



Reprinted
April 13, 1999

ENGROSSED SENATE BILL No. 323

DIGEST OF SB323 (Updated April 12, 1999 6:30 pm - DI 84)

Citations Affected: IC 8-14; IC 9-14; IC 9-15; IC 9-17; IC 9-22; IC 9-23.

Synopsis: Various motor vehicle matters. Defines "flood damaged vehicle" as a vehicle that has been acquired by an insurance company as part of a damage settlement due to water damage or has been submerged in water to a stated extent that has sustained certain damage that becomes visible within six months of the first date of the water damage. (Current law defines a "flood damaged vehicle" as a vehicle that has sustained water damage above the floorboard of the vehicle.)
(Continued next page)

Effective: July 1, 1999.

Meeks R, Lutz L
(HOUSE SPONSORS — COOK, MCCLAIN)

January 11, 1999, read first time and referred to Committee on Commerce and Consumer Affairs.
January 28, 1999, amended, reported favorably — Do Pass.
February 1, 1999, read second time, ordered engrossed. Engrossed.
February 2, 1999, read third time, passed. Yeas 45, nays 2. Rule 33(c) technical correction adopted.

HOUSE ACTION

March 3, 1999, read first time and referred to Committee on Roads and Transportation.
April 5, 1999, reported — Do Pass.
April 8, 1999, read second time, amended, ordered engrossed.
April 9, 1999, engrossed.
April 12, 1999, read third time, referred to Committee of One; amended; passed. Yeas 96, nays 0.

ES 323—LS 7221/DI 96+



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Requires a dealer to secure an affidavit regarding flood damage from a person selling or transferring a vehicle. Requires the dealer to keep a copy of the affidavit regarding flood damage and to file the affidavit with the bureau of motor vehicles. Prohibits the money collected for the motor vehicle highway account fund to be used to augment the budget of the bureau of motor vehicles commission. Prohibits the motor vehicles commission from closing a full service license branch or reducing the number of hours that a full service license branch is open to the public. Permits an automobile auctioneer, transfer dealer, or dealer licensed by the state to apply for a certificate of title by a stated procedure, including a stolen motor vehicle check, for a vehicle owned or transferred by the automobile auctioneer, transfer dealer, dealer, or another person, regardless of the applicant's place of business or physical location of the vehicle. Provides a civil penalty for an automobile auctioneer, transfer dealer, or dealer who fraudulently obtains a vehicle title, and permits the bureau of motor vehicles to institute a civil action for recovery of the civil penalty. Permits a person who repossesses a motor vehicle to obtain a certificate of title for the motor vehicle by a stated procedure, including a stolen motor vehicle check, without regard to the repossessing person's state of residence or business. Repeals the provision making it an unfair practice for a manufacturer or distributor to fail to supply to the state police the bumper height specifications of motor vehicles sold or distributed in the state.

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April 13, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED SENATE BILL No. 323

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-14-1-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 3. **(a) The money collected for the**
3 **motor vehicle highway account fund may not be used to augment**
4 **the budget of the bureau of motor vehicles commission.**
5 **(b) The money collected for the motor vehicle highway account**
6 **fund and remaining after refunds and the payment of all expenses**
7 **incurred in the collection thereof, and after the deduction of the amount**
8 **appropriated to the department for traffic safety and after the deduction**
9 **of one-half (1/2) of the amount appropriated for the state police**
10 **department, shall be allocated to and distributed among the department**
11 **and subdivisions designated as follows:**
12 (1) Of the net amount in the motor vehicle highway account the
13 auditor of state shall set aside for the cities and towns of the state
14 fifteen percent (15%) thereof. This sum shall be allocated to the
15 cities and towns upon the basis that the population of each city
16 and town bears to the total population of all the cities and towns

ES 323—LS 7221/DI 96+



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1 and shall be used for the construction or reconstruction and
2 maintenance of streets and alleys and shall be annually budgeted
3 as now provided by law. However, no part of such sum shall be
4 used for any other purpose than for the purposes defined in this
5 chapter. If any funds allocated to any city or town shall be used by
6 any officer or officers of such city or town for any purpose or
7 purposes other than for the purposes as defined in this chapter,
8 such officer or officers shall be liable upon their official bonds to
9 such city or town in such amount so used for other purposes than
10 for the purposes as defined in this chapter, together with the costs
11 of said action and reasonable attorney fees, recoverable in an
12 action or suit instituted in the name of the state of Indiana on the
13 relation of any taxpayer or taxpayers resident of such city or town.
14 A monthly distribution thereof of funds accumulated during the
15 preceding month shall be made by the auditor of state.

16 (2) Of the net amount in the motor vehicle highway account, the
17 auditor of state shall set aside for the counties of the state
18 thirty-two percent (32%) thereof. However, as to the allocation to
19 cities and towns under subdivision (1), and as to the allocation to
20 counties under this subdivision in the event that the amount in the
21 motor vehicle highway account fund remaining after refunds and
22 the payment of all expenses incurred in the collection thereof and
23 after deduction of any amount appropriated by the general
24 assembly for public safety and policing shall be less than
25 twenty-two million six hundred and fifty thousand dollars
26 (\$22,650,000), in any fiscal year then the amount so set aside in
27 the next calendar year for distributions to counties shall be
28 reduced fifty-four percent (54%) of such deficit and the amount
29 so set aside for distribution in the next calendar year to cities and
30 towns shall be reduced thirteen percent (13%) of such deficit.
31 Such reduced distributions shall begin with the distribution
32 January 1 of each year.

33 (3) The amount set aside for the counties of the state under the
34 provisions of subdivision (2) shall be allocated monthly upon the
35 following basis:

36 (A) Five percent (5%) of the amount allocated to the counties
37 to be divided equally among the ninety-two (92) counties.

38 (B) Sixty-five percent (65%) of the amount allocated to the
39 counties to be divided on the basis of the ratio of the actual
40 miles, now traveled and in use, of county roads in each county
41 to the total mileage of county roads in the state, which shall be
42 annually determined, accurately, by the department.



1 (C) Thirty percent (30%) of the amount allocated to the
 2 counties to be divided on the basis of the ratio of the motor
 3 vehicle registrations of each county to the total motor vehicle
 4 registration of the state.

5 All money so distributed to the several counties of the state shall
 6 constitute a special road fund for each of the respective counties
 7 and shall be under the exclusive supervision and direction of the
 8 board of county commissioners in the construction,
 9 reconstruction, maintenance, or repair of the county highways or
 10 bridges on such county highways within such county.

11 (4) Each month the remainder of the net amount in the motor
 12 vehicle highway account shall be credited to the state highway
 13 fund for the use of the department.

14 (5) Money in the fund may not be used for any toll road or toll
 15 bridge project.

16 (6) Notwithstanding any other provisions of this section, money
 17 in the motor vehicle highway account fund may be appropriated
 18 to the Indiana department of transportation from the forty-seven
 19 percent (47%) distributed to the political subdivisions of the state
 20 to pay the costs incurred by the department in providing services
 21 to those subdivisions.

22 (7) Notwithstanding any other provisions of this section or of
 23 IC 8-14-8, for the purpose of maintaining a sufficient working
 24 balance in accounts established primarily to facilitate the
 25 matching of federal and local money for highway projects, money
 26 may be appropriated to the Indiana department of transportation
 27 as follows:

28 (A) One-half (1/2) from the forty-seven percent (47%) set
 29 aside under subdivisions (1) and (2) for counties and for those
 30 cities and towns with a population greater than five thousand
 31 (5,000).

32 (B) One-half (1/2) from the distressed road fund under
 33 IC 8-14-8.

34 SECTION 2. IC 9-14-2-6 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 1999]: Sec. 6. The bureau shall do the
 36 following:

37 (1) File and index by name each application for a license, **title**,
 38 **registration**, or permit issued by the bureau under this title.

39 (2) Maintain suitable records of all licenses, **titles**, **registrations**,
 40 and permits issued by the commissioner under this title.

41 SECTION 3. IC 9-15-2-1 IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) **Subject to the restrictions**



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- 1 **set forth in subsection (b)**, the commission shall do the following:
- 2 (1) Develop and continuously update the bureau's policies.
- 3 (2) Recommend to the governor legislation that is needed to
- 4 implement the policies developed by the commission.
- 5 (3) Recommend to the bureau proposed rules that are needed to
- 6 implement the policies developed by the commission and require
- 7 those proposed rules to be adopted under IC 4-22-2.
- 8 (4) Review, revise, adopt, and submit to the budget agency budget
- 9 proposals for the commission, the bureau, and the license
- 10 branches operated under IC 9-16, including the budget required
- 11 by IC 9-16-3-3.
- 12 (5) Establish the determination criteria and determine the number
- 13 and location of license branches to be operated under IC 9-16.
- 14 However, there must be at least one (1) full service license branch
- 15 in each county.
- 16 (6) Establish and adopt minimum standards for the operation and
- 17 maintenance of each full service license branch operated under
- 18 IC 9-16.
- 19 (7) Before January 1, 1997, establish and adopt minimum
- 20 standards for the operation and maintenance of each partial
- 21 service contractor under IC 9-16. The standards must result in
- 22 more convenience to the public by providing license branch
- 23 services at as many walk-up locations as possible without
- 24 increasing the costs of providing these services.
- 25 (8) Before March 1, 1997, establish and adopt minimum
- 26 standards for providing license branch services using telephonic,
- 27 facsimile, electronic, or computer means under IC 9-16.
- 28 (9) Administer the state license branch fund established under
- 29 IC 9-29-14.

30 **(b) The commission may not do the following:**

- 31 (1) **Close a full service license branch operating under**
- 32 **IC 9-16.**
- 33 (2) **Reduce the number of hours that each full service license**
- 34 **branch operating under IC 9-16 is open to the public.**

35 SECTION 4. IC 9-17-2-1.5 IS ADDED TO THE INDIANA CODE

36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

37 1, 1999]: **Sec. 1.5. An automobile auctioneer, transfer dealer, or**

38 **dealer having a current license under IC 9-23-2 may apply for and**

39 **obtain a certificate of title for itself or on behalf of all vehicles**

40 **owned or transferred by the automobile auctioneer, transfer**

41 **dealer, dealer, or other person, regardless of the applicant's place**

42 **of business or the physical location of the vehicle, by submitting to**



1 the bureau:

- 2 (1) an application for title;
- 3 (2) an affidavit of ownership showing that the automobile
- 4 auctioneer, transfer dealer, dealer, or other person is entitled
- 5 to the certificate of title;
- 6 (3) an affidavit from the automobile auctioneer, transfer
- 7 dealer, dealer, or other person confirming compliance with
- 8 the statutes governing repossession in the state where the
- 9 vehicle is located; and
- 10 (4) any additional material required by statute or rules.

11 SECTION 5. IC 9-17-2-5 IS AMENDED TO READ AS FOLLOWS

12 [EFFECTIVE JULY 1, 1999]: Sec. 5. If an application for a certificate

13 of title is for a vehicle brought into Indiana from or located in another

14 state, the application must be accompanied by:

- 15 (1) the certificate of title issued for the vehicle by the other state;
- 16 if the other state has a certificate of title law; or
- 17 (2) a sworn bill of sale or dealer's invoice fully describing the
- 18 vehicle and the most recent registration receipt issued for the
- 19 vehicle; if the other state does not have a certificate of title law;
- 20 or
- 21 (3) A copy of a retail installment agreement or other security
- 22 instrument certified by the applicant demonstrating that the
- 23 applicant has a lien on or other interest in the vehicle.

24 **If the vehicle is being titled by or through a dealer, transfer dealer,**

25 **or automobile auctioneer (as defined in IC 9-17-2-12), no police**

26 **inspection or any other additional information is required to be**

27 **provided with the application. However, a title may not be issued**

28 **for the vehicle unless the bureau has conducted a National Crime**

29 **Information Center (NCIC) stolen motor vehicle check and has**

30 **communicated adverse results, if any, to the state police**

31 **department.**

32 SECTION 6. IC 9-17-2-9 IS AMENDED TO READ AS FOLLOWS

33 [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) **Except as provided in**

34 **subsection (b),** a person applying for a certificate of title must:

- 35 (1) apply for registration of the vehicle described in the
- 36 application for the certificate of title; or
- 37 (2) transfer the current registration of the vehicle owned or
- 38 previously owned by the person.

39 **(b) If a vehicle is being titled by or through a dealer, transfer**

40 **dealer, or automobile auctioneer for purposes of resale or transfer,**

41 **a registration is not required to receive the title.**

42 SECTION 7. IC 9-17-2-12 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) As used in this
 2 section, "dealer", "**transfer dealer**", and "**automobile auctioneer**"
 3 ~~refers refer~~ to a ~~dealer entities~~ that ~~has~~ **have**:

4 (1) been in **the business of selling, transferring, or assisting in**
 5 **the transfer of motor vehicles** for not less than five (5) years;
 6 **and**

7 (2) sold, **transferred, or assisted in the transfer of** not less than
 8 one hundred fifty (150) motor vehicles during the preceding year;
 9 **and**

10 (3) **have a current license under IC 9-23-2.**

11 (b) This section does not apply to the following:

12 (1) A new **or used** motor vehicle or recreational vehicle sold:

13 (A) by **or through** a dealer; ~~licensed by the state.~~

14 (B) **by or through a transfer dealer; or**

15 (C) **by or through a licensed automobile auctioneer.**

16 (2) A motor vehicle or recreational vehicle transferred or assigned
 17 on a certificate of title issued by the bureau.

18 (3) A motor vehicle that is registered under the International
 19 Registration Plan.

20 (c) An application for a certificate of title for a motor vehicle or
 21 recreational vehicle may not be accepted by the bureau unless the
 22 motor vehicle or recreational vehicle has been inspected by one (1) of
 23 the following:

24 (1) An employee of a dealer designated by the bureau to perform
 25 an inspection.

26 (2) A military policeman assigned to a military post in Indiana.

27 (3) A police officer.

28 (4) A designated employee of the bureau.

29 (d) A person described in subsection (c) inspecting a motor vehicle,
 30 semitrailer, or recreational vehicle shall do the following:

31 (1) Make a record of inspection upon the application form
 32 prepared by the bureau.

33 (2) Verify the facts set out in the application.

34 SECTION 8. IC 9-17-2-17 IS ADDED TO THE INDIANA CODE
 35 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 36 **1, 1999]: Sec. 17. An automobile auctioneer, transfer dealer, or**
 37 **dealer who fraudulently obtains a title for a vehicle under section**
 38 **1.5 of this chapter is subject to a civil penalty of not less than one**
 39 **hundred dollars (\$100) and not more than five hundred dollars**
 40 **(\$500) for each act of violation, as determined by the court. All civil**
 41 **penalties recovered under this chapter shall be paid to the state.**

42 SECTION 9. IC 9-17-2-18 IS ADDED TO THE INDIANA CODE



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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 1999]: **Sec. 18. If an automobile dealer, transfer dealer, or dealer
3 violates or aids, induces, or causes a violation of section 1.5 of this
4 chapter, the automobile dealer's, transfer dealer's, or dealer's
5 license may be suspended or revoked in the manner provided for
6 the suspension or revocation of licenses under IC 9-23-2-14.**

7 SECTION 10. IC 9-17-2-19 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 1999]: **Sec. 19. If a person violates this chapter or a rule or an
10 order of the bureau issued under this chapter, the bureau may
11 institute a civil action in any circuit or superior court of Indiana
12 for injunctive relief to restrain the person from continuing the
13 activity or for the assessment and recovery of the civil penalty
14 under section 17 of this chapter, or both.**

15 SECTION 11. IC 9-17-2-20 IS ADDED TO THE INDIANA CODE
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 1999]: **Sec. 20. At the request of the bureau, the attorney general
18 shall institute and conduct an action in the name of the state for:**

- 19 (1) **injunctive relief or to recover the civil penalty under
20 section 17 of this chapter;**
21 (2) **injunctive relief under section 19 of this chapter; or**
22 (3) **the remedies described in both subdivisions (1) and (2).**

23 SECTION 12. IC 9-17-5-2 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2. (a) A person who
25 holds a lien on a motor vehicle, semitrailer, or recreational vehicle who
26 has repossessed the motor vehicle, semitrailer, or recreational vehicle
27 and wants to obtain a certificate of title for the motor vehicle,
28 semitrailer, or recreational vehicle in the person's name **without
29 regard to the repossessing person's state of residence or business**
30 may obtain the certificate of title from the bureau if:**

- 31 (1) **the person from whom the motor vehicle, semitrailer, or
32 recreational vehicle has been repossessed is shown by the records
33 of the bureau to be the last registered owner of the motor vehicle,
34 semitrailer, or recreational vehicle by the repossessing person's
35 title application and any materials submitted with the title
36 application; and**
37 (2) **the person who holds the lien establishes to the satisfaction of
38 submits an application of ownership establishing to the
39 satisfaction of the bureau that the person is entitled to the
40 certificate of title.**

41 (b) **Notwithstanding IC 9-17-2-9, when a repossessing person
42 applies for a certificate of title for a motor vehicle, semitrailer, or**



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1 recreational vehicle, the repossessing person is not required to
 2 apply for a registration if the repossessing person holds the motor
 3 vehicle, semitrailer, or recreational vehicle for resale.

4 (c) Neither the repossessing person nor the person from whom
 5 the motor vehicle, semitrailer, or recreational vehicle has been
 6 repossessed is required to have an Indiana address for the bureau
 7 upon application to issue a certificate of title for the motor vehicle,
 8 semitrailer, or recreational vehicle.

9 (d) A repossession title shall not be issued for a vehicle unless
 10 the bureau has conducted a National Crime Information Center
 11 (NCIC) stolen motor vehicle check and has communicated adverse
 12 results, if any, to the state police department.

13 SECTION 13. IC 9-22-3-2.5 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.5. (a) As used in this
 15 chapter, "flood damaged vehicle" means a **passenger motor** vehicle
 16 that has sustained water damage above the floorboard of the vehicle.
 17 satisfies either of the following:

18 (1) The vehicle has been acquired by an insurance company
 19 as part of a damage settlement due to water damage.

20 (2) The vehicle has been submerged in water to the point that
 21 rising water has reached over the door sill, has entered the
 22 passenger or trunk compartment, and has exposed any
 23 electrical, computerized, or mechanical component to water.

24 (b) The term does not include a passenger motor vehicle that:

25 (1) an inspection conducted by an insurance adjuster or
 26 estimator, a motor vehicle repairer, or a motor vehicle dealer
 27 determines:

28 (A) has no electrical, computerized, or mechanical
 29 components that were damaged by water; or

30 (B) has one (1) or more electrical, computerized, or
 31 mechanical components that were damaged by water and
 32 all such damaged components have been repaired or
 33 replaced; and

34 (2) has no unrepaired damage to carpeting or unrepaired
 35 visible rust on metal components that may have been exposed
 36 to water that has risen above the door sill and entered into the
 37 passenger or trunk compartment and that becomes visible
 38 within six (6) months after the first date of the damage by
 39 water.

40 SECTION 14. IC 9-22-3-7.5 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 42 1, 1999]: Sec. 7.5. (a) A dealer licensed as a dealer under IC 9-23 on

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1 the date of receiving a title by sale or transfer shall secure an
2 affidavit from the person who holds the certificate of title. The
3 affidavit must state whether the vehicle is a flood damaged vehicle.
4 (b) The dealer shall file the affidavit with the bureau upon
5 receiving the title and shall retain a copy of the affidavit with the
6 records of the dealer.
7 (c) The bureau shall retain an affidavit regarding flood damage
8 to the vehicle submitted to the bureau by a dealer under this
9 section.
10 SECTION 15. IC 9-23-3-18 IS REPEALED [EFFECTIVE JULY 1,
11 1999].

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SENATE MOTION

Mr. President: I move that Senator Lutz be added as coauthor of Senate Bill 323.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 323, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 16, begin a new paragraph, and insert:
 "SECTION 1. IC 9-22-3-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.5. As used in this chapter, "flood damaged vehicle" means a **passenger motor** vehicle that ~~has sustained water damage above the floorboard of the vehicle.~~ **satisfies either of the following:**

(1) The vehicle has been acquired by an insurance company as part of a damage settlement due to water damage.

(2) The vehicle has been submerged in water to the point that rising water has reached over the door sill, has entered the passenger or trunk compartment, and has exposed any electrical, computerized, or mechanical component to water. This subdivision does not include a passenger motor vehicle that:

(A) an inspection conducted by an insurance adjuster or estimator, a motor vehicle repairer, or a motor vehicle dealer determines:

(i) has no electrical, computerized, or mechanical components that were damaged by water; or

(ii) has one (1) or more electrical, computerized, or mechanical components that were damaged by water and all such damaged components have been repaired or replaced; and

(B) has no unrepaired damage to carpeting or unrepaired visible rust on metal components that may have been exposed to water that has risen above the door sill and entered into the passenger or trunk compartment."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 323 as introduced.)

MILLS, Chairperson

Committee Vote: Yeas 10, Nays 0.

ES 323—LS 7221/DI 96+



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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure reports that, pursuant to Senate Rule 33(c), the following technical corrections are to be made to Senate Bill 323.

Page 2, delete lines 10 through 25.

Re-number all SECTIONS consecutively.

(Reference is to SB 323 as printed January 29, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 323, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

COOK, Chair

Committee Vote: yeas 10, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 323 be amended to read as follows:

Page 1, line 2, after "2.5." insert "(a)".

Page 1, line 12, delete "This subdivision", begin a new paragraph and insert "(b) **The term**".

Page 1, line 14, delete "(A)" begin a new line block indented and insert "(1)".

Page 2, line 1, delete "(i)" begin a new line double block indented and insert "(A)".

Page 2, line 3, delete "(ii)" begin a new line double block indented and insert "(B)".

Page 2, line 7, delete "(B)" begin a new line block indented and insert "(2)".

Page 2, line 10, delete "." and insert "**and that becomes visible within six (6) months after the first date of the damage by water.**".

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 9-22-3-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 7.5. (a) A dealer licensed as a dealer under IC 9-23 on the date of receiving a title by sale or transfer shall secure an affidavit from the person who holds the certificate of title. The affidavit must state whether the vehicle is a flood damaged vehicle.**

(b) The dealer shall file the affidavit with the bureau upon receiving the title and shall retain a copy of the affidavit with the records of the dealer.

(c) The bureau shall retain an affidavit regarding flood damage to the vehicle submitted to the bureau by a dealer under this section.

Re-number all SECTIONS consecutively.

(Reference is to ESB 323 printed April 6, 1999.)

COOK

 HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 323 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-14-1-3 IS AMENDED TO READ AS

ES 323—LS 7221/DI 96+



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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. **(a) The money collected for the motor vehicle highway account fund may not be used to augment the budget of the bureau of motor vehicles commission.**

(b) The money collected for the motor vehicle highway account fund and remaining after refunds and the payment of all expenses incurred in the collection thereof, and after the deduction of the amount appropriated to the department for traffic safety and after the deduction of one-half (1/2) of the amount appropriated for the state police department, shall be allocated to and distributed among the department and subdivisions designated as follows:

(1) Of the net amount in the motor vehicle highway account the auditor of state shall set aside for the cities and towns of the state fifteen percent (15%) thereof. This sum shall be allocated to the cities and towns upon the basis that the population of each city and town bears to the total population of all the cities and towns and shall be used for the construction or reconstruction and maintenance of streets and alleys and shall be annually budgeted as now provided by law. However, no part of such sum shall be used for any other purpose than for the purposes defined in this chapter. If any funds allocated to any city or town shall be used by any officer or officers of such city or town for any purpose or purposes other than for the purposes as defined in this chapter, such officer or officers shall be liable upon their official bonds to such city or town in such amount so used for other purposes than for the purposes as defined in this chapter, together with the costs of said action and reasonable attorney fees, recoverable in an action or suit instituted in the name of the state of Indiana on the relation of any taxpayer or taxpayers resident of such city or town. A monthly distribution thereof of funds accumulated during the preceding month shall be made by the auditor of state.

(2) Of the net amount in the motor vehicle highway account, the auditor of state shall set aside for the counties of the state thirty-two percent (32%) thereof. However, as to the allocation to cities and towns under subdivision (1), and as to the allocation to counties under this subdivision in the event that the amount in the motor vehicle highway account fund remaining after refunds and the payment of all expenses incurred in the collection thereof and after deduction of any amount appropriated by the general assembly for public safety and policing shall be less than twenty-two million six hundred and fifty thousand dollars (\$22,650,000), in any fiscal year then the amount so set aside in

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the next calendar year for distributions to counties shall be reduced fifty-four percent (54%) of such deficit and the amount so set aside for distribution in the next calendar year to cities and towns shall be reduced thirteen percent (13%) of such deficit. Such reduced distributions shall begin with the distribution January 1 of each year.

(3) The amount set aside for the counties of the state under the provisions of subdivision (2) shall be allocated monthly upon the following basis:

(A) Five percent (5%) of the amount allocated to the counties to be divided equally among the ninety-two (92) counties.

(B) Sixty-five percent (65%) of the amount allocated to the counties to be divided on the basis of the ratio of the actual miles, now traveled and in use, of county roads in each county to the total mileage of county roads in the state, which shall be annually determined, accurately, by the department.

(C) Thirty percent (30%) of the amount allocated to the counties to be divided on the basis of the ratio of the motor vehicle registrations of each county to the total motor vehicle registration of the state.

All money so distributed to the several counties of the state shall constitute a special road fund for each of the respective counties and shall be under the exclusive supervision and direction of the board of county commissioners in the construction, reconstruction, maintenance, or repair of the county highways or bridges on such county highways within such county.

(4) Each month the remainder of the net amount in the motor vehicle highway account shall be credited to the state highway fund for the use of the department.

(5) Money in the fund may not be used for any toll road or toll bridge project.

(6) Notwithstanding any other provisions of this section, money in the motor vehicle highway account fund may be appropriated to the Indiana department of transportation from the forty-seven percent (47%) distributed to the political subdivisions of the state to pay the costs incurred by the department in providing services to those subdivisions.

(7) Notwithstanding any other provisions of this section or of IC 8-14-8, for the purpose of maintaining a sufficient working balance in accounts established primarily to facilitate the matching of federal and local money for highway projects, money may be appropriated to the Indiana department of transportation

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as follows:

(A) One-half (1/2) from the forty-seven percent (47%) set aside under subdivisions (1) and (2) for counties and for those cities and towns with a population greater than five thousand (5,000).

(B) One-half (1/2) from the distressed road fund under IC 8-14-8.

SECTION 2. IC 9-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. **(a) Subject to the restrictions set forth in subsection (b),** the commission shall do the following:

- (1) Develop and continuously update the bureau's policies.
- (2) Recommend to the governor legislation that is needed to implement the policies developed by the commission.
- (3) Recommend to the bureau proposed rules that are needed to implement the policies developed by the commission and require those proposed rules to be adopted under IC 4-22-2.
- (4) Review, revise, adopt, and submit to the budget agency budget proposals for the commission, the bureau, and the license branches operated under IC 9-16, including the budget required by IC 9-16-3-3.
- (5) Establish the determination criteria and determine the number and location of license branches to be operated under IC 9-16. However, there must be at least one (1) full service license branch in each county.
- (6) Establish and adopt minimum standards for the operation and maintenance of each full service license branch operated under IC 9-16.
- (7) Before January 1, 1997, establish and adopt minimum standards for the operation and maintenance of each partial service contractor under IC 9-16. The standards must result in more convenience to the public by providing license branch services at as many walk-up locations as possible without increasing the costs of providing these services.
- (8) Before March 1, 1997, establish and adopt minimum standards for providing license branch services using telephonic, facsimile, electronic, or computer means under IC 9-16.
- (9) Administer the state license branch fund established under IC 9-29-14.

(b) The commission may not do the following:

- (1) Close a full service license branch operating under IC 9-16.
- (2) Reduce the number of hours that each full service license

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branch operating under IC 9-16 is open to the public."

Renumber all SECTIONS consecutively.

(Reference is to ESB 323 as printed April 6, 1999.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 323 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-14-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The bureau shall do the following:

- (1) File and index by name each application for a license, **title, registration,** or permit issued by the bureau under this title.
- (2) Maintain suitable records of all licenses, **titles, registrations,** and permits issued by the commissioner under this title.

SECTION 2. IC 9-17-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1.5. (a) An automobile auctioneer, transfer dealer, or dealer having a current license under IC 9-23-2 may apply for and obtain a certificate of title for itself or on behalf of all vehicles owned or transferred by the automobile auctioneer, transfer dealer, dealer, or other person, regardless of the applicant's place of business or the physical location of the vehicle, by submitting to the bureau:**

- (1) an application for title;
- (2) an affidavit of ownership showing that the automobile auctioneer, transfer dealer, dealer, or other person is entitled to the certificate of title;
- (3) an affidavit from the automobile auctioneer, transfer dealer, dealer, or other person confirming compliance with the statutes governing repossession in the state where the vehicle is located; and
- (4) any additional material required by statute or rules.

SECTION 3. IC 9-17-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. If an application for a certificate of title is for a vehicle **brought into Indiana** from **or located in** another state, the application must be accompanied by:

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- (1) the certificate of title issued for the vehicle by the other state; ~~if the other state has a certificate of title law; or~~
- (2) a sworn bill of sale or dealer's invoice fully describing the vehicle and the most recent registration receipt issued for the vehicle; ~~if the other state does not have a certificate of title law.~~
- or**
- (3) A copy of a retail installment agreement or other security instrument certified by the applicant demonstrating that the applicant has a lien on or other interest in the vehicle.**

If the vehicle is being titled by or through a dealer, transfer dealer, or automobile auctioneer (as defined in IC 9-17-2-12), no police inspection or any other additional information is required to be provided with the application. However, a title may not be issued for the vehicle unless the bureau has conducted a National Crime Information Center (NCIC) stolen motor vehicle check and has communicated adverse results, if any, to the state police department.

SECTION 4. IC 9-17-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. **(a) Except as provided in subsection (b),** a person applying for a certificate of title must:

- (1) apply for registration of the vehicle described in the application for the certificate of title; or
- (2) transfer the current registration of the vehicle owned or previously owned by the person.

(b) If a vehicle is being titled by or through a dealer, transfer dealer, or automobile auctioneer for purposes of resale or transfer, a registration is not required to receive the title.

SECTION 5. IC 9-17-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) As used in this section, "dealer", "**transfer dealer**", and "**automobile auctioneer**" ~~refers refer~~ to a ~~dealer entities that has: have:~~

- (1) been in **the business of selling, transferring, or assisting in the transfer of motor vehicles** for not less than five (5) years; ~~and~~
 - (2) **sold, transferred, or assisted in the transfer of** not less than one hundred fifty (150) motor vehicles during the preceding year; ~~and~~
 - (3) have a current license under IC 9-23-2.**
- (b) This section does not apply to the following:
- (1) A new **or used** motor vehicle or recreational vehicle sold:
 - (A) by **or through** a dealer; ~~licensed by the state.~~
 - (B) **by or through a transfer dealer; or**



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(C) by or through a licensed automobile auctioneer.

(2) A motor vehicle or recreational vehicle transferred or assigned on a certificate of title issued by the bureau.

(3) A motor vehicle that is registered under the International Registration Plan.

(c) An application for a certificate of title for a motor vehicle or recreational vehicle may not be accepted by the bureau unless the motor vehicle or recreational vehicle has been inspected by one (1) of the following:

(1) An employee of a dealer designated by the bureau to perform an inspection.

(2) A military policeman assigned to a military post in Indiana.

(3) A police officer.

(4) A designated employee of the bureau.

(d) A person described in subsection (c) inspecting a motor vehicle, semitrailer, or recreational vehicle shall do the following:

(1) Make a record of inspection upon the application form prepared by the bureau.

(2) Verify the facts set out in the application.

SECTION 6. IC 9-17-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 17. An automobile auctioneer, transfer dealer, or dealer who fraudulently obtains a title for a vehicle under section 1.5 of this chapter is subject to a civil penalty of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500) for each act of violation, as determined by the court. All civil penalties recovered under this chapter shall be paid to the state.**

SECTION 7. IC 9-17-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **If an automobile dealer, transfer dealer, or dealer violates or aids, induces, or causes a violation of section 1.5 of this chapter, the automobile dealer's, transfer dealer's, or dealer's license may be suspended or revoked in the manner provided for the suspension or revocation of licenses under IC 9-23-2-14.**

SECTION 8. IC 9-17-2-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 19. If a person violates this chapter or a rule or an order of the bureau issued under this chapter, the bureau may institute a civil action in any circuit or superior court of Indiana for injunctive relief to restrain the person from continuing the activity or for the assessment and recovery of the civil penalty under section 17 of this chapter, or both.**



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SECTION 9. IC 9-17-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 1999]: **Sec. 20. At the request of the bureau, the attorney general shall institute and conduct an action in the name of the state for:**

- (1) injunctive relief or to recover the civil penalty under section 17 of this chapter;**
- (2) injunctive relief under section 19 of this chapter; or**
- (3) the remedies described in both subdivisions (1) and (2).**

SECTION 10. IC 9-17-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2. (a) A person who holds a lien on a motor vehicle, semitrailer, or recreational vehicle who has repossessed the motor vehicle, semitrailer, or recreational vehicle and wants to obtain a certificate of title for the motor vehicle, semitrailer, or recreational vehicle in the person's name **without regard to the repossessing person's state of residence or business** may obtain the certificate of title from the bureau if:**

- (1) the person from whom the motor vehicle, semitrailer, or recreational vehicle has been repossessed is shown ~~by the records of the bureau~~ to be the last registered owner of the motor vehicle, semitrailer, or recreational vehicle **by the repossessing person's title application and any materials submitted with the title application;** and**
- (2) the person who holds the lien ~~establishes to the satisfaction of~~ **submits an application of ownership establishing to the satisfaction of** the bureau that the person is entitled to the certificate of title.**

(b) Notwithstanding IC 9-17-2-9, when a repossessing person applies for a certificate of title for a motor vehicle, semitrailer, or recreational vehicle, the repossessing person is not required to apply for a registration if the repossessing person holds the motor vehicle, semitrailer, or recreational vehicle for resale.

(c) Neither the repossessing person nor the person from whom the motor vehicle, semitrailer, or recreational vehicle has been repossessed is required to have an Indiana address for the bureau upon application to issue a certificate of title for the motor vehicle, semitrailer, or recreational vehicle.

(d) A repossession title shall not be issued for a vehicle unless the bureau has conducted a National Crime Information Center (NCIC) stolen motor vehicle check and has communicated adverse results, if any, to the state police department."



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Renumber all SECTIONS consecutively.

(Reference is to ESB 323 as printed April 6, 1999.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 323 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 4, line 37, delete "(a)".

Page 6, line 7, delete "ofnot" and insert "**of** not".

Page 7, line 2, after ":" insert "**Sec. 18.**".

Page 9, line 3, after "damaged vehicle" insert ".".

(Reference is to ESB 323 as reprinted April 9, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 323, begs leave to report that said bill has been amended as directed.

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