
HOUSE BILL No. 1195

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-17-3; IC 9-23-2-2; IC 9-23-2-14; IC 9-23-2.1.

Synopsis: Various motor vehicle matters. Requires a person who holds the certificate of title to a motor vehicle to endorse on the certificate of title the name of the person to whom the title is being transferred. Prohibits a person who is not a licensed dealer under IC 9-23-2 from holding a title that has not been issued in the individual's name and does not contain a statement describing all liens or encumbrances and the name of the person to whom the title is being transferred. Provides civil penalties for violating the prohibition. Requires an individual applying for a broker or a dealer's license to complete approved education programs and to pass an examination, or to employ an individual who has, before the license can be issued. Requires an applicant for a renewal broker or dealer's license to complete, or to employ an individual who has completed, approved continuing education programs. Establishes subjects for the approved education programs and examination.

Effective: Upon passage; July 1, 2000.

Kuzman

January 10, 2000, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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Second Regular Session 111th General Assembly (2000)

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 a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

HOUSE BILL No. 1195



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 9-17-3-3 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) If a vehicle for which a
- 3 certificate of title has been issued is sold or has the ownership
- 4 transferred, the person who holds the certificate of title must do the
- 5 following:
- 6 (1) Endorse on the certificate of title an assignment of the
- 7 certificate of title with warranty of title, in a form printed on the
- 8 certificate of title, with:
- 9 (A) a statement describing all liens or encumbrances on the
- 10 vehicle; **and**
- 11 (B) **the name of the person to whom title is being**
- 12 **transferred.**
- 13 (2) Except as provided in subdivisions (3) and (4), deliver the
- 14 certificate of title to the purchaser or transferee at the time of the
- 15 sale or delivery to the purchaser or transferee of the vehicle, if the
- 16 purchaser or transferee has made all agreed upon initial payments
- 17 for the vehicle, including delivery of a trade-in vehicle without

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1 hidden or undisclosed statutory liens.

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

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

8 (A) The seller or transferor is a vehicle dealer licensed by the
9 state under IC 9-23.

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

12 (C) The vehicle dealer reasonably believes that it will be able
13 to deliver the title, without a lien or an encumbrance on the
14 title, within the twenty-one (21) day period.

15 (D) The vehicle dealer provides the purchaser or transferee
16 with an affidavit under section 3.1 of this chapter.

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

20 (b) A licensed dealer may offer for sale a vehicle for which the
21 dealer does not possess a certificate of title, if the dealer can comply
22 with subsection (a)(3) or (a)(4) at the time of the sale.

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

26 (1) One hundred dollars (\$100) for the first violation.

27 (2) Two hundred fifty dollars (\$250) for the second violation.

28 (3) Five hundred dollars (\$500) for all subsequent violations.

29 Payment shall be made to the bureau and deposited in the state general
30 fund. In addition, if a purchaser or transferee does not receive a valid
31 certificate of title within the time specified by this section, the
32 purchaser or transferee shall have the right to return the vehicle to the
33 vehicle dealer ten (10) days after giving the vehicle dealer written
34 notice demanding delivery of a valid title certificate and the dealer's
35 failure to deliver a valid title certificate within that ten (10) day period.
36 Upon return of the vehicle to the dealer in the same or similar condition
37 as delivered to the purchaser or transferee under this section, the
38 vehicle dealer shall pay to the purchaser or transferee the purchase
39 price plus sales taxes, finance expenses, insurance expenses, and any
40 other amount paid to the dealer by the purchaser. If the dealer's
41 inability to timely deliver a valid certificate of title results from the acts
42 or omissions of a third party who has failed to timely deliver a valid

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

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

10 (e) The original certificate of title and all assignments and
 11 subsequent reissues of the certificate of title shall be retained by the
 12 bureau and appropriately classified and indexed in the most convenient
 13 manner to trace title to the vehicle described in the certificate of title.

14 **(f) This subsection does not apply to an individual who is a
 15 licensed dealer under IC 9-23-2 or acting in the capacity of an
 16 agent for a licensed dealer. An individual may not possess a
 17 certificate of title that:**

18 **(1) has not been issued by the bureau in the individual's own
 19 name; and**

20 **(2) does not contain a statement describing:**

21 **(A) all liens or encumbrances on the vehicle; and**

22 **(B) the name of the person to whom title is being
 23 transferred.**

24 SECTION 2. IC 9-17-3-7 IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) This section does not apply
 26 to section 5 of this chapter.

27 (b) Except as provided in ~~subsection~~ **subsections (c) through (e)**,
 28 a person who violates this chapter commits a Class C infraction.

29 (c) **Except as provided in subsections (d) and (e)**, a person who
 30 violates section 3 of this chapter commits a Class B misdemeanor.

31 **(d) A person who violates section 3(a)(1) of this chapter commits
 32 a Class C infraction.**

33 **(e) A person who violates section 3(f) of this chapter commits a
 34 Class A infraction.**

35 SECTION 3. IC 9-23-2-2 IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) An application for a license
 37 under this chapter must:

38 (1) be accompanied by the fee required under IC 9-29-8;

39 (2) be on a form prescribed by the bureau; and

40 (3) contain the information the bureau considers necessary to
 41 enable the bureau to determine fully the following information:

42 (A) The qualifications and eligibility of the applicant to

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1 receive the license, **including the:**

2 **(i) completion of education programs; and**

3 **(ii) passing of any necessary examination;**

4 **by the applicant personally or by an individual in the**
 5 **employ of the applicant broker or applicant dealer as set**
 6 **forth in IC 9-23-2.1.**

7 (B) The location of each of the applicant's places of business
 8 in Indiana.

9 (C) The ability of the applicant to conduct properly the
 10 business for which the application is submitted.

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

13 (c) This subsection applies to an application for a license as a dealer
 14 in a city having a population of more than one hundred ten thousand
 15 (110,000) but less than one hundred twenty thousand (120,000). The
 16 application must include an affidavit from:

17 (1) the person charged with enforcing a zoning ordinance
 18 described in this subsection; or

19 (2) the zoning enforcement officer under IC 36-7-4, if one exists;
 20 who has jurisdiction over the real property where the applicant wants
 21 to operate as a dealer. The affidavit must state that the proposed
 22 location is zoned for the operation of a dealer's establishment. The
 23 applicant may file the affidavit at any time after the filing of the
 24 application. However, the bureau may not issue a license until the
 25 applicant files the affidavit.

26 **(d) An application for a license as a broker or a dealer must be**
 27 **accompanied by:**

28 **(1) if:**

29 **(A) an initial application, an educational certification from**
 30 **the bureau of completion of the education requirements**
 31 **specified in IC 9-23-2.1-2 and a certification from the**
 32 **bureau of successful completion of the examination**
 33 **referred to in IC 9-23-2.1-5; or**

34 **(B) a renewal application, an educational certification**
 35 **from the bureau of completion of the education**
 36 **requirements specified in IC 9-23-2.1-3; and**

37 **(2) an affidavit from the individual completing the application**
 38 **that the individual certified in subdivision (1) is the sole**
 39 **proprietor of the broker's or dealer's business or is in the**
 40 **employ of the broker's or dealer's business on the date of the**
 41 **application.**

42 SECTION 4. IC 9-23-2-14 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14. (a) A license issued
 2 under this chapter may be denied, suspended, or revoked for any of the
 3 following:

4 (1) Material misrepresentation in the application for the license
 5 or other information filed with the commissioner.

6 (2) Lack of fitness under the standards set forth in this article or
 7 a rule adopted by the commissioner under this article.

8 (3) Willful failure to comply with the provisions of this article or
 9 a rule adopted by the commissioner under this article.

10 (4) Willful violation of a federal or state law relating to the sale,
 11 distribution, financing, or insuring of motor vehicles.

12 (5) Engaging in an unfair practice as set forth in this article or a
 13 rule adopted by the commissioner under this article.

14 (6) Violating IC 23-2-2.7.

15 **(7) If the applicant is a broker or dealer subject to the**
 16 **requirements of IC 9-23-2.1, failure to provide verification of**
 17 **satisfying the education and examination requirements of**
 18 **IC 9-23-2.1.**

19 **(8) If the applicant is a broker or dealer subject to the**
 20 **requirements of IC 9-23-2.1, failure to personally hold, or to**
 21 **employ an individual who holds, an educational certification**
 22 **under IC 9-23-2.1, subject to the requirements of**
 23 **IC 9-23-2.1-7.**

24 (b) Except as provided in subsection (d), the procedures set forth in
 25 IC 4-21.5 govern the denial, suspension, or revocation of a license and
 26 a judicial review. However, if the bureau denies, suspends, or revokes
 27 a license issued or sought under this article, the affected person may
 28 file an action in the circuit court of Marion County, Indiana, or the
 29 circuit court of the Indiana county in which the person's principal place
 30 of business is located, seeking a judicial determination as to whether
 31 the action is proper. An action may not take effect until thirty (30) days
 32 after the commissioner's determination has been made and a notice of
 33 the determination served upon the affected person. The filing of an
 34 action as described in this section within the thirty (30) day period is
 35 an automatic stay of the commissioner's determination.

36 (c) Revocation or suspension of a license of a manufacturer, a
 37 distributor, a factory branch, a distributor branch, a dealer, or an
 38 automobile auctioneer may be limited to one (1) or more locations, to
 39 one (1) or more defined areas, or only to certain aspects of the business.

40 (d) A license may be denied, suspended, or revoked for violating
 41 IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of
 42 a license under this subsection. The bureau may issue a temporary



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1 order to enforce this subsection.

2 SECTION 5. IC 9-23-2.1 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2000]:

5 **Chapter 2.1. Education and Examination Requirements for**
6 **Licensure of Brokers and Dealers**

7 **Sec. 1. (a) This chapter applies to the following persons who**
8 **apply for an initial license or a renewal license under IC 9-23-2-2**
9 **after January 1, 2002:**

10 (1) A broker (as defined in IC 9-13-2-15).

11 (2) A dealer (as defined in IC 9-13-2-42).

12 (b) This chapter does not apply to the following persons:

13 (1) A franchisee of nationally advertised motor vehicles.

14 (2) A franchisee of new recreational vehicles.

15 (3) A nationally franchised or corporate owned motor vehicle
16 company that sells its used vehicles on a regular basis to the
17 public.

18 **Sec. 2. A person who applies for an initial license under**
19 **IC 9-23-2-2 must:**

20 (1) personally have:

21 (A) completed at least eight (8) hours of approved
22 education programs under this chapter; and

23 (B) passed the examination referred to in section 5 of this
24 chapter; or

25 (2) employ at least one (1) individual who has:

26 (A) completed at least eight (8) hours of approved
27 education programs under this chapter; and

28 (B) passed the examination referred to in section 5 of this
29 chapter;

30 before an initial license may be issued.

31 **Sec. 3. A person who applies for a renewal license under**
32 **IC 9-23-2-2 must:**

33 (1) personally have completed, in the last twelve (12) months
34 preceding the renewal license application, at least five (5)
35 hours of approved education programs under this chapter; or

36 (2) employ at least one (1) individual who has completed, in
37 the twelve (12) months immediately preceding the renewal
38 license application, at least five (5) hours of approved
39 education programs under this chapter;

40 before a renewal license may be issued.

41 **Sec. 4. The education and examination required by this chapter**
42 **may include state and federal law in the following areas:**

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- 1 (1) Motor vehicle advertising.
 2 (2) Odometer laws and regulations.
 3 (3) Vehicle licensing and registration.
 4 (4) Unlawful dealer activities.
 5 (5) Environmental rules and regulations.
 6 (6) Indiana standard motor vehicle forms.
 7 (7) Industry standard motor vehicle forms.
 8 (8) Truth in lending practices.
 9 (9) Motor vehicle financing.
 10 (10) Service and warranty contracts.
 11 (11) Land use regulations governing motor vehicle dealers.
- 12 **Sec. 5.** An accredited educational institution, a private
 13 vocational school, or a trade association may establish, administer,
 14 or operate an education program and conduct the examination
 15 required by this chapter, if the education program and
 16 examination have been approved by the bureau.
- 17 **Sec. 6. (a)** The bureau shall adopt rules under IC 4-22-2 to
 18 implement this chapter, including the issuance of an educational
 19 certification upon completion of educational requirements or
 20 examination requirements under this chapter.
- 21 **(b)** A broker or dealer shall display an educational certification
 22 issued under subsection (a) in a conspicuous place within the
 23 business office of the broker or dealer. An educational certification
 24 must be clearly visible to a customer present in the business office
 25 of the broker or dealer.
- 26 **Sec. 7. (a)** If the individual whose educational certification is on
 27 display in the business office of a broker or dealer leaves the
 28 employ of the broker or dealer, the broker or dealer must notify
 29 the bureau within three (3) days after departure of the individual.
- 30 **(b)** If, after the departure of an employee described in
 31 subsection (a), a broker or dealer does not employ another
 32 individual holding an educational certification issued under section
 33 6 of this chapter, the dealer or broker shall, within ninety (90) days
 34 after the date the broker or dealer notifies the bureau of the
 35 departure, fulfill the licensing requirements of this chapter.
- 36 **SECTION 6.** [EFFECTIVE UPON PASSAGE] (a)
 37 Notwithstanding IC 9-23-2.1, as added by this act, the bureau shall
 38 carry out the duties imposed upon it under IC 9-23-2.1, as added
 39 by this act, under interim guidelines approved by the
 40 commissioner.
- 41 **(b)** This SECTION expires on the earlier of the following:
 42 (1) The date rules are adopted under IC 9-23-2.1, as added by

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1 **this act.**
2 **(2) December 31, 2001.**
3 **SECTION 7. An emergency is declared for this act.**

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