in subsection (c).

(c) Whenever a dealer or manufacturer sells or leases a motor vehicle, the dealer or manufacturer may provide the buyer or lessee with an interim license plate. The dealer shall, in the manner provided by the secretary, affix on the plate in numerals and letters at least three (3) inches high the date on which the interim license plate expires.

(d) An interim license plate authorizes a motor vehicle owner or lessor to operate the vehicle for a maximum period of thirty-one (31) days after the date of sale or lease of the vehicle to the vehicle's owner or lessor or until a regular license plate is issued, whichever occurs first. A person who violates this subsection commits a Class A infraction.

(e) A motor vehicle that is required by law to display license plates on the front and rear of the vehicle is required to display only a single interim license plate.

(f) An interim license plate shall be displayed:

- (1) in the same manner required in IC 9-18-2-26; or
- (2) in a location on the left side of a window facing the rear of the motor vehicle that is clearly visible and unobstructed. The plate must be affixed to the window of the motor vehicle.

(g) The dealer must provide an ownership document to the purchaser at the time of issuance of the interim license plate that must

be kept in the motor vehicle during the period an interim license plate is used.

(h) All interim license plates not issued by the dealer must be retained in the possession of the dealer at all times.

(i) A person who fails to display an interim license plate as prescribed in subsection (f)(1) or (f)(2) commits a Class C infraction. *As added by P.L.92-2013, SEC.78. Amended by P.L.217-2014, SEC.166; P.L.188-2015, SEC.129.*

#### **IC 9-32-6-12**

##### **Interim plates; false or fictitious information; alteration**

Sec. 12. (a) A dealer may not knowingly or intentionally:

(1) issue an altered interim license plate or an interim license plate with false or fictitious information; or

(2) alter a dealer-new, dealer-used, or manufacturer license plate or use a dealer-new, dealer-used, or manufacturer license plate that is false or fictitious.

(b) A dealer that violates this section commits a Class A infraction.

*As added by P.L.92-2013, SEC.78. Amended by P.L.217-2014, SEC.167; P.L.151-2015, SEC.49.*

#### **IC 9-32-6-13**

##### **Operation of vehicle displaying altered interim license plate**

Sec. 13. (a) A person who knowingly or intentionally operates a vehicle displaying an altered interim license plate issued under section 11 of this chapter commits a Class C misdemeanor.

(b) A person who knowingly and with the intent to defraud obtains an altered interim license plate issued under section 11 of this chapter commits a Class C misdemeanor.

*As added by P.L.92-2013, SEC.78. Amended by P.L.217-2014, SEC.168.*

#### **IC 9-32-6-14**

##### **Record relating to use of interim license plates by a dealer; availability to investigating employee of secretary of state**

Sec. 14. A record directly related to the use of interim license plates by a dealer must be made available to an investigating employee of the secretary upon demand at the place of business of the dealer.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-6-15**

##### **Dealer designee license plates to be designed and issued by the bureau**

Sec. 15. Dealer designee license plates shall be designed and issued by the bureau under IC 9-18-27-0.5.

*As added by P.L.262-2013, SEC.141.*

## **IC 9-32-7**

### **Chapter 7. Accounts and Distribution of License and Permit Fees Under IC 9-32-11**

#### **IC 9-32-7-1**

##### **Dealer compliance account**

Sec. 1. (a) The dealer compliance account is established as a separate account to be administered by the secretary. The funds in the account must be available, with the approval of the budget agency, for use in enforcing and administering this article.

(b) The expenses of administering this article shall be paid from money in the account.

(c) The treasurer of state shall invest the money in the dealer compliance account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) The dealer compliance account consists of the following:

(1) Money deposited under:

(A) IC 9-29-17-14(b);

(B) IC 9-29-17-14(c); and

(C) section 3(1) of this chapter.

(2) Appropriations to the account from other sources.

(3) Grants, gifts, donations, or transfers intended for deposit in the account.

(4) Interest that accrues from money in the account.

(e) Money in the dealer compliance account at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the dealer compliance account is continuously appropriated to the secretary for the purposes of the account.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-7-2**

##### **Dealer enforcement account**

Sec. 2. (a) The dealer enforcement account is established as a separate account to be administered by the secretary.

(b) The dealer enforcement account consists of money deposited pursuant to:

(1) IC 9-32-4-1(c);

(2) IC 9-32-16-1(f);

(3) IC 9-32-16-13(d);

(4) IC 9-32-17-7; and

(5) IC 9-32-17-9.

The funds in the account shall be available, with the approval of the budget agency, for use to augment and supplement the funds appropriated for the administration of this article.

(c) The treasurer of state shall invest the money in the dealer enforcement account not currently needed to meet the obligations of

the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the account.

(d) Money in the dealer enforcement account at the end of the state fiscal year does not revert to the state general fund.

(e) Money in the dealer enforcement account is continuously appropriated to the secretary for the purposes of the account.

*As added by P.L.92-2013, SEC.78.*

### **IC 9-32-7-3**

#### **Disposition of fee revenues**

Sec. 3. All money collected by the secretary from manufacturers, distributors, dealers, automobile auctioneers, factory representatives, distributor representatives, wholesale dealers, transfer dealers, converter manufacturers, or automotive mobility dealers for licenses and permit fees under IC 9-29-17-8 through IC 9-29-17-13 shall be deposited as follows:

(1) Thirty percent (30%) to the dealer compliance account established by section 1 of this chapter.

(2) Forty percent (40%) to the motor vehicle highway account under IC 8-14-1.

(3) Twenty percent (20%) to the state police department, and this amount is continuously appropriated to the department for its use in enforcing odometer laws.

(4) Ten percent (10%) to the attorney general, and this amount is continuously appropriated to the attorney general for use in enforcing odometer laws.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.21.*

## **IC 9-32-8**

### **Chapter 8. Boat Dealers**

#### **IC 9-32-8-1**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.62-2014, SEC.22.)*

#### **IC 9-32-8-2**

##### **Boats or watercraft trailers; sales; sales licenses**

Sec. 2. A person that sells to the general public at least six (6):

- (1) boats;
- (2) trailers that are:
  - (A) designed and used exclusively for the transportation of watercraft; and
  - (B) sold in general association with the sale of watercraft; or
- (3) items set forth in both subdivisions (1) and (2);

each year must be licensed under this chapter before the person may engage in the business of selling boats or trailers.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.50.*

#### **IC 9-32-8-3**

##### **Application for boat dealer license; conditions**

Sec. 3. (a) An application for a boat dealer license must meet all the following conditions:

- (1) Be accompanied by the fee under IC 9-29-17-5.
- (2) Be on a form prescribed by the secretary.
- (3) Contain any information that the secretary reasonably needs to enable the secretary to determine fully the:
  - (A) qualifications and eligibility of the applicant to receive the license;
  - (B) location of each of the applicant's places of business in Indiana; and
  - (C) ability of the applicant to conduct properly the business for which the application is submitted.

(b) An application for a license as a boat dealer must show whether the applicant proposes to sell new or used boats or both new and used boats.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-8-4**

##### **Licenses; specification of established place of business**

Sec. 4. A license issued to a boat dealer must specify the location of the established place of business and shall be conspicuously displayed at the established place of business. If a business name or location is changed, the licensee shall notify the secretary within ten (10) days and remit the fee specified under IC 9-29-17-6(a). The

secretary shall endorse that change on the boat dealer license if it is determined that the change is not subject to other provisions of this chapter.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.51.*

#### **IC 9-32-8-5**

##### **Term of license; fees**

Sec. 5. A boat dealer license issued under this chapter shall be issued and expires based on the business name of the boat dealer as set forth in IC 9-32-11-12 or IC 9-32-11-12.5. All license fees shall be paid at the rate under IC 9-29-17-5.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.23.*

#### **IC 9-32-8-6**

##### **Evidence of business liability insurance**

Sec. 6. (a) A person licensed under this chapter shall furnish evidence that the person currently has liability insurance covering the person's place of business. The policy must have limits of not less than the following:

- (1) One hundred thousand dollars (\$100,000) for bodily injury to one (1) person.
- (2) Three hundred thousand dollars (\$300,000) per accident.
- (3) Fifty thousand dollars (\$50,000) for property damage.

(b) The minimum amounts must be maintained during the time the license is valid.

*As added by P.L.92-2013, SEC.78.*

## **IC 9-32-9**

### **Chapter 9. Licensing of Vehicle Salvaging**

#### **IC 9-32-9-1**

##### **Recycling facility, used parts dealer, automotive salvage rebuilder; licensing**

Sec. 1. (a) A recycling facility, a used parts dealer, or an automotive salvage rebuilder must be licensed by the secretary under this chapter before the facility, dealer, or rebuilder may do any of the following:

- (1) Sell a used major component part of a vehicle.
- (2) Wreck or dismantle a vehicle for resale of the major component parts of the vehicle.
- (3) Rebuild a wrecked or dismantled vehicle.
- (4) Possess more than two (2) inoperable vehicles subject to registration for more than thirty (30) days unless the facility, dealer, or rebuilder holds a mechanic's lien on each vehicle over the quantity of two (2).
- (5) Engage in the business of storing, disposing, salvaging, or recycling of vehicles, vehicle hulks, or parts of vehicles.

(b) A person who violates this section commits a Class A infraction.

*As added by P.L.92-2013, SEC.78. Amended by P.L.217-2014, SEC.169; P.L.151-2015, SEC.52.*

#### **IC 9-32-9-2**

##### **Recycling facility, used parts dealer, automotive salvage rebuilder; established place of business in Indiana required**

Sec. 2. (a) A recycling facility, a used parts dealer, or an automotive salvage rebuilder licensed in Indiana must have an established place of business in Indiana conducting the business that is the basis for the license. An established place of business that performs only ministerial tasks is not considered to be conducting business.

(b) A recycling facility, a used parts dealer, or an automotive salvage rebuilder who violates this section commits a Class A infraction.

*As added by P.L.92-2013, SEC.78. Amended by P.L.217-2014, SEC.170; P.L.151-2015, SEC.53.*

#### **IC 9-32-9-3**

##### **Automotive salvage recycler; application for license**

Sec. 3. To apply for a license under this chapter, an automotive salvage recycler must submit an application to the secretary. An application for a license under this chapter must:

- (1) be on a form prescribed by the secretary;
- (2) contain the information the secretary considers necessary to enable the secretary to determine fully:
  - (A) the qualifications and eligibility of the applicant to

- receive the license; and
- (B) the ability of the applicant to properly conduct the business for which the application is submitted; and
- (3) be accompanied by the following:
  - (A) Evidence of a bond required under IC 9-32-11-2.
  - (B) Payment of the applicable fee under IC 9-29-17-7.
  - (C) An affidavit from:
    - (i) the person charged with enforcing a zoning ordinance, if the person exists; or
    - (ii) the zoning enforcement officer under IC 36-7-4, if a zoning enforcement officer exists;

who has jurisdiction over the real property where the applicant wants to operate as an automotive salvage recycler. If there is no person or officer that has jurisdiction over the real property as described in subdivision (3)(C), the application must be accompanied by a statement to that effect from the executive of the unit in which the real property is located. The affidavit must state that the proposed location is zoned for the operation of an establishment of an automotive salvage recycler. The applicant may file the affidavit at any time after the filing of the application. However, the secretary may not issue a license until the applicant files the affidavit or the statement.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.54.*

#### **IC 9-32-9-3.5**

##### **Automotive salvage recycler; required actions**

Sec. 3.5. An automotive salvage recycler licensed under this chapter that buys vehicles must:

- (1) report the purchase of a vehicle to the National Motor Vehicle Title Information System not later than thirty (30) days after the vehicle is purchased; and
- (2) provide to the seller a valid National Motor Vehicle Title Information System report identification number.

*As added by P.L.151-2015, SEC.55.*

#### **IC 9-32-9-4**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.56.)*

#### **IC 9-32-9-5**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.24. Repealed by P.L.151-2015, SEC.57.)*

#### **IC 9-32-9-6**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015,*

SEC.58.)

**IC 9-32-9-7**

**Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.59.)*

**IC 9-32-9-8**

**Repealed**

*(As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.25. Repealed by P.L.151-2015, SEC.60.)*

**IC 9-32-9-9**

**Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.61.)*

**IC 9-32-9-10**

**Posting of licenses**

Sec. 10. (a) A licensee shall post a license granted to the licensee under this chapter in a conspicuous place at the established place of business.

(b) A licensee that violates this section commits a Class A infraction.

*As added by P.L.92-2013, SEC.78. Amended by P.L.217-2014, SEC.171; P.L.151-2015, SEC.62.*

**IC 9-32-9-11**

**Delay of issuance or renewal of license until local zoning complaints satisfied**

Sec. 11. If the secretary receives a written complaint from a local zoning body that a recycling facility or automotive salvage rebuilder, subject to this chapter, is operating in violation of a local zoning ordinance, the secretary shall delay the issuance or renewal of the facility's or rebuilder's license under this chapter until the local zoning complaints have been satisfied.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.63.*

## **IC 9-32-10**

### **Chapter 10. Motor Vehicle Sales Advisory Board**

#### **IC 9-32-10-1**

##### **Establishment of motor vehicle sales advisory board**

Sec. 1. The motor vehicle sales advisory board is established to advise the secretary in the administration of this article.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-10-2**

##### **Composition of board**

Sec. 2. (a) The advisory board is composed of the secretary and eleven (11) persons appointed by the governor upon the recommendation of the secretary as follows:

(1) Two (2) of the appointed members must be franchised new motor vehicle dealers as follows:

(A) One (1) member must have sold fewer than seven hundred fifty (750) new motor vehicles in the year before the member's appointment.

(B) One (1) member must have sold more than seven hundred forty-nine (749) new motor vehicles in the year before the member's appointment.

(2) Two (2) of the appointed members must represent the automobile manufacturing industry, and each must have been an Indiana resident for at least two (2) years immediately preceding the member's appointment.

(3) Two (2) of the appointed members must represent the general public and may not have any direct interest in the manufacture or sale of motor vehicles.

(4) One (1) member must represent used motor vehicle dealers that are not franchised new motor vehicle dealers.

(5) One (1) member must represent used motor vehicle auctioneers.

(6) One (1) member must represent the automobile salvage and recycling industry.

(7) One (1) member must represent boat dealers.

(8) One (1) member must represent the recreational vehicle industry.

(b) Not more than six (6) members of the advisory board may be of the same political party.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-10-3**

##### **Term of appointment; removal; vacancies**

Sec. 3. (a) A member appointed to the advisory board under section 2 of this chapter serves a three (3) year term. A person may not serve more than two (2) consecutive full terms. Each appointed member serves until the member's successor is appointed and

qualified.

(b) A member may be removed for good cause.

(c) A vacancy shall be filled by appointment of the governor for the unexpired term.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-10-4**

##### **Compensation; membership not the holding of a public office**

Sec. 4. Members of the advisory board are entitled to receive the expenses and per diem allowed by law. Membership on the advisory board does not constitute the holding of a public office.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-10-5**

##### **Officers**

Sec. 5. The secretary shall serve as chairperson of the advisory board. The advisory board shall elect a vice chairperson and secretary from the appointed members during the first month of each year. The vice chairperson and secretary serve until their successors are appointed and qualified and may be removed for good cause.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-10-6**

##### **Meeting; required frequency and on call**

Sec. 6. The advisory board shall meet at least one (1) time during a calendar year. Additional meetings may be convened at the call of the secretary or the written request of any three (3) members.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-10-7**

##### **Meetings; quorum; majority vote**

Sec. 7. Seven (7) members of the advisory board constitute a quorum for doing business. The majority vote of the members of the quorum, present and voting, is required for the passage of a matter put to a vote of the advisory board.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-10-8**

##### **Powers of advisory board**

Sec. 8. The advisory board is vested with the following powers:

- (1) To consult with and advise the secretary.
- (2) To suggest rules, including the following:
  - (A) The contents of forms.
  - (B) Methods and procedures for the investigation and evaluation of the qualifications of applicants for licenses.
  - (C) The criteria upon which to issue, deny, suspend, and revoke licenses.
  - (D) Procedures for the investigation into and conduct of hearings on unfair practices.

*As added by P.L.92-2013, SEC.78.*

## IC 9-32-11

### Chapter 11. Regulation of Vehicle Merchandising

#### IC 9-32-11-1

##### Persons required to be licensed

Sec. 1. (a) The following persons must be licensed under this article to engage in the business of buying or selling motor vehicles or semitrailers:

- (1) An automobile auctioneer.
- (2) A converter manufacturer.
- (3) A dealer.
- (4) A distributor.
- (5) An automotive salvage recycler.
- (6) A watercraft dealer.
- (7) A manufacturer.
- (8) A transfer dealer.
- (9) Before July 1, 2015, a wholesale dealer.
- (10) An automotive mobility dealer.

(b) An automotive mobility dealer who engages in the business of:

- (1) selling, installing, or servicing;
- (2) offering to sell, install, or service; or

(3) soliciting or advertising the sale, installation, or servicing of; equipment or modifications specifically designed to facilitate use or operation of a vehicle by an individual who is disabled or aged must be licensed under this article.

(c) An automotive mobility dealer that fails to be licensed under this article and engages in the businesses described in subsection (b) commits a Class A infraction.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.26; P.L.217-2014, SEC.172; P.L.62-2014, SEC.27; P.L.151-2015, SEC.64.*

#### IC 9-32-11-2

##### Application for license; affidavits; bonds; membership in risk retention group

Sec. 2. (a) An application for a license under this chapter must:

- (1) be accompanied by payment of the applicable fee required under IC 9-29-17;
- (2) be on a form prescribed by the secretary;
- (3) contain the information the secretary considers necessary to enable the secretary to determine fully:
  - (A) the qualifications and eligibility of the applicant to receive the license; and
  - (B) the ability of the applicant to conduct properly the business for which the application is submitted; and
- (4) contain evidence of a bond required in subsection (e).

An application for a wholesale dealer license must contain the additional information required in section 3 of this chapter. The secretary of state may not accept an application for a wholesale dealer

license after June 30, 2015.

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.

(c) An applicant who proposes to use the Internet or another computer network to facilitate the sale of motor vehicles to consumers in Indiana shall maintain all records at the established place of business in Indiana.

(d) The application must include an affidavit from:

- (1) the person charged with enforcing a zoning ordinance, if one exists; or
- (2) the zoning enforcement officer under IC 36-7-4, if one exists;

who has jurisdiction over the real property where the applicant wants to operate as a dealer. If there is no person or officer that has jurisdiction over the real property, the application must be accompanied by a statement to that effect from the executive of the unit in which the real property is located. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The applicant may file the affidavit at any time after the filing of the application. However, the secretary may not issue a license until the applicant files the affidavit or the statement.

(e) Except as provided in subsection (g), a licensee shall maintain a bond satisfactory to the secretary in the amount of twenty-five thousand dollars (\$25,000). The bond must:

- (1) be in favor of the state;
- (2) secure payment of fines, penalties, costs, and fees assessed by the secretary after:
  - (A) notice;
  - (B) opportunity for a hearing; and
  - (C) opportunity for judicial review; and
- (3) secure the payment of damages to a person aggrieved by a violation of this article by the licensee after a judgment has been issued.

(f) Service under this chapter shall be made in accordance with the Indiana Rules of Trial Procedure.

(g) Instead of meeting the requirement in subsection (e), a licensee may submit to the secretary evidence that the licensee is a member of a risk retention group that is regulated by the Indiana department of insurance.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.28; P.L.151-2015, SEC.65.*

### **IC 9-32-11-3**

#### **Additional license application requirements for wholesale dealer**

Sec. 3. In addition to the requirements of section 2 of this chapter, a license application for a wholesale dealer must contain the following:

- (1) A copy of a written lease that has a term of not less than one (1) year, if the established place of business is not owned by the

applicant.

(2) If the application is the initial application, photographs of the established place of business. The photographs must include but are not limited to the:

- (A) major exterior advertising sign; and
- (B) display and office building.

This section expires July 1, 2015.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.29.*

#### **IC 9-32-11-4**

##### **Wholesale dealers; standards for license to remain valid**

Sec. 4. A wholesale dealer that has been issued a license under this chapter must maintain the following standards for the license to remain valid:

(1) A conspicuous permanent sign with letters at least six (6) inches high bearing:

- (A) the business name of the wholesale dealer; and
- (B) the hours of operation of the wholesale dealer;

must be located on the exterior of the established place of business of the wholesale dealer.

(2) The office of the wholesale dealer must be:

- (A) housed at the established place of business of the wholesale dealer;
- (B) at least one hundred (100) square feet; and
- (C) served with utilities such as electricity, lighting, heat, and a business telephone exclusively for the use of the wholesale dealer.

(3) The wholesale dealer or an employee of the wholesale dealer must be present for the purposes of inspection of records at the established place of business of the wholesale dealer during the posted hours of operation of the business of the wholesale dealer.

(4) All business records of the wholesale dealer must be kept at the licensed place of business of the wholesale dealer.

This section expires July 1, 2015.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.30.*

#### **IC 9-32-11-5**

##### **Franchise; filing with secretary of state**

Sec. 5. A dealer proposing to sell new motor vehicles shall file and maintain with the secretary:

(1) a current copy of each franchise to which the dealer is a party; or

(2) if the dealer is a party to multiple franchises that are identical except for stated items, a copy of the franchise form with supplemental schedules of variations from the form.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014,*

*SEC.31; P.L.151-2015, SEC.66.*

**IC 9-32-11-6**

**Display of license; change of business name or location; application for approval of change**

Sec. 6. (a) The license issued to a dealer under this chapter:

- (1) must specify the established place of business; and
- (2) shall be conspicuously displayed at the established place of business.

(b) If a licensee's business name or location is changed, the licensee shall notify the secretary not later than ten (10) days after the change and remit the fee required under IC 9-29-17. The secretary shall endorse the change on the license if the secretary determines that the change is not subject to other provisions of this article.

(c) A dealer who uses the Internet or another computer network to facilitate the sale of motor vehicles as set forth in section 2(c) of this chapter shall notify the secretary not later than ten (10) days after any change in a name, address, or telephone number documented in business records located outside Indiana that have been created in transactions made in Indiana by the dealer. A report made under this subsection is not subject to the fee required under IC 9-29-17.

(d) A dealer who wants to change a location must submit to the secretary an application for approval of the change. The application must be accompanied by an affidavit from:

- (1) the person charged with enforcing a zoning ordinance described in this subsection; or
- (2) the zoning enforcement officer under IC 36-7-4, if one exists;

who has jurisdiction over the real property where the applicant wants to operate as a dealer. If there is no person or officer that has jurisdiction over the real property, the application must be accompanied by a statement to that effect from the executive of the unit in which the real property is located. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The secretary may not approve a change of location or endorse a change of location on the dealer's license until the dealer provides the affidavit or the statement.

(e) For the purpose of this section, an offsite sales license issued under section 11 of this chapter does not constitute a change of location.

*As added by P.L.92-2013, SEC.78. Amended by P.L.2-2014, SEC.47; P.L.62-2014, SEC.32; P.L.151-2015, SEC.67.*

**IC 9-32-11-7**

**Distributor representative; manufacturer representative; certification**

Sec. 7. (a) A distributor representative and a manufacturer representative become certified by:

- (1) the licensed distributor or licensed manufacturer completing

an application with the secretary to add the distributor representative or manufacturer representative to the license; and  
(2) paying the applicable fee required under IC 9-29-17.

(b) Any change to the certification of the distributor representative or manufacturer representative must be submitted to the secretary not later than ten (10) days after the change. The secretary shall endorse the change on the certification. A representative must have a certification when engaged in business and shall display the certification upon request.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.33; P.L.151-2015, SEC.68.*

#### **IC 9-32-11-8**

##### **Application for and renewal of automotive mobility dealer's license**

Sec. 8. The secretary shall, by rules adopted under IC 4-22-2, establish requirements for an initial application for and renewal of an automotive mobility dealer's license. The rules must include a requirement that each initial or renewal application for an automotive mobility dealer's license include proof that the applicant is accredited through the Quality Assurance Program of the National Mobility Equipment Dealers Association.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-11-9**

##### **Automotive mobility dealers; display, inventory, advertising, and offering for sale adapted vehicles**

Sec. 9. An automotive mobility dealer licensed under this chapter is entitled to:

- (1) display;
- (2) inventory;
- (3) advertise;
- (4) offer for sale; or
- (5) do any combination of subdivisions (1) through (4) concerning;

any adapted vehicle.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-11-10**

##### **Vehicle sales made away from dealer's established place of business without offsite sales permit; exception**

Sec. 10. This section does not apply to sales made at a motor vehicle industry sponsored trade show. A dealer who sells to the general public may not sell or offer to sell a vehicle at a location away from the dealer's established place of business without obtaining an offsite sales permit under section 11 of this chapter.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.34; P.L.151-2015, SEC.69.*

#### **IC 9-32-11-11**

### **Offsite sales permit**

Sec. 11. (a) Except as provided in subsections (b) through (g), the secretary shall issue an offsite sales permit to a dealer licensed under this chapter who submits an application for the permit not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. Permit applications under this section shall be made public upon the request of any person.

(b) The secretary may not issue an offsite sales permit to a dealer who does not have an established place of business within Indiana.

(c) The secretary may not issue an offsite sales permit to a licensed dealer proposing to conduct a sale outside a radius of twenty (20) miles from the established place of business of the licensed dealer. The following may conduct an offsite sale with an offsite sales permit outside a radius of twenty (20) miles from the established place of business of the licensed dealer:

- (1) New manufactured housing dealers.
- (2) Recreational vehicle dealers.
- (3) A rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates.
- (4) Off-road vehicle dealers.
- (5) Dealers of vehicles classified as classic, collector, or antique under rules adopted under section 18(a)(2)(B) of this chapter.

(d) A vehicle display is not considered an offsite sale if it is conducted by a new vehicle franchised dealer in an open area where no sales personnel and no sales material are present.

(e) The secretary may not issue an offsite sales permit to a licensed dealer proposing to conduct an offsite sale for more than ten (10) calendar days.

(f) As used in this subsection, "executive" has the meaning set forth in IC 36-1-2-5. The secretary may not issue an offsite sales permit to a licensed dealer if the dealer does not have certification that the offsite sale would be in compliance with local zoning ordinances or other local ordinances. Authorization under this subsection may be obtained only from the following:

- (1) If the offsite sale would be located within the corporate boundaries of a city or town, the executive of the city or town.
- (2) If the offsite sale would be located outside the corporate boundaries of a city or town:
  - (A) except as provided in clause (B), the executive of the county; or
  - (B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.

(g) The secretary may not issue an offsite sales permit to a licensed dealer who has held more than three (3) nonconsecutive offsite sales in the year ending on the date of the offsite sale for which the permit application is being submitted.

(h) Section 2(c) of this chapter does not apply to the application or issuance of an offsite sales permit under this section.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.70.*

### **IC 9-32-11-11.5**

#### **Out-of-state dealer special event permit**

Sec. 11.5. (a) A person that is a licensed dealer in a state other than Indiana may apply for an out-of-state dealer special event permit from the secretary for a special event auction if the following conditions are met:

(1) The event is a vehicle auction conducted by an auctioneer licensed under IC 25-6.1-3.

(2) The vehicles to be auctioned are:

(A) at least fifteen (15) years old; or

(B) classified as classic, collector, or antique vehicles under rules adopted by the secretary.

(3) At least two hundred (200) vehicles will be auctioned during the special event.

(4) The person submits an application for a special event permit to the secretary not later than thirty (30) days prior to the beginning date of the special event auction.

(5) The application for the special event permit includes the following:

(A) Copies of licenses for all auctioneers for the special event auction.

(B) A copy of a valid dealer's license from the other state.

(C) An affidavit from:

(i) the person charged with enforcing a zoning ordinance, if the person exists; or

(ii) the zoning enforcement officer under IC 36-7-4, if a zoning enforcement officer exists;

who has jurisdiction over the real property where the applicant wants to operate the special event auction. If there is no person or officer that has jurisdiction over the real property as described in this clause, the application must be accompanied by a statement to that effect from the executive of the unit in which the real property is located. The affidavit must state that the proposed location is zoned for the operation of a special event auction. The applicant may file the affidavit at any time after the filing of the application. However, the secretary may not issue a special event auction permit until the applicant files the affidavit or the statement.

(b) Not more than one (1) special event auction permit may be issued by the secretary to the same applicant within a twelve (12) month period.

(c) If the application for the special event permit is approved, the dealer must submit the permit fee required by IC 9-29-17-17.

*As added by P.L.151-2015, SEC.71.*

### **IC 9-32-11-12**

**Duration of license; expiration schedule**

Sec. 12. (a) This section applies to licenses (other than wholesale dealer licenses) issued before January 1, 2015.

(b) An initial or renewed license issued under this article is valid from the issue date through the expiration date in accordance with the following schedule:

(1) The license of a person whose business name begins with the letters A through B expires March 1, 2015.

(2) The license of a person whose business name begins with the letters C through D expires April 1, 2015.

(3) The license of a person whose business name begins with the letters E through G expires May 1, 2015.

(4) The license of a person whose business name begins with the letters H through I expires June 1, 2015.

(5) The license of a person whose business name begins with the letters J through L expires July 1, 2015.

(6) The license of a person whose business name begins with the letters M through O expires August 1, 2015.

(7) The license of a person whose business name begins with the letters P through R expires September 1, 2015.

(8) The license of a person whose business name begins with the letters S through T expires October 1, 2015.

(9) The license of a person whose business name begins with the letters U through Z expires November 1, 2015.

(c) A sole proprietor shall register based upon the name of the sole proprietorship.

(d) A person that is required to hold a license described in subsection (a) and that fails to comply with that requirement commits a Class A infraction.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.35; P.L.217-2014, SEC.173; P.L.62-2014, SEC.36.*

**IC 9-32-11-12.3****Wholesale dealer license; validity; expiration**

Sec. 12.3. (a) This section applies only to wholesale dealer licenses.

(b) A wholesale dealer license issued before July 1, 2014, is valid from the issue date through the applicable expiration date set forth in section 12(b) of this chapter.

(c) A wholesale dealer license issued after June 30, 2014, and before July 1, 2015, expires June 30, 2015.

(d) This section expires January 1, 2016.

*As added by P.L.62-2014, SEC.37.*

**IC 9-32-11-12.5****Duration of license issued after December 31, 2014; violation**

Sec. 12.5. (a) This section applies to licenses (other than wholesale dealer licenses) issued after December 31, 2014.

(b) An initial or renewed license issued under this article is valid

from the issue date through the expiration date in accordance with the following schedule:

- (1) A license for a person whose business name begins with the letters A through B expires February 1 of each year.
- (2) A license for a person whose business name begins with the letters C through D expires March 1 of each year.
- (3) A license for a person whose business name begins with the letters E through F expires April 1 of each year.
- (4) A license for a person whose business name begins with the letters G through H expires May 1 of each year.
- (5) A license for a person whose business name begins with the letters I through J expires June 1 of each year.
- (6) A license for a person whose business name begins with the letters K through L expires July 1 of each year.
- (7) A license for a person whose business name begins with the letters M through N expires August 1 of each year.
- (8) A license for a person whose business name begins with the letters O through P expires September 1 of each year.
- (9) A license for a person whose business name begins with the letters Q through R expires October 1 of each year.
- (10) A license for a person whose business name begins with the letters S through T expires November 1 of each year.
- (11) A license for a person whose business name begins with the letters U through V expires December 1 of each year.
- (12) A license for a person whose business name begins with the letters W through Z expires January 1 of each year.

A sole proprietor shall register based upon the name of the sole proprietorship.

(c) Notwithstanding subsection (b), a license issued in 2015 expires as follows:

License issued to a person with a business name beginning with:	License expiration date:
A through B	February 1, 2016
C through D	March 1, 2016
E through F	April 1, 2016
G through H	May 1, 2016
I through J	June 1, 2016
K through L	July 1, 2016
M through N	August 1, 2016
O through P	September 1, 2016
Q through R	October 1, 2016
S through T	November 1, 2016
U through V	December 1, 2016
W through Z	January 1, 2017

This subsection expires January 2, 2017.

(d) This subsection expires December 31, 2017. For a license issued in 2015, the dealer services division shall impose a fee for the license under IC 9-29-17 in the amount that bears the same

proportion to the annual fee for the license as the number of months the license is valid bears to twelve (12).

(e) A person who violates this section by operating on an expired license issued under this chapter commits a Class A infraction.

*As added by P.L.62-2014, SEC.38. Amended by P.L.113-2014, SEC.32.*

#### **IC 9-32-11-13**

##### **Transfer or assignment of motor vehicle title**

Sec. 13. A person licensed under this article may transfer or assign a title for a motor vehicle.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-11-14**

##### **Liability insurance or garage liability insurance coverage**

Sec. 14. (a) A person licensed under this article shall furnish evidence that the person has liability insurance or garage liability insurance covering the person's place of business. The policy must have limits of at least the following:

(1) One hundred thousand dollars (\$100,000) for bodily injury to one (1) person.

(2) Three hundred thousand dollars (\$300,000) for bodily injury for each accident.

(3) Fifty thousand dollars (\$50,000) for property damage.

(b) The minimum amounts required by subsection (a) must be maintained during the time the license is valid.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-11-15**

##### **Cessation of business activity**

Sec. 15. (a) A person who ceases a business activity for which a license was issued under this chapter shall do the following:

(1) Notify the secretary of the date that the business activity will cease.

(2) Deliver to the secretary all permanent dealer license plates issued to the person not later than ten (10) days after the date the business activity will cease.

(b) A dealer may not transfer or sell the:

(1) dealer's license; or

(2) use of the dealer's license.

(c) A dealer that changes its form of organization or state of incorporation may continue the dealer's licensure by filing an amendment to the registration if the change does not involve a material fact in the financial condition or management of the dealer. The amendment becomes effective when filed or on the date designated by the registrant in its filing. The new organization is a successor to the original registrant for the purposes of this article.

(d) If there is a change in the dealer's ownership, the successive owner shall file a new application for a license under this chapter.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.72.*

#### **IC 9-32-11-16**

##### **Deposit of revenues in motor vehicle highway account**

Sec. 16. Except as provided in IC 9-29-17, all revenues accruing to the secretary under this chapter shall be deposited in the motor vehicle highway account under IC 8-14-1.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-11-17**

##### **Sale of motor vehicle through Internet**

Sec. 17. This section does not apply to a wholesale dealer. A dealer who sells a motor vehicle through the use of the Internet or another computer network shall deliver the motor vehicle to the customer, or the customer's representative, at the place of business of the dealer in Indiana.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.39.*

#### **IC 9-32-11-18**

##### **Special event permits**

Sec. 18. (a) A person licensed under this article shall be issued a special event permit from the secretary for a special event that meets the following conditions:

- (1) The event is a vehicle auction conducted by auctioneers licensed under IC 25-6.1-3.
- (2) The vehicles to be auctioned are:
  - (A) at least fifteen (15) years old; or
  - (B) classified as classic, collector, or antique vehicles under rules adopted by the secretary.
- (3) At least one hundred (100) vehicles will be auctioned during the special event.
- (4) The licensee submits to the secretary an application for a special event permit not later than thirty (30) days before the beginning date of the special event.
- (5) The application under subdivision (4) is accompanied by the permit fee required under IC 9-29-17-13.

(b) Not more than two (2) special event permits may be issued by the secretary to the same applicant within a twelve (12) month period.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-12**

**Repealed**

*(Repealed by P.L.151-2015, SEC.73.)*

## **IC 9-32-13**

### **Chapter 13. Unfair Practices**

#### **IC 9-32-13-1**

##### **Requiring purchase of equipment, part, or accessory as a condition of sale**

Sec. 1. It is an unfair practice for a dealer to require a purchaser of a motor vehicle, as a condition of sale and delivery of the motor vehicle, to purchase any equipment, part, or accessory not ordered by the purchaser unless the equipment, part, or accessory is:

- (1) already installed on the motor vehicle when the motor vehicle is received by or offered for sale by the dealer; or
- (2) required by law.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-2**

##### **Willful failure of dealer to perform vehicle delivery and preparation obligations**

Sec. 2. It is an unfair practice for a dealer to willingly fail to perform the obligations imposed on the dealer in connection with the delivery and preparation of a new motor vehicle for retail sale as provided in the preparation and delivery agreement of the manufacturer or distributor applicable to the motor vehicle.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-3**

##### **Willful failure of dealer to perform warranty obligations**

Sec. 3. It is an unfair practice for a dealer to willingly fail to perform the obligations imposed on the dealer in connection with the warranty agreement of the manufacturer or distributor applicable to any motor vehicle sold by the dealer.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-4**

##### **Sale of vehicle having trade name or mark for which dealer lacks franchise**

Sec. 4. It is an unfair practice for a dealer to sell a new motor vehicle having a trade name, trade or service mark, or related characteristic for which the dealer does not have a franchise in effect at the time of the sale. However, a vehicle having more than one (1) trade name, trade or service mark, or related characteristic as a result of modification or further manufacture by a manufacturer, converter manufacturer, or an automotive mobility dealer licensed under this article may be sold by a franchisee appointed by that manufacturer, converter manufacturer, or automotive mobility dealer.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-5**

##### **Willful failure of dealer to perform fiduciary duty to collect and**

**remit gross retail tax**

Sec. 5. It is an unfair practice for a dealer to willingly fail to perform the fiduciary duty imposed on the dealer by IC 6-2.5-2-1 with regard to the collection and remittance of the state gross retail tax. Willful violation of the fiduciary duty includes written or oral agreements between a dealer and a prospective purchaser that would give the appearance that a bona fide trade-in has taken place, when in fact the purpose of the agreement is to reduce the prospective purchaser's state gross retail tax and thereby deprive the state of revenue.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-6****Sale, exchange, or transfer by dealer of rebuilt vehicle without disclosure that vehicle was rebuilt**

Sec. 6. It is an unfair practice for a dealer to sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee the fact that the vehicle is a rebuilt vehicle if the dealer knows or should reasonably know before consummating the sale, exchange, or transfer that the vehicle is a rebuilt vehicle.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-7****Document preparation fees**

Sec. 7. It is an unfair practice for a dealer to require a purchaser of a motor vehicle as a condition of the sale and delivery of the motor vehicle to pay a document preparation fee, unless the fee:

- (1) reflects expenses actually incurred for the preparation of documents;
- (2) was affirmatively disclosed by the dealer;
- (3) was negotiated by the dealer and the purchaser;
- (4) is not for the preparation, handling, or service of documents that are incidental to the extension of credit; and
- (5) is set forth on a buyer's order or similar agreement by a means other than preprinting.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-8****Violation of deceptive franchise practices provisions**

Sec. 8. (a) It is an unfair practice for a manufacturer or distributor to violate IC 23-2-2.7.

(b) It is an unfair practice for a manufacturer or distributor to enter into an agreement in which a dealer is required to waive the provisions of:

- (1) this chapter; or
- (2) IC 23-2-2.7.

However, this subsection does not apply to a voluntary agreement in which separate consideration is offered and accepted.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-9**

**Manufacturer or distributor coercing dealers to order**

Sec. 9. It is an unfair practice for a manufacturer or distributor to coerce a dealer to order parts, accessories, equipment, machinery, tools, appliances, or any other commodity from a person.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-10**

**Manufacturer or distributor requiring changes in capital structure or financing**

Sec. 10. It is an unfair practice for a manufacturer or distributor to prevent or require, or attempt to prevent or require, by contract or otherwise, a change in the capital structure of a dealer or the means by or through which the dealer finances the dealer's operation, if the dealer at all times meets reasonable capital standards agreed to by the dealer and the manufacturer or distributor. A change in capital structure does not cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-11**

**Manufacturer or distributor requiring changes in dealer management**

Sec. 11. It is an unfair practice for a manufacturer or distributor to prevent or require, or attempt to prevent or require, a dealer to change the dealer's executive management, other than the principal dealer operator or operators, if the franchise was granted in reliance upon the personal qualifications of the principal dealer operator or operators.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-12**

**Restraint by manufacturer or distributor of sale or transfer of interest by dealer**

Sec. 12. It is an unfair practice for a manufacturer or distributor to prevent or require, or attempt to prevent or require, by contract or otherwise, a dealer or an officer, a partner, or a stockholder of a dealer to sell or transfer a part of the interest of the officer, partner, or stockholder to any other person. A dealer, an officer, a partner, or a stockholder may not sell, transfer, or assign the franchise or a right under the franchise without the consent of the manufacturer or distributor. This consent may not be withheld unreasonably.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-13**

**Manufacturer or distributor preventing dealer from fair**

**competition**

Sec. 13. It is an unfair practice for a manufacturer or distributor to prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business as a going concern. The dealer may not transfer or assign the dealer's franchise without the consent of the manufacturer or distributor, and the manufacturer or distributor may not unreasonably withhold consent.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-14****Employment of unlicensed representative for manufacturer or distributor**

Sec. 14. It is an unfair practice for a manufacturer or distributor to employ a person as a representative who has not been licensed under this article.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-15****Labor rates**

Sec. 15. (a) It is an unfair practice for a manufacturer or distributor to fail to compensate a dealer the posted labor rate for the work and services the dealer is required to perform in connection with the dealer's delivery and preparation obligations under any franchise, or fail to compensate a dealer the posted hourly labor rate for labor and other expenses incurred by the dealer under the manufacturer's warranty agreements as long as the posted rate is reasonable. Judgment of the reasonableness includes consideration of charges for similar repairs by comparable repair facilities in the local area as well as mechanic's wages and fringe benefits.

(b) This section does not authorize a manufacturer or distributor and its franchisees in Indiana to establish a uniform hourly labor reimbursement rate effective for the entire state.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-16****Contract for uniform warranty reimbursement policy**

Sec. 16. (a) A manufacturer or distributor and at least thirty percent (30%) of its franchisees in Indiana of the same line make may agree in an express written contract citing this section to a uniform warranty reimbursement policy to be used by franchisees for the performance of warranty repairs. The contract must include reimbursement for parts used in warranty repairs or the use of a uniform time standards manual, or both. The allowance for diagnosis within the uniform time standards manual must be reasonable and adequate for the work and service to be performed. The manufacturer or distributor:

- (1) may have only one (1) contract with regard to each line make; and

(2) must have a reasonable and fair procedure for franchisees to request a modification or adjustment of a standard included in the uniform time standards manual.

(b) A contract described in subsection (a) must meet the following criteria:

(1) Establish a uniform parts reimbursement rate that must be greater than the manufacturer's or distributor's nationally established parts reimbursement rate in effect at the time the contract becomes effective. A subsequent contract must include a uniform reimbursement rate that is equal to or greater than the rate in the immediately prior contract.

(2) Apply to all warranty repair orders written while the agreement is in effect.

(3) At any time during the period the contract is in effect:

(A) be available to any franchisee of the same line make as the franchisees that entered into the contract with the manufacturer or distributor; and

(B) be available to a franchisee of the same line make on the same terms as apply to the franchisees that entered into the contract with the manufacturer or distributor.

(4) Be for a term not to exceed three (3) years.

(5) Allow any party to the uniform warranty reimbursement policy to terminate the policy with thirty (30) days prior written notice to all parties upon the annual anniversary of the policy, if the policy is for at least one (1) year.

(6) Remain in effect for the entire original period if the manufacturer and at least one (1) franchisee remain parties to the policy.

(c) A manufacturer or distributor that enters into a contract with its franchisees under subsection (a) may seek to recover only its costs from a franchisee that receives a higher reimbursement rate, if authorized by law, subject to the following:

(1) Costs may be recovered only by increasing invoice prices on new vehicles received by the franchisee.

(2) A manufacturer or distributor may make an exception for vehicles that are titled in the name of a purchaser in another state. However, price increases imposed for the purpose of recovering costs imposed by this section may vary from time to time and from model to model and must apply uniformly to all franchisees of the same line make that have requested reimbursement for warranty repairs at a level higher than provided for in the contract.

(d) A manufacturer or distributor that enters into a contract with its franchisees under subsection (a) shall do the following:

(1) Certify to the secretary under oath, in a writing signed by a representative of the manufacturer or distributor, that at the time the contract was entered into at least thirty percent (30%) of the franchisees of the line make were parties to the contract.

(2) File a copy of the contract with the bureau at the time of the

certification.

(3) Maintain a file that contains the information upon which the certification required under subdivision (1) is based for three (3) years after the certification is made.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-17**

##### **Payment or disapproval of dealer claims; notice of disapproval; audits and chargebacks**

Sec. 17. (a) It is an unfair practice for a manufacturer or distributor to:

(1) fail to pay a claim made by a dealer for compensation for:

(A) delivery and preparation work;

(B) warranty work; and

(C) incentive payments;

not later than thirty (30) days after the claim is approved;

(2) fail to approve or disapprove a claim not later than thirty (30) days after receipt of the claim; or

(3) disapprove a claim without notice to the dealer in writing of the grounds for disapproval.

(b) A manufacturer or distributor may:

(1) audit a claim made by a dealer; or

(2) charge back to a dealer any amounts paid on a false or unsubstantiated claim;

for up to one (1) year after the date on which the claim is paid. However, the limitations of this subsection do not apply if the manufacturer or distributor can prove fraud on a claim. A manufacturer or distributor shall not discriminate among dealers with regard to auditing or charging back claims.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-18**

##### **Selling motor vehicle to unlicensed person for resale; adverse action or discrimination against customer when customer intends to resell motor vehicle or export to foreign country**

Sec. 18. (a) It is an unfair practice for a distributor to sell a motor vehicle for resale to a person not licensed under this article.

(b) This subsection applies if a dealer sells or leases a motor vehicle to a customer that resells the motor vehicle or exports the motor vehicle to a foreign country. A manufacturer or distributor may not take or threaten to take adverse action or otherwise discriminate against the dealer unless the dealer knew or reasonably should have known before the dealer sold or leased the motor vehicle to the customer that the customer intended to resell or export the motor vehicle. Titling and registering a motor vehicle in any state in the name of the customer to whom the dealer sold or leased the motor vehicle establishes a rebuttable presumption that the dealer did not know or should not reasonably have known that the customer intended to resell or export the motor vehicle.

(c) For purposes of subsection (b), adverse actions by a manufacturer or distributor include the following conduct by a manufacturer or distributor, whether actual or threatened:

(1) Failing or refusing to allocate, sell, or deliver a motor vehicle to the dealer.

(2) Discriminating against the dealer in the allocation of motor vehicles.

(3) Charging back or withholding payments or other consideration for which a dealer is eligible under a warranty reimbursement, sales promotion, incentive program, or contest.

(4) Disqualifying a dealer from participating in a sales promotion, incentive program, or contest.

(5) Terminating a franchise.

*As added by P.L.92-2013, SEC.78. Amended by P.L.152-2013, SEC.1; P.L.151-2015, SEC.74.*

#### **IC 9-32-13-19**

##### **Failure to indemnify and hold harmless dealer for losses, costs, and expenses from suit for defect**

Sec. 19. It is an unfair practice for a manufacturer or distributor to refuse or fail to indemnify and hold harmless a dealer, upon written notification from the dealer, from all losses, costs, and expenses that result or arise from or are related to a complaint, claim, defense, or suit against the dealer that concerns defects in a motor vehicle or other goods or services that are the responsibility of the manufacturer or distributor.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-20**

##### **False, deceptive, or misleading advertising; deceptive acts or practices**

Sec. 20. It is an unfair practice for any person required to be licensed under this article, in connection with the person's business, to use false, deceptive, or misleading advertising or to engage in deceptive acts or practices.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.75.*

#### **IC 9-32-13-21**

##### **Unfair practices of employees, agents, officers, partners, or representatives**

Sec. 21. It is an unfair practice for an employee, an agent, an officer, a partner, or a representative of a licensee to engage in a practice prohibited by this chapter.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-22**

##### **Franchise termination; right of first refusal**

Sec. 22. (a) It is an unfair practice for a manufacturer to terminate

a franchise in violation of IC 23-2-2.7-3. A dealer may not transfer, assign, or sell the business and assets of a dealership or an interest in the dealership to another person under an agreement that contemplates or is conditioned on a continuation of the franchise relationship with the manufacturer or distributor unless the dealer first:

- (1) notifies the manufacturer or distributor of the dealer's decision to make the transfer, assignment, or sale by written notice; and
- (2) obtains the approval of the manufacturer or distributor.

The dealer must provide the manufacturer or distributor with completed application forms and related information generally used by the manufacturer or distributor to conduct a review of such a proposal and a copy of all agreements regarding the proposed transfer, assignment, or sale.

(b) The manufacturer or distributor shall send a letter by certified mail to the dealer not later than sixty (60) days after the manufacturer or distributor receives the information specified in subsection (a). The letter must indicate any disapproval of the transfer, assignment, or sale and must set forth the material reasons for the disapproval. If the manufacturer or distributor does not respond by letter within sixty (60) days after the manufacturer or distributor receives the information under subsection (a), the manufacturer's or distributor's consent to the proposed transfer, assignment, or sale is considered to have been granted. A manufacturer or distributor may not unreasonably withhold approval of a transfer, assignment, or sale under this section.

(c) A manufacturer or distributor has a right of first refusal as specified in the franchise agreement to acquire the new vehicle dealer's assets or ownership if there is a proposed change of more than fifty percent (50%) of the dealer's ownership or proposed transfer of more than fifty percent (50%) of the new vehicle dealer's assets, and all the following are met:

- (1) The manufacturer or distributor notifies the dealer in writing of the intent of the manufacturer or distributor to exercise the right of first refusal within the sixty (60) day notice period under subsection (b).
- (2) The exercise of the right of first refusal will result in the dealer and the dealer's owners receiving consideration, terms, and conditions that are either the same as or better than those they have contracted to receive under the proposed change of more than fifty percent (50%) of the dealer's ownership or transfer of more than fifty percent (50%) of the new vehicle dealer's assets.
- (3) The proposed change of the dealership's ownership or transfer of the new vehicle dealer's assets does not involve the transfer of assets or the transfer or issuance of stock by the dealer or one (1) or more of the dealer's owners to any of the following:

- (A) A designated family member or members, including any of the following members of one (1) or more dealer owners:
  - (i) The spouse.
  - (ii) A child.
  - (iii) A grandchild.
  - (iv) The spouse of a child or a grandchild.
  - (v) A sibling.
  - (vi) A parent.
- (B) A manager:
  - (i) employed by the dealer in the dealership during the previous four (4) years; and
  - (ii) who is otherwise qualified as a dealer operator.
- (C) A partnership or corporation controlled by any of the family members described in clause (A).
- (D) A trust arrangement established or to be established:
  - (i) for the purpose of allowing the new vehicle dealer to continue to qualify as such under the manufacturer's or distributor's standards; or
  - (ii) to provide for the succession of the franchise agreement to designated family members or qualified management in the event of the death or incapacity of the dealer or the principal owner or owners.

(4) Except as otherwise provided in this subsection, the manufacturer or distributor agrees to pay the reasonable expenses, including reasonable attorney's fees, that do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, and that are incurred by the proposed owner or transferee before the manufacturer's or distributor's exercise of the right of first refusal in negotiating and implementing the contract for the proposed change of the dealer ownership or the transfer of the new vehicle dealer's assets. Payment of expenses and attorney's fees is not required if the dealer has failed to submit an accounting of those expenses not later than twenty (20) days after the dealer receives the manufacturer's or distributor's written request for such an accounting. An expense accounting may be requested by a manufacturer or distributor before exercising the right of first refusal.

(d) Violation of this section by a manufacturer or distributor is an unfair practice by the manufacturer or distributor.

*As added by P.L.92-2013, SEC.78.*

### **IC 9-32-13-23**

#### **Unfair practices by manufacturer, distributor, officer, or agent**

Sec. 23. (a) It is an unfair practice for a manufacturer, distributor, officer, or agent to do any of the following:

- (1) Require, coerce, or attempt to coerce a new motor vehicle dealer in Indiana to:
  - (A) change the location of the dealership;

(B) make any substantial alterations to the use of franchises;  
or

(C) make any substantial alterations to the dealership premises or facilities;

if to do so would be unreasonable or would not be justified by current economic conditions or reasonable business considerations. This subdivision does not prevent a manufacturer or distributor from establishing and enforcing reasonable facility requirements. However, a motor vehicle dealer may elect to use for the facility alteration locally sourced materials or supplies that are substantially similar to those required by the manufacturer or distributor, subject to the approval of the manufacturer or distributor.

(2) Require, coerce, or attempt to coerce a new motor vehicle dealer in Indiana to divest ownership of or management in another line or make of motor vehicles that the dealer has established in its dealership facilities with the prior written approval of the manufacturer or distributor.

(3) Establish or acquire wholly or partially a franchisor owned outlet engaged wholly or partially in a substantially identical business to that of the franchisee within the exclusive territory granted the franchisee by the franchise agreement or, if no exclusive territory is designated, competing unfairly with the franchisee within a reasonable market area. A franchisor is not considered to be competing unfairly if operating:

(A) a business for less than two (2) years;

(B) in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price;  
or

(C) in a bona fide relationship in which an independent person has made a significant investment subject to loss in the business operation and can reasonably expect to acquire majority ownership or managerial control of the business on reasonable terms and conditions.

(4) Require a dealer, as a condition of granting or continuing a franchise, approving the transfer of ownership or assets of a new motor vehicle dealer, or approving a successor to a new motor vehicle dealer to:

(A) construct a new dealership facility;

(B) modify or change the location of an existing dealership;  
or

(C) grant the manufacturer or distributor control rights over any real property owned, leased, controlled, or occupied by the dealer.

(5) Prohibit a dealer from representing more than one (1) line make of motor vehicles from the same or a modified facility if:

(A) reasonable facilities exist for the combined operations;

(B) the dealer meets reasonable capitalization requirements for the original line make and complies with the reasonable

facilities requirements of the manufacturer or distributor; and  
(C) the prohibition is not justified by the reasonable business considerations of the manufacturer or distributor.

Subdivisions (3) through (5) do not apply to recreational vehicle manufacturer franchisors.

(b) This section does not prohibit the enforcement of a voluntary agreement between the manufacturer or distributor and the franchisee where separate and valuable consideration has been offered and accepted.

*As added by P.L.92-2013, SEC.78. Amended by P.L.152-2013, SEC.2; P.L.2-2014, SEC.48.*

#### **IC 9-32-13-24**

##### **Relocation of new motor vehicle dealers**

Sec. 24. (a) This section does not apply to the relocation of a new motor vehicle dealer to a location that is not more than two (2) miles from its established place of business.

(b) This section does not apply to the reopening or replacement in a relevant market area of a closed dealership that was closed within the preceding three hundred sixty-five (365) days, if the established place of business of the reopened or replacement dealer is within two (2) miles of the established place of business of the closed dealership.

(c) This section does not apply to a new motor vehicle dealer located in a county having a population of more than one hundred thousand (100,000) if:

(1) the new motor vehicle dealer relocates to a site that is located at a distance greater than the existing distance of another new motor vehicle dealer of the same line make before the relocation; and

(2) the site of the relocation is outside an area that is within a radius of four (4) miles from another new motor vehicle dealer of the same line make;

but does apply to a new motor vehicle dealer that, before January 1, 2013, had been engaged in the process of relocating but had not physically relocated to the new intended site by January 1, 2013, and to a new motor vehicle dealer that began engaging in the process of relocating on or after January 1, 2013.

(d) Before a franchisor enters into a franchise establishing or relocating a new motor vehicle dealer within a relevant market area where the same line make is represented, the franchisor shall give written notice to each new motor vehicle dealer of the same line make in the relevant market area of the franchisor's intention to establish an additional dealer or to relocate an existing dealer within that relevant market area.

(e) Not later than thirty (30) days after:

(1) receiving the notice provided for in subsection (d); or

(2) the end of any appeal procedure provided by the franchisor; a new motor vehicle dealer may bring a declaratory judgment action before the division to determine whether good cause exists for the

establishing or relocating of a proposed new motor vehicle dealer. If an action is filed under this section, the franchisor may not establish or relocate the proposed new motor vehicle dealer until the division has rendered a decision on the matter. An action brought under this section shall be given precedence over all other matters pending before the division.

(f) In determining whether good cause exists for establishing or relocating an additional new motor vehicle dealer for the same line make, the division shall take into consideration the existing circumstances, including the following:

- (1) Permanency of the investment.
- (2) Effect on the retail new motor vehicle business and the consuming public in the relevant market area.
- (3) Whether it is injurious or beneficial to the public welfare.
- (4) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line make in that market area, including the adequacy of motor vehicle sales and qualified service personnel.
- (5) Whether the establishment or relocation of the new motor vehicle dealer would promote competition.
- (6) Growth or decline of the population and the number of new motor vehicle registrations in the relevant market area.
- (7) The effect on the relocating dealer of a denial of its relocation into the relevant market area.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-25**

##### **Acting, offering to act as, or professing to be a broker of vehicles**

Sec. 25. It is an unfair practice for a person to:

- (1) act as;
- (2) offer to act as; or
- (3) profess to be;

a broker in the advertising, buying, or selling of at least five (5) new or used vehicles per year.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-13-26**

##### **Fraud or deceit, untrue statements of material fact or omission**

Sec. 26. It is an unfair practice for a dealer to, in connection with the offer, sale, or purchase of a vehicle, directly or indirectly:

- (1) employ a device, scheme, or artifice to defraud;
- (2) make an untrue statement of a material fact or omit to state a material fact necessary to make the statement made, in light of the circumstances under which the statement was made, not misleading; or
- (3) engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-13-27**

**Canceling, terminating, or refusing to renew franchise or selling agreement of franchisee; renewal, replacement, or succeeding franchise or selling agreement**

Sec. 27. (a) It is an unfair practice for a manufacturer or distributor to do the following:

(1) Cancel or terminate a franchise or selling agreement of a franchisee, or fail or refuse to extend or renew a franchise or selling agreement upon the franchise's or selling agreement's expiration, without good cause or notice to the franchisee by certified mail, return receipt requested:

(A) at least ninety (90) days before the cancellation or termination; or

(B) at least ten (10) days before the cancellation or termination if any of the following apply:

(i) The franchisee has abandoned business operations or otherwise failed to conduct sales and service operations during regular business hours for at least seven (7) consecutive business days, unless the abandonment or closure is due to an act of God or another act over which the franchisee has no control.

(ii) The franchisee or another operator of the franchise has been convicted of or pled guilty to an offense punishable by at least one (1) year of imprisonment.

(iii) The dealer files for bankruptcy or enters into receivership.

(iv) The license of the dealer is revoked under IC 9-32-11 or IC 9-32-16.

(v) The dealer commits fraud.

(2) Offer a renewal, replacement, or succeeding franchise or selling agreement that substantially changes or modifies the sales and service obligations, facilities standards, capital requirements, or other terms of the original franchise or agreement of a franchisee without notice to the franchisee by certified mail, return receipt requested, at least ninety (90) days before the expiration or termination of the original franchise or agreement.

Notice provided under this subsection must include a detailed statement setting forth the specific grounds for the proposed action.

(b) For purposes of subsection (a)(1), the following do not constitute good cause, provided that no unfair practice is committed under IC 9-32-13-12 and no transfer, sale, or assignment is made in violation of IC 9-32-13-22:

(1) A change of ownership or executive management of a dealership.

(2) Requiring the appointment of an individual to an executive management position in a dealership.

(3) Ownership of, investment in, participation in the management of, or holding a license for the sale of any line

make of new motor vehicles by a franchisee or an owner of an interest in a franchise.

(c) Good cause exists under subsection (a)(1) with respect to all franchisees of a line make if the manufacturer of the line make permanently discontinues the manufacture or assembly of the line make.

(d) Not more than thirty (30) days after a franchisee receives notice under subsection (a), the franchisee may protest the proposed action.

*As added by P.L.152-2013, SEC.3.*

### **IC 9-32-13-28**

#### **Dealer requesting payment for manufacturer or distributor following termination, cancellation, or nonrenewal of franchise; discontinuance of line make**

Sec. 28. (a) This section applies when a dealer requests payment from a manufacturer or distributor following:

- (1) the termination, cancellation, or nonrenewal by the manufacturer or distributor of a franchise between the dealer and the manufacturer or distributor; or
- (2) the discontinuance of a line make by the manufacturer or distributor.

(b) Not more than ninety (90) days after a manufacturer or distributor receives a request for payment from a dealer described in subsection (a), the manufacturer or distributor shall pay to the dealer the following amounts for items that are in the dealer's inventory or possession at the time of termination, cancellation, nonrenewal, or discontinuance, that the dealer delivers to the manufacturer or distributor, and as to which the dealer conveys clear title to the manufacturer or distributor under subsection (c):

- (1) For:
  - (A) current model year motor vehicles; or
  - (B) immediately preceding model year motor vehicles with less than three hundred (300) miles; acquired from the manufacturer or distributor in the usual course of business, the cost at acquisition less any discounts or allowances received from the manufacturer or distributor.
- (2) For all new, unused, and undamaged parts in original packaging that were purchased from the manufacturer or distributor:
  - (A) the cost listed in the manufacturer's or distributor's parts catalog in effect at the time of termination, cancellation, nonrenewal, or discontinuance; minus
  - (B) any allowances authorized by the manufacturer or distributor.
- (3) For required special tools, equipment, or computer equipment that was used for reporting financial data to the manufacturer or distributor, used solely for the franchise being terminated, and purchased by the dealer during the two (2) years

immediately preceding the termination, cancellation, nonrenewal, or discontinuance, fair market value.

(4) For signs that bear a trademark or trade name, that the dealer was required by the manufacturer or distributor to purchase, and that the dealer purchased within three (3) years of the termination, cancellation, nonrenewal, or discontinuance, fair market value.

For purposes of this subsection, fair market value is determined on the date of termination, cancellation, nonrenewal, or discontinuance.

(c) Title to items described in subsection (b) transfers from a dealer to a manufacturer or distributor on the date of termination, cancellation, nonrenewal, or discontinuance. The dealer has an enforceable security interest in the transferred items.

(d) It is an unfair practice for a manufacturer or distributor to violate this section.

*As added by P.L.152-2013, SEC.4.*

### **IC 9-32-13-29**

#### **Manufacturer or distributor terminates, cancels, or fails to renew a franchise between the manufacturer or distributor and dealer; exceptions**

Sec. 29. (a) This section applies when a manufacturer or distributor terminates, cancels, or fails to renew a franchise between the manufacturer or distributor and a dealer, unless the termination, cancellation, or failure to renew is due to any of the following:

- (1) The dealer files for bankruptcy or enters into receivership.
- (2) The dealer's license is revoked under IC 9-32-11 or IC 9-32-16.
- (3) The dealer has been convicted of or pled guilty to a felony.
- (4) The dealer commits fraud.
- (5) The dealer has abandoned business operations or otherwise failed to conduct sales and service operations during regular business hours for at least seven (7) consecutive days, unless the abandonment or closure is due to an act of God or another act over which the franchise has no control.

(b) Except as provided in subsection (c), upon termination, cancellation, or nonrenewal, a manufacturer or distributor shall pay to a dealer the following amounts:

- (1) If the dealer is leasing the dealership facilities from a person other than the manufacturer or distributor, the lesser of:
  - (A) the total lease payments remaining unpaid on the date of termination, cancellation, or nonrenewal; or
  - (B) the total annual lease payments for one (1) year; subject to damages mitigated by the dealer under the terms of the lease.
- (2) If the dealer owns the dealership facilities, an amount equal to the reasonable rental value of the facilities for the one (1) year period beginning on the date of termination, cancellation, or nonrenewal, subject to damages mitigated by the dealer.

(c) A manufacturer or distributor may discharge the manufacturer's or distributor's obligations under a lease with a dealer by negotiating with the dealer a lease termination payment, a sublease, or a new lease.

(d) The manufacturer or distributor is entitled to possession of the dealership facilities during the time period for which the manufacturer or distributor makes any lease payments.

(e) It is an unfair practice for a manufacturer or a distributor to violate this section.

*As added by P.L.152-2013, SEC.5.*

### **IC 9-32-13-30**

#### **Manufacturer or distributor may not require or coerce improvements to dealer's facilities or signs or franchisor image elements; exceptions**

Sec. 30. (a) A manufacturer or distributor may not coerce or require a dealer to:

- (1) make an improvement to the dealer's facilities; or
- (2) install signs or other franchisor image elements;

that would result in replacing or substantially altering improvements or image elements that the dealer made or installed during the immediately preceding seven (7) years as required by the manufacturer or distributor, unless the improvement or installation of signs or visual elements is necessary to comply with the health or safety laws of the state or to sell, service, or display a new motor vehicle due to the unique technology of the new motor vehicle.

(b) It is an unfair practice for a manufacturer or distributor to violate this section.

(c) This section does not apply to a recreational vehicle manufacturer franchisor.

*As added by P.L.152-2013, SEC.6.*

### **IC 9-32-13-31**

#### **Unfair practice penalty**

Sec. 31. A person that performs an act that is an unfair practice under this chapter commits a Class A infraction.

*As added by P.L.217-2014, SEC.174.*

## **IC 9-32-14**

### **Chapter 14. Damage to New Motor Vehicles**

#### **IC 9-32-14-1**

##### **Liability of dealer for damage**

Sec. 1. Notwithstanding the terms, provisions, or conditions of an agreement or franchise, a motor vehicle dealer is solely liable for damage to a new motor vehicle:

- (1) after acceptance from the carrier or transporter; and
- (2) before delivery to the ultimate purchaser.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-14-2**

##### **Liability of manufacturer, converter manufacturer, or automotive mobility dealer**

Sec. 2. Notwithstanding the terms, provisions, or conditions of any agreement or franchise, a manufacturer, converter manufacturer, or automotive mobility dealer is liable for all damage to a new motor vehicle before delivery of the motor vehicle to a carrier or transporter.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-14-3**

##### **Carrier related damage to new motor vehicle**

Sec. 3. A motor vehicle dealer is liable for damage to a new motor vehicle after the motor vehicle is delivered to the carrier or transporter only if the dealer selects the method of transportation, mode of transportation, and the carrier or transporter. In all other instances, the manufacturer is liable for carrier related damage to a new motor vehicle.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-14-4**

##### **Disclosure to ultimate purchaser of damage exceeding four percent of retail price**

Sec. 4. (a) This section does not apply to damage to:

- (1) glass;
- (2) radios;
- (3) tires;
- (4) air bags;
- (5) navigation systems;
- (6) DVD players;
- (7) voice command devices;
- (8) hands free technology; and
- (9) bumpers;

when replaced by identical manufacturer's original equipment.

(b) Any uncorrected damage or any corrected damage to a new motor vehicle that exceeds four percent (4%) of the manufacturer's suggested retail price (as defined in 26 U.S.C. 4216), as measured by

retail repair costs, must be disclosed by the dealer in writing before delivery of the motor vehicle to the ultimate purchaser.

*As added by P.L.92-2013, SEC.78. Amended by P.L.152-2013, SEC.7.*

**IC 9-32-14-5**

**Disclosure of damage to new motor vehicle ordered by customer**

Sec. 5. Repaired damage to a new motor vehicle ordered by a customer not exceeding four percent (4%) of the manufacturer's suggested retail price (as defined in 26 U.S.C. 4216) does not need to be disclosed at the time of sale.

*As added by P.L.92-2013, SEC.78.*

## **IC 9-32-15**

### **Chapter 15. Succession to Franchise by Designated Family Members**

#### **IC 9-32-15-1**

##### **Application**

Sec. 1. This chapter does not apply to a franchise if:

- (1) the franchise is granted to a dealer other than a new motor vehicle dealer; and
- (2) the franchise or other written document filed with the franchisor includes the franchisee's designation of a successor to the franchise who is not the:
  - (A) spouse of the franchisee;
  - (B) child of the franchisee;
  - (C) grandchild of the franchisee;
  - (D) spouse of a:
    - (i) child; or
    - (ii) grandchild;of the franchisee;
  - (E) parent of the franchisee; or
  - (F) sibling of the franchisee.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-15-2**

##### **Succession to franchise**

Sec. 2. A designated family member of a deceased or incapacitated franchisee may succeed the franchisee under the existing franchise if:

- (1) the manufacturer or distributor determines, subject to section 3 of this chapter, that the existing franchise should be honored; and
- (2) the designated family member complies with section 4 of this chapter.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-15-3**

##### **Good cause to refuse to honor franchise**

Sec. 3. A manufacturer or distributor may refuse to honor the succession of an existing franchise under section 2 of this chapter only for good cause.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-15-4**

##### **Qualification of designated family member to succeed to the franchise**

Sec. 4. To qualify under section 2 of this chapter to succeed a franchisee under the existing franchise, a designated family member must do all the following:

- (1) Not later than one hundred twenty (120) days after the

franchisee's death or disability, give the manufacturer or distributor written notice of the designated family member's intention to succeed to the franchise.

(2) Agree to be bound by all terms and conditions of the existing franchise.

(3) Meet the criteria generally applied at the time of the death or incapacity of the franchisee by the manufacturer or distributor in qualifying new motor vehicle dealers as franchisees.

(4) If requested by the manufacturer or distributor, promptly supply personal and financial data that is reasonably necessary for the manufacturer or distributor to determine if the existing franchise should be honored.

*As added by P.L.92-2013, SEC.78.*

### **IC 9-32-15-5**

#### **Notice of refusal to honor franchise**

Sec. 5. (a) Not later than sixty (60) days after receipt of:

(1) notice from a designated family member under section 4(1) of this chapter; or

(2) requested personal or financial data under section 4(4) of this chapter;

a manufacturer or distributor that determines that good cause exists for refusing to honor an existing franchise shall serve notice of the determination on the designated family member.

(b) The notice required under subsection (a) must state the following:

(1) The specific grounds for the manufacturer's or distributor's determination.

(2) The date on which the existing franchise will be discontinued, which must be at least ninety (90) days after the date the notice is served.

(c) If notice of the manufacturer's determination is not served within the time specified in subsection (a) and does not comply with subsection (b), the franchise must be honored and is not subject to discontinuance under this chapter.

*As added by P.L.92-2013, SEC.78.*

## **IC 9-32-16**

### **Chapter 16. Administration and Legal Proceedings**

#### **IC 9-32-16-1**

##### **Administration of dealer services by secretary of state**

Sec. 1. (a) This chapter shall be administered by the secretary.

(b) The secretary:

(1) shall employ employees, including a director, investigators, or attorneys, necessary for the administration of this article; and

(2) shall fix the compensation of the employees with the approval of the budget agency.

(c) It is unlawful for the director or an officer, employee, or designee of the secretary to use for personal benefit or the benefit of others records or other information obtained by or filed with the dealer services division under this article that are confidential. This article does not authorize the director or an officer, employee, or designee of the secretary to disclose the record or information, except in accordance with this chapter.

(d) This article does not create or diminish a privilege or exemption that exists at common law, by statute or rule, or otherwise.

(e) The secretary may develop and implement dealer's and vehicle purchaser's education initiatives to inform dealers and the public about the offer or sale of vehicles, with particular emphasis on the prevention and detection of fraud involving vehicle sales. In developing and implementing these initiatives, the secretary may collaborate with public and nonprofit organizations with an interest in consumer education. The secretary may accept a grant or donation from a person that is not affiliated with the dealer industry or from a nonprofit organization, regardless of whether the organization is affiliated with the dealer industry, to develop and implement consumer education initiatives. This subsection does not authorize the secretary to require participation or monetary contributions of a registrant in an education program.

(f) Fees and funds accruing from the administration of this article:

(1) described in IC 9-32-7-1(d) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in the dealer compliance account established by IC 9-32-7-1(a);

(2) described in IC 9-32-7-2(b) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in the dealer enforcement account established by IC 9-32-7-2(a);

(3) described in IC 9-29-17-14(b)(2), IC 9-29-17-14(c)(3), and IC 9-32-7-3(2) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in the motor vehicle highway account under IC 8-14-1;

(4) described in IC 9-32-7-3(3) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be

deposited with the state police department, and these fees and funds are continuously appropriated to the department for its use in enforcing odometer laws;

(5) described in IC 9-32-7-3(4) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited with the attorney general, and these fees and funds are continuously appropriated to the attorney general for use in enforcing odometer laws; and

(6) described in IC 9-29-1-4(a) (before its amendment January 1, 2015) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in the state police building account.

Expenses incurred in the administration of this article shall be paid from the state general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, grants and donations under subsection (e), costs of investigations, and civil penalties recovered under this chapter shall be deposited by the treasurer of state in the dealer enforcement account established by IC 9-32-7-2. The funds in the dealer compliance account established by IC 9-32-7-1 must be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this article.

(g) In connection with the administration and enforcement of this article, the attorney general shall render all necessary assistance to the director upon the request of the director. To that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the director as the demands of the division require. Expenses incurred by the attorney general for the purposes stated under this subsection are chargeable against and shall be paid out of funds appropriated to the attorney general for the administration of the attorney general's office. The attorney general may authorize the director and the director's designee to represent the director and the division in any proceeding involving enforcement or defense of this article.

(h) The secretary, director, and employees of the division are not liable in an individual capacity, except to the state, for an act done or omitted in connection with the performance of their duties under this article.

(i) The director and each attorney or investigator designated by the secretary:

(1) are police officers of the state;

(2) have all the powers and duties of police officers in conducting investigations for violations of this article, or in serving any process, notice, or order issued by an officer, authority, or court in connection with the enforcement of this article; and

(3) comprise the enforcement department of the division.

The division is a criminal justice agency for purposes of IC 5-2-4-1(3) and IC 10-13-3-6.

(j) The provisions of this article delegating and granting power to the secretary, division, and director shall be liberally construed to the end that:

- (1) the practice or commission of fraud may be prohibited and prevented; and
- (2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured.

(k) Copies of any statements and documents filed in the office of the secretary and of any records of the secretary certified by the director are admissible in any prosecution, action, suit, or proceeding based on, arising out of, or under this article to the same effect as the original of the statement, document, or record would be if actually produced.

*As added by P.L.92-2013, SEC.78. Amended by P.L.2-2014, SEC.49; P.L.62-2014, SEC.40; P.L.216-2014, SEC.159.*

### **IC 9-32-16-2**

#### **Applications and licenses; discipline; revocation and suspension of licenses; persons not issued a license**

Sec. 2. (a) An order issued under this article may deny a dealer license application for registration if the secretary finds that the order is in the public interest and subsection (c) authorizes the action. An order may condition or limit the license of an applicant to be a dealer and, if the applicant for a dealer license is a partner, officer, director, or person having similar status or performing similar functions, or a person directly or indirectly in control of the dealership, the order may condition or limit the license.

(b) If the secretary finds that an order is in the public interest and subsection (c) authorizes the action, an order issued under this article may deny, revoke, suspend, condition, limit, or permanently bar the granting of a license to or an application for a license from a dealer, or a partner, an officer, a director, or a person having a similar status or performing similar functions as a dealer, or a person directly or indirectly in control of the dealer. However, the secretary may not:

- (1) institute a revocation or suspension proceeding under this subsection based on an order issued under the law of another state that is reported to the secretary or a designee of the secretary more than one (1) year after the date of the order on which it is based; or
- (2) issue an order on the basis of an order issued under the dealer services laws of another state unless the other order was based on conduct for which subsection (c) would authorize the action had the conduct occurred in Indiana.

(c) A person may be disciplined under this section if the person:

- (1) has filed an application for a dealer license in Indiana under this article, or its predecessor, within the previous ten (10)

years, which, as of the effective date of license or registration or as of any date after filing in the case of an order denying effectiveness, was incomplete as to a material fact or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;

(2) knowingly violated or knowingly failed to comply with this article, or its predecessor, within the previous ten (10) years;

(3) has been convicted of a:

(A) felony within the previous ten (10) years;

(B) felony or misdemeanor involving theft or fraud; or

(C) felony or misdemeanor concerning an aspect of business involving the offer, sale, financing, repair, modification, or manufacture of a vehicle;

(4) is enjoined or restrained by a court with jurisdiction in an action instituted by a state or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving the offer, barter, sale, purchase, transfer, financing, repair, or manufacture of a vehicle;

(5) refuses to allow or otherwise impedes the secretary from conducting an audit or inspection;

(6) has engaged in dishonest or unethical practices in a business involving the offer, barter, sale, purchase, transfer, financing, repair, or manufacture of a vehicle within the previous ten (10) years;

(7) is engaging in unfair practices as set forth in this article;

(8) is on the most recent tax warrant list supplied to the secretary by the department of state revenue;

(9) violates IC 23-2-2.7;

(10) violates IC 9-19-9;

(11) willfully violates federal or state law relating to the sale, distribution, financing, or insuring of motor vehicles; or

(12) is not compliant with local, state, or federal laws and regulations regarding a dealer license or dealer business.

(d) The secretary may revoke, suspend, or deny an application, impose fines and costs, restrict, condition, limit, bar, suspend, or rescind a dealer license, or order restitution, or do any combination of these actions before final determination of an administrative proceeding. Upon the issuance of an order, the secretary shall promptly notify each person subject to the order:

(1) that the order has been issued;

(2) the reasons for the action; and

(3) that within fifteen (15) days after the receipt of a request in a record from the person the matter will be scheduled for a hearing.

If a hearing is not requested and no hearing is ordered by the secretary within thirty (30) days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested

or ordered, the secretary, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

(e) After a hearing, the secretary may suspend or deny an application, impose fines and costs, restrict, condition, limit, bar, suspend, or rescind a dealer license, or order restitution, or do any combination of these actions.

(f) Revocation or suspension of a license of a manufacturer, a distributor, a dealer, or an automobile auctioneer may be limited to one (1) or more locations, to one (1) or more defined areas, or only to certain aspects of the business.

(g) Except as provided in subsection (d), an order may not be issued under this section without:

- (1) appropriate notice to the applicant or registrant;
- (2) an opportunity for a hearing; and
- (3) reasons for the action.

(h) A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the secretary under subsections (a) and (b) to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

(i) A person subject to this chapter that has not been issued a license is subject to the same disciplinary fines, costs, and penalties as if a license had been issued.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.41; P.L.151-2015, SEC.76.*

### **IC 9-32-16-3**

#### **Information or documents considered law enforcement records**

Sec. 3. Information or documents obtained by the division in the course of an investigation, including an audit conducted under section 6(c) of this chapter, are law enforcement records for the purposes of IC 5-14-3-4(b)(1).

*As added by P.L.92-2013, SEC.78. Amended by P.L.2-2014, SEC.50.*

### **IC 9-32-16-4**

#### **Compliance with request, order, or subpoena for production of documentary evidence**

Sec. 4. A person complying with any request, order, or subpoena issued by the division for the production of documentary evidence shall retain the originals and shall provide the division with clearly legible, true, and complete copies of the documents requested, along with a signed cover letter, which must identify those documents with a reasonable degree of specificity.

*As added by P.L.92-2013, SEC.78.*

### **IC 9-32-16-5**

#### **Dealers to provide staff of division access to dealer's premises**

Sec. 5. All dealers licensed with the division shall, upon request, provide members of the staff of the division prompt access, during reasonable business hours, to that part of the premises at the dealer's place of business where:

- (1) documents are stored; or
- (2) vehicle sales are offered, made, or processed.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-16-6**

##### **Dealer required to make and maintain records; data storage; records subject to inspection; retention of records**

Sec. 6. (a) A dealer licensed or required to be licensed under this article shall make and maintain the records, accounts, correspondence, memoranda, papers, books, and other records required under this article.

(b) Dealer records required to be maintained under IC 9-32-6-14 and other records required under this article may be maintained in any form of data storage acceptable to the secretary if the records are readily accessible and available to copy by an investigating or auditing employee of the secretary upon demand at the place of business of the dealer.

(c) The records of a dealer licensed or required to be licensed under this article are subject to such reasonable periodic, special, or other audits or inspections by a representative of the secretary, within or outside Indiana, as the secretary considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The representative of the secretary may copy, and remove for audit or inspection copies of, the records the secretary reasonably considers necessary or appropriate to conduct the audit or inspection.

(d) Dealer records required to be maintained under IC 9-32-6-14 and other records required under this article must be maintained at the place of business of a dealer for a period of two (2) years. Following the two (2) year period, records may be moved offsite but must be maintained for a period of five (5) years.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-16-7**

##### **Secretary of state to provide assistance to other state or foreign jurisdiction**

Sec. 7. At the request of the division or equivalent regulator of another state or foreign jurisdiction, the secretary may provide assistance if the requesting regulator states that the requesting regulator is conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to dealer matters that the requesting regulator administers or enforces. The secretary may provide assistance by using the authority to investigate and the powers conferred by this article as the secretary determines are

necessary or appropriate. The assistance may be provided without regard to whether the conduct described in the request would also constitute a violation of this article or other law of Indiana if occurring in Indiana. In deciding whether to provide the assistance, the secretary may consider:

- (1) whether the requesting regulator is permitted and has agreed to provide assistance reciprocally within the state or foreign jurisdiction of the requesting regulator to the secretary on dealer matters when requested;
- (2) whether compliance with the request would violate or prejudice the public policy of Indiana; and
- (3) the availability of resources and employees of the division to carry out the request for assistance.

*As added by P.L.92-2013, SEC.78.*

### **IC 9-32-16-8**

#### **Person required to cooperate with division; failure to cooperate**

Sec. 8. (a) A person shall cooperate in an inquiry, investigation, or inspection conducted by, or on behalf of, the division for purposes of determining whether or not a person has violated or is about to violate any provision under this article. The willful failure of a person to cooperate, absent a bona fide claim of privilege, may:

- (1) be considered by the division a violation of statute; and
- (2) thus subject the person to denial, suspension, or revocation of licensing or registration or a bar from licensing or registration.

(b) The following are examples of, but are not the only, conduct by a person that may be considered a failure to cooperate:

- (1) The failure to timely respond by way of appearance or production of documents to a subpoena or order issued by the division.
- (2) The failure to answer any question pertinent to inquiry unless the response to the question is subject to a bona fide claim of privilege.
- (3) The failure to grant division personnel access to:
  - (A) the business premises of a dealer or a person required to be licensed as a dealer; or
  - (B) the records and documents that the dealer or person required to be licensed as a dealer is required, by statute or rule, to make available for inspection.
- (4) The failure to attend a scheduled proceeding at which the appearance of the person is required. If a person elects to retain counsel for the purpose of representation in any such proceeding, it is the responsibility of the person to do so in a timely fashion. The failure of a person to retain counsel, absent a showing of good cause, does not require an adjournment of the proceeding.
- (5) The failure to timely respond to or to provide information requested under a demand under this chapter.

(6) Aiding or abetting the failure of another person to cooperate.  
*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-16-9**

##### **Copying of records**

Sec. 9. (a) The division may copy records or require a dealer to copy records and provide the copies to the division to the extent and in the manner reasonable under the circumstances.

(b) The division may impose a reasonable fee for the expense of making copies under subsection (a).

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-16-10**

##### **Referrals to local prosecuting attorney**

Sec. 10. (a) The secretary or a designee of the secretary may refer the facts drawn from an investigation to the prosecuting attorney of the county in which a crime is alleged to have been committed.

(b) The secretary may assist the prosecuting attorney in prosecuting an action brought subsequent to a referral made under subsection (a), which may include a division attorney serving as a special deputy prosecutor appointed by the prosecuting attorney.

*As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-16-11**

##### **Filings with business services division; providing governmental identification numbers; physical Indiana address; national criminal history background check; good standing with state offices**

Sec. 11. (a) All dealers operating as a:

- (1) corporation;
- (2) limited liability company;
- (3) limited partnership; or
- (4) limited liability partnership;

shall file and maintain all filings required to remain in good standing with the secretary of state business services division.

(b) The dealer shall provide the secretary:

- (1) the federal tax identification number; and
- (2) the registered retail merchant's certificate number issued under IC 6-2.5-8;

issued to the dealer.

(c) The dealer must, for the entire licensing period, have an established place of business with a physical Indiana address. The dealer may not have a mailing address that differs from the actual location of the business.

(d) The applicant and all corporate officers, partners, and owners must submit to a national criminal history background check (as defined in IC 10-13-3-12) administered by the state police at the expense of the applicant and the corporate officers, partners, and owners. The secretary may deny an application if the division finds that the applicant, a corporate officer, a partner, or an owner has been

convicted of a:

- (1) felony within the previous ten (10) years;
- (2) felony or misdemeanor involving theft or fraud; or
- (3) felony or misdemeanor concerning an aspect of business involving the offer, sale, financing, repair, modification, or manufacture of a vehicle.

(e) The dealer and the corporation, company, or partnership must be in good standing with the bureau, the department of state revenue, and the state police department.

*As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.42.*

### **IC 9-32-16-12**

#### **False or misleading statements or omitted facts**

Sec. 12. It is a violation of this article for a person to:

- (1) make or cause to be made, in a record that is used in an action or proceeding or filed under this chapter, a statement that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to a material fact; or
- (2) in connection with a statement to the division or to a consumer, omit to state a material fact necessary to make the statement made, in light of the circumstances under which it was made, not false or misleading.

*As added by P.L.92-2013, SEC.78.*

### **IC 9-32-16-13**

#### **Secretary of state to maintain injunctive action; court remedy and relief; director not required to post bond; penalties**

Sec. 13. (a) If the secretary believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business:

- (1) that constitutes a violation of this article or a rule adopted or order issued under this article; or
- (2) that materially aids a violation of this article or a rule adopted or order issued under this article;

the secretary or a designee of the secretary, in addition to any administrative remedies, may maintain an action in the circuit or superior court in the county where the investigation or inquiry in question is being conducted to enjoin the act, practice, or course of business and to enforce compliance with this article or a rule adopted or order issued under this article.

(b) In an action under this section and on a proper showing, a court may:

- (1) issue a permanent or temporary injunction, restraining order, or declaratory judgment;
- (2) order other appropriate or ancillary relief, which may include:

(A) an asset freeze, accounting, writ of attachment, writ of general or specific execution, and appointment of a receiver

- or conservator;
- (B) ordering a receiver or conservator appointed under clause (A) to:
- (i) take charge and control of the property of the respondent, including investment accounts and accounts in a depository institution, rents, and profits;
  - (ii) collect debts; and
  - (iii) acquire and dispose of property;
- (C) imposing a civil penalty of up to ten thousand dollars (\$10,000) per violation and an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this article or a rule adopted or order issued under this article; and
- (D) ordering the payment of prejudgment and postjudgment interest; or
- (3) order other relief that the court considers appropriate.
- (c) The director may not be required to post a bond in an action or proceeding under this article.
- (d) Penalties collected under this section shall be deposited in the dealer enforcement account established by IC 9-32-7-2.
- As added by P.L.92-2013, SEC.78.*

#### **IC 9-32-16-14**

#### **Public or private investigations by secretary; enforcement of compliance with investigation; witness fees and mileage**

Sec. 14. (a) The secretary may:

- (1) conduct public or private investigations within or outside Indiana that the secretary considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this article or a rule adopted or order issued under this article, or aid in the enforcement of this article or in the adoption of rules and forms under this article;
  - (2) require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the secretary determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted; and
  - (3) publish a record concerning an action, proceeding, or investigation under, or a violation of, this article or a rule adopted or order issued under this article if the secretary determines it is necessary or appropriate and in the public interest and for the protection of dealers or consumers.
- (b) For purposes of an investigation under this article, the secretary or a designated employee of the secretary may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take attendance, take evidence, require the filing of statements, and require the production of any records that the secretary considers relevant or material to the investigation. Upon

order of the secretary or a hearing officer appointed by the secretary in a hearing, depositions may be taken in the manner prescribed by law for depositions in civil actions and made returnable to the secretary or a hearing officer appointed by the secretary.

(c) If a person does not appear or refuses to testify, file a statement, or produce records, or otherwise does not obey a subpoena as required by this article, the secretary or hearing officer appointed by the secretary may apply to the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted to enforce compliance. The court may:

- (1) hold the person in contempt;
- (2) order the person to appear before the secretary or hearing officer appointed by the secretary;
- (3) order the person to testify about the matter under investigation or in question;
- (4) order the production of records;
- (5) grant injunctive relief, including restricting or prohibiting the offer or sale of vehicles;
- (6) impose a civil penalty of not more than twenty thousand dollars (\$20,000) for each violation; and
- (7) grant any other necessary or appropriate relief.

(d) This section does not preclude a person from applying to the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted for relief from a request to appear, testify, file a statement, produce records, or obey a subpoena.

(e) If a witness, in any hearing, inquiry, or investigation conducted under this article, refuses to answer any question or produce any item, the secretary may file a written petition with the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted requesting a hearing on the refusal. The court shall hold a hearing to determine if the witness may refuse to answer the question or produce the item. If the court determines that the witness, based upon the witness's privilege against self-incrimination, may properly refuse to answer or produce an item, the secretary may make a written request that the court grant use immunity to the witness. Upon written request of the secretary, the court shall grant use immunity to a witness. The court shall instruct the witness, by written order or in open court, that:

- (1) any evidence the witness gives, or evidence derived from that evidence, may not be used in any criminal proceedings against that witness, unless the evidence is volunteered by the witness or is not responsive to a question; and
- (2) the witness must answer the questions asked and produce the items requested.

A grant of use immunity does not prohibit the use of evidence that the witness gives in a hearing, investigation, or inquiry from being used in a prosecution for perjury under IC 35-44.1-2-1. If a witness refuses to give the evidence after the witness has been granted use

immunity, the court may find the witness in contempt.

(f) In any prosecution, action, suit, or proceeding based upon or arising out of or under this article, a certificate signed by the secretary showing compliance or noncompliance with this article by a dealer constitutes prima facie evidence of compliance or noncompliance with this article and is admissible in evidence in any action at law or in equity to enforce this article.

(g) Each witness who appears before the secretary or a hearing officer appointed by the secretary by order is entitled to receive for the witness's attendance the fees and mileage provided for witnesses in civil cases, which must be audited and paid by the state in the same manner as other expenses of the division are audited and paid when proper vouchers sworn to by the witnesses and approved by the secretary are presented. However, a witness subpoenaed at the instance of parties other than the secretary or a hearing officer appointed by the secretary is not entitled to any fee or compensation from the state.

*As added by P.L.92-2013, SEC.78.*

### **IC 9-32-16-15**

#### **Dealers; unfair practices; demand for mediation; mediation**

Sec. 15. (a) A dealer who is injured by an unfair practice set forth in IC 9-32-13 or IC 9-32-15 may file a complaint or petition with the division.

(b) A dealer may not file a complaint or petition with the division under subsection (a) based on an alleged violation of IC 9-32-13 or IC 9-32-15 by a manufacturer or distributor unless the dealer serves a demand for mediation upon the manufacturer or distributor:

- (1) before; or
- (2) at the same time as;

filing the complaint or petition. A demand for mediation must be in writing and served upon the manufacturer or distributor by certified mail at an address designated for the manufacturer or distributor in the licensor's records. The demand for mediation must contain a brief statement of the dispute and the relief sought by the dealer serving the demand.

(c) Not later than twenty (20) days after the date the demand for mediation is served under subsection (b), the parties shall mutually select an independent mediator and meet with the mediator for the purpose of attempting to resolve the dispute. The meeting place must be within Indiana at a location selected by the mediator. The mediator may extend the period in which the meeting must occur for good cause shown by either party or upon stipulation of the parties.

*As added by P.L.92-2013, SEC.78.*

**IC 9-32-17**

**Chapter 17. Penalties and Disciplinary Action**

**IC 9-32-17-1**

**Civil penalties**

Sec. 1. A person who violates this article, a rule established under this article, or an order issued by the secretary under this article is subject to a civil penalty of up to ten thousand dollars (\$10,000) for each act of violation. Civil penalties recovered under this section shall be paid to the state and deposited into the dealer enforcement account established by IC 9-32-7-2.

*As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.77.*

**IC 9-32-17-2**

**Repealed**

*(As added by P.L.92-2013, SEC.78. Amended by P.L.168-2014, SEC.19. Repealed by P.L.217-2014, SEC.175.)*

**IC 9-32-17-3**

**Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.217-2014, SEC.176.)*

**IC 9-32-17-4**

**Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.217-2014, SEC.177.)*

**IC 9-32-17-5**

**Repealed**

*(As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.43. Repealed by P.L.217-2014, SEC.178.)*

**IC 9-32-17-6**

**Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.217-2014, SEC.179.)*

**IC 9-32-17-7**

**Civil penalties for failure to deliver certificate of origin or title**

Sec. 7. A person who fails to deliver a certificate of origin or title under IC 9-32-5-2 or IC 9-32-5-8 or fails to deliver timely a certificate of title under IC 9-32-4-1(c) is subject to the following civil penalties:

- (1) One hundred dollars (\$100) for the first violation in a calendar year.
- (2) Two hundred fifty dollars (\$250) for the second violation in a calendar year.

(3) Five hundred dollars (\$500) for all subsequent violations in a calendar year.

Payment shall be made to the secretary and deposited in the dealer enforcement account established under IC 9-32-7-2.

*As added by P.L.92-2013, SEC.78. Amended by P.L.262-2013, SEC.142.*

#### **IC 9-32-17-8**

##### **Repealed**

*(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.78.)*

#### **IC 9-32-17-9**

##### **Remedies for violation of, attempting to violate, or assisting in a violation relating to administration of dealer services**

Sec. 9. In addition to all other remedies, the secretary may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate IC 9-32-16:

- (1) An injunction.
- (2) Appointment of a receiver or conservator.
- (3) A civil penalty not to exceed ten thousand dollars (\$10,000) per violation.
- (4) An action to enforce a civil penalty assessed under subdivision (3).

Civil penalties recovered under this section shall be paid to the state and deposited into the dealer enforcement account established by IC 9-32-7-2.

*As added by P.L.92-2013, SEC.78.*