



January 25, 2008

SENATE BILL No. 307

DIGEST OF SB 307 (Updated January 23, 2008 3:58 pm - DI 106)

Citations Affected: IC 4-1; IC 4-5; IC 9-17; IC 9-18; IC 9-22; IC 9-23; IC 9-29; IC 9-31; IC 15-7; IC 23-1; IC 23-15; IC 23-16; IC 23-17; IC 23-18; noncode.

Synopsis: Various business matters. Permits the disclosure of Social Security numbers for purposes of administration of the Uniform Commercial Code by the secretary of state. Codifies a memorandum of understanding between the secretary of state and the bureau of motor vehicles (BMV) to transfer responsibilities under: (1) IC 9-18-26 (dealer license plates); (2) IC 9-22-4 (licensing of vehicle salvaging); and (3) IC 9-31-4 (boat dealer licenses); from the BMV to the secretary of state. Amends the review procedures for a person denied a license to engage in: (1) vehicle salvaging; (2) the business of buying or selling motor vehicles; or (3) the business of selling boats. Establishes the dealer compliance account for the purpose of enforcing odometer laws. Provides that the secretary of state (rather than the BMV) retains fees for: (1) boat dealers licenses; and (2) changes of business names or locations for boat dealers. Provides that a boat dealer license is valid for one year. (Current law provides that the license is valid for two years.) Requires all business entities, including sole proprietorships, to file certificates of assumed business names with the secretary of state. (Current law requires the certificates be filed with both the county recorder and the secretary of state.) Eliminates the filing fee for designation or change of resident agent. Reduces fees for electronic filings with the secretary of state. Makes conforming amendments.

Effective: July 1, 2008.

Bray

January 10, 2008, read first time and referred to Committee on Judiciary.
January 24, 2008, reported favorably — Do Pass.

SB 307—LS 6872/DI 103+



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January 25, 2008

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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SENATE BILL No. 307

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 4-1-10-5, AS AMENDED BY P.L.29-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 5. (a) A state agency may disclose the Social
4 Security number of an individual if any of the following apply:
5 (1) The disclosure of the Social Security number is expressly
6 required by state law, federal law, or a court order.
7 (2) The individual expressly consents in writing to the disclosure
8 of the individual's Social Security number.
9 (3) The disclosure of the Social Security number is:
10 (A) made to comply with:
11 (i) the USA Patriot Act of 2001 (P.L. 107-56); or
12 (ii) Presidential Executive Order 13224; or
13 (B) to a commercial entity for the permissible uses set forth in
14 the:
15 (i) Drivers Privacy Protection Act (18 U.S.C. 2721 et seq.);
16 (ii) Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or
17 (iii) Financial Modernization Act of 1999 (15 U.S.C. 6801

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1 et seq.).

2 (4) The disclosure of the Social Security number is for the

3 purpose of administration of a state agency employee's or the state

4 agency employee's dependent's health benefits.

5 (5) The disclosure of the Social Security number is for the

6 purpose of administration of:

7 (A) a pension fund administered by the board of trustees of the

8 public employees' retirement fund;

9 (B) the Indiana state teachers' retirement fund;

10 (C) a deferred compensation plan or defined contribution plan

11 established under IC 5-10-1.1; ~~or~~

12 (D) a pension plan established by the state police department

13 under IC 10-12; ~~or~~

14 **(E) the Uniform Commercial Code (IC 26-1) by the office**

15 **of the secretary of state.**

16 (b) A state agency's disclosure of the Social Security number of an

17 individual in compliance with subsection (a) does not violate

18 IC 5-14-3-4(a)(12).

19 SECTION 2. IC 4-5-1-11, AS ADDED BY P.L.184-2007,

20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

21 JULY 1, 2008]: Sec. 11. The secretary of state may adopt and enforce

22 rules under IC 4-22-2 that are necessary to carry out:

23 **(1) IC 9-18-26;**

24 **(2) IC 9-22-4;**

25 ~~(3)~~ **(3) IC 9-23-1;**

26 ~~(4)~~ **(4) IC 9-23-2;**

27 ~~(5)~~ **(5) IC 9-23-3; and**

28 ~~(6)~~ **(6) IC 9-23-6.**

29 SECTION 3. IC 9-17-2-12 IS AMENDED TO READ AS

30 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this

31 section, "dealer" refers to a dealer that has:

32 (1) been in business for not less than five (5) years; and

33 (2) sold not less than one hundred fifty (150) motor vehicles

34 during the preceding **calendar** year.

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

36 (1) A new motor vehicle or recreational vehicle sold by a dealer

37 licensed by the state.

38 (2) A motor vehicle or recreational vehicle transferred or assigned

39 on a certificate of title issued by the bureau.

40 (3) A motor vehicle that is registered under the International

41 Registration Plan.

42 (c) An application for a certificate of title for a motor vehicle or

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1 recreational vehicle may not be accepted by the bureau unless the
2 motor vehicle or recreational vehicle has been inspected by one (1) of
3 the following:

- 4 (1) An employee of a dealer designated by the ~~bureau~~ **secretary**
5 **of state** to perform an inspection.
- 6 (2) A military policeman assigned to a military post in Indiana.
- 7 (3) A police officer.
- 8 (4) A designated employee of the bureau.

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

- 11 (1) Make a record of inspection upon the application form
12 prepared by the bureau.
- 13 (2) Verify the facts set out in the application.

14 SECTION 4. IC 9-17-3-3 IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) If a vehicle for which a
16 certificate of title has been issued is sold or if the ownership of the
17 vehicle is otherwise transferred, the person who holds the certificate of
18 title must do the following:

- 19 (1) Endorse on the certificate of title an assignment of the
20 certificate of title with warranty of title, in a form printed on the
21 certificate of title, with a statement describing all liens or
22 encumbrances on the vehicle.
- 23 (2) Except as provided in subdivisions (3) and (4), deliver the
24 certificate of title to the purchaser or transferee at the time of the
25 sale or delivery to the purchaser or transferee of the vehicle, if the
26 purchaser or transferee has made all agreed upon initial payments
27 for the vehicle, including delivery of a trade-in vehicle without
28 hidden or undisclosed statutory liens.
- 29 (3) In the case of a sale or transfer between vehicle dealers
30 licensed by this state or another state, deliver the certificate of
31 title within twenty-one (21) days after the date of the sale or
32 transfer.
- 33 (4) Deliver the certificate of title to the purchaser or transferee
34 within twenty-one (21) days after the date of sale or transfer to the
35 purchaser or transferee of the vehicle, if all of the following
36 conditions exist:
 - 37 (A) The seller or transferor is a vehicle dealer licensed by the
38 state under IC 9-23.
 - 39 (B) The vehicle dealer is not able to deliver the certificate of
40 title at the time of sale or transfer.
 - 41 (C) The vehicle dealer reasonably believes that it will be able
42 to deliver the certificate of title, without a lien or an

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1 encumbrance on the certificate of title, within the twenty-one
 2 (21) day period.
 3 (D) The vehicle dealer provides the purchaser or transferee
 4 with an affidavit under section 3.1 of this chapter.
 5 (E) The purchaser or transferee has made all agreed upon
 6 initial payments for the vehicle, including delivery of a
 7 trade-in vehicle without hidden or undisclosed statutory liens.
 8 (b) A licensed dealer may offer for sale a vehicle for which the
 9 dealer does not possess a certificate of title, if the dealer can comply
 10 with subsection (a)(3) or (a)(4) at the time of the sale.
 11 (c) A vehicle dealer who fails to deliver a certificate of title within
 12 the time specified under this section is subject to the following civil
 13 penalties:
 14 (1) One hundred dollars (\$100) for the first violation.
 15 (2) Two hundred fifty dollars (\$250) for the second violation.
 16 (3) Five hundred dollars (\$500) for all subsequent violations.
 17 Payment shall be made to the ~~bureau~~ **secretary of state** and deposited
 18 in the state general fund. In addition, if a purchaser or transferee does
 19 not receive a valid certificate of title within the time specified by this
 20 section, the purchaser or transferee shall have the right to return the
 21 vehicle to the vehicle dealer ten (10) days after giving the vehicle
 22 dealer written notice demanding delivery of a valid certificate of title
 23 and the dealer's failure to deliver a valid certificate of title within that
 24 ten (10) day period. Upon return of the vehicle to the dealer in the same
 25 or similar condition as delivered to the purchaser or transferee under
 26 this section, the vehicle dealer shall pay to the purchaser or transferee
 27 the purchase price plus sales taxes, finance expenses, insurance
 28 expenses, and any other amount paid to the dealer by the purchaser.
 29 (d) For purposes of this subsection, "timely deliver", with respect to
 30 a third party, means to deliver to the purchaser or transferee with a
 31 postmark dated or hand delivered not more than ten (10) business days
 32 after there is no obligation secured by the vehicle. If the dealer's
 33 inability to timely deliver a valid certificate of title results from the acts
 34 or omissions of a third party who has failed to timely deliver a valid
 35 certificate of title to the dealer, the dealer is entitled to claim against
 36 the third party one hundred dollars (\$100). If:
 37 (1) the dealer's inability to timely deliver a valid certificate of title
 38 results from the acts or omissions of a third party who has failed
 39 to timely deliver the certificate of title in the third party's
 40 possession to the dealer; and
 41 (2) the failure continues for ten (10) business days after the dealer
 42 gives the third party written notice of the failure;

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

5 (e) 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 (f) 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 (g) A dealer shall make payment to a third party to satisfy any
15 obligation secured by the vehicle within five (5) days after the date of
16 sale.

17 SECTION 5. IC 9-18-26-1 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A person licensed
19 under IC 9-23-2 may apply for a dealer license plate. The application
20 must include any information the ~~bureau~~ **secretary of state** reasonably
21 requires. Upon application, a distinctive registration number shall be
22 assigned to each applicant. Two (2) certificates of registration and two
23 (2) ~~sets of~~ metal license plates bearing the applicant's registration
24 number shall then be issued to the applicant.

25 SECTION 6. IC 9-18-26-2 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The ~~bureau~~
27 **secretary of state** shall issue dealer license plates under this chapter
28 according to the following classifications:

- 29 (1) Dealer-new.
- 30 (2) Dealer-used.
- 31 (3) Manufacturer.

32 (b) The ~~bureau~~ **secretary of state** may adopt rules under IC 4-22-2
33 to establish additional classifications of dealer license plates and may
34 prescribe the general conditions for usage of an additional
35 classification. The ~~bureau~~ **secretary of state** shall establish the
36 classification of antique car museum dealer license plates.

37 SECTION 7. IC 9-18-26-3 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The ~~bureau~~
39 **secretary of state** shall determine the color, dimension, and style of
40 the letters and the information required on a dealer license plate issued
41 under this chapter.

42 SECTION 8. IC 9-18-26-4 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. Upon payment of the
2 fee under IC 9-29-8, an applicant may obtain additional dealer license
3 plates of the same category. The applicant must demonstrate the
4 applicant's need for additional plates by stating the applicant's number
5 of employees, annual sales, and other supporting factors. The ~~bureau~~
6 **secretary of state** shall determine whether the applicant is entitled to
7 additional plates.

8 SECTION 9. IC 9-18-26-7 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. Dealer-new,
10 dealer-used, and manufacturer license plates may be used without
11 restriction by a manufacturer, a dealer, or an employee of a
12 manufacturer or a dealer under rules adopted by the ~~bureau~~ **secretary**
13 **of state** to prohibit use of the plates solely to avoid payment of
14 applicable taxes.

15 SECTION 10. IC 9-18-26-8 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. Dealer-new,
17 dealer-used, and manufacturer license plates may be used without
18 restriction by a designee of a dealer or a designee of a manufacturer
19 under rules adopted by the ~~bureau~~ **secretary of state**. The rules must
20 provide the following:

- 21 (1) The dealer or manufacturer is to be assessed and pay the
- 22 motor vehicle excise tax under IC 6-6-5 attributable to that part of
- 23 the total year that the designee operates the motor vehicle.
- 24 (2) The dealer or manufacturer shall report to the ~~bureau~~
- 25 **secretary of state** the date of assignment to a designee, the
- 26 designee's name and address, and the date of termination of the
- 27 assignment within ten (10) days of the assignment or termination.
- 28 (3) The tax calculated in subdivision (1) shall be paid within
- 29 thirty (30) days of the termination of the assignment to the
- 30 designee or at the time the dealer or manufacturer purchases
- 31 license plates under this chapter.

32 SECTION 11. IC 9-18-26-10 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The ~~bureau~~
34 **secretary of state** may issue an interim license plate to a dealer or
35 manufacturer who is licensed and has been issued a license plate under
36 section 1 of this chapter.

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

41 (c) Whenever a dealer or manufacturer sells a motor vehicle, the
42 dealer or manufacturer may provide the buyer with an interim license

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1 plate. The dealer shall, in the manner provided by the ~~bureau~~,
 2 **secretary of state**, affix on the plate in numerals and letters at least
 3 three (3) inches high the date on which the interim license plate
 4 expires.

5 (d) An interim license plate authorizes a motor vehicle owner to
 6 operate the vehicle for a maximum period of thirty-one (31) days after
 7 the date of delivery of the vehicle to the vehicle's owner or until a
 8 regular license plate is issued, whichever occurs first.

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

12 SECTION 12. IC 9-18-26-12 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. A person who
 14 knowingly violates a rule adopted by the ~~bureau~~ **secretary of state**
 15 regarding the classification and use of a dealer plate commits a Class
 16 A infraction.

17 SECTION 13. IC 9-18-26-14 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. A person who
 19 violates this chapter or a rule or order of the ~~bureau~~ **secretary of state**
 20 issued under this chapter is subject to a civil penalty of not less than
 21 fifty dollars (\$50) and not more than one thousand dollars (\$1,000) for
 22 each day of violation and for each act of violation, as determined by the
 23 court. All civil penalties recovered under this chapter shall be paid to
 24 the state.

25 SECTION 14. IC 9-18-26-15 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. In addition to the
 27 civil penalty imposed under section 14 of this chapter, the ~~bureau~~
 28 **secretary of state** may restrict, suspend, or revoke a dealer permanent
 29 or interim license plate that was issued to the violator.

30 SECTION 15. IC 9-18-26-16 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. Whenever a person
 32 violates this chapter or a rule or order of the ~~bureau~~ **secretary of state**
 33 issued under this chapter, the ~~bureau~~ **secretary of state** may institute
 34 a civil action in any circuit or superior court of Indiana for injunctive
 35 relief to restrain the person from continuing the activity or for the
 36 assessment and recovery of the civil penalty provided in section 14 of
 37 this chapter, or both.

38 SECTION 16. IC 9-18-26-17 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. At the request of
 40 the ~~bureau~~, **secretary of state**, the attorney general shall institute and
 41 conduct an action in the name of the state for:

42 (1) injunctive relief or to recover the civil penalty provided by

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1 section 14 of this chapter;
 2 (2) the injunctive relief provided by section 16 of this chapter; or
 3 (3) both.

4 SECTION 17. IC 9-18-26-18 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. All records directly
 6 related to the use of interim plates by a dealer must be made available
 7 to an investigating employee of the ~~bureau~~ **secretary of state** upon
 8 demand at the dealer's place of business.

9 SECTION 18. IC 9-22-3-19 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) The ~~bureau~~
 11 **secretary of state** shall prescribe recordkeeping forms to be used by:
 12 (1) a disposal facility;
 13 (2) an automotive salvage rebuilder; and
 14 (3) a used parts dealer licensed under IC 9-22-4;
 15 to preserve information about salvage vehicles or major component
 16 parts acquired or sold by the business.

17 (b) The recordkeeping forms required under subsection (a) must
 18 contain the following information:
 19 (1) For each new or used vehicle acquired or disposed of or for
 20 the major component parts of a new or used vehicle, the
 21 following:
 22 (A) A description of the vehicle or major component part,
 23 including numbers or other marks identifying the vehicle or
 24 major component part.
 25 (B) The date the vehicle or major component part was
 26 acquired and disposed of.
 27 (C) The name and address of the person from whom the
 28 vehicle or major component part was acquired.
 29 (D) Verification of the purchaser of the vehicle or major
 30 component part by driver's license, state identification card, or
 31 other reliable means.

32 (2) For motor vehicles acquired or disposed of, in addition to the
 33 information required by subdivision (1), the following:
 34 (A) The vehicle's trade name.
 35 (B) The vehicle's manufacturer.
 36 (C) The vehicle's type.
 37 (D) The model year and vehicle identification number.
 38 (E) A statement of whether any number has been defaced,
 39 destroyed, or changed.

40 (3) For wrecked, dismantled, or rebuilt vehicles, the date the
 41 vehicle was dismantled or rebuilt.

42 (c) Separate records for each vehicle or major component part must

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be maintained.

(d) The recordkeeping requirements of this section do not apply to hulk crushers or to scrap metal processors when purchasing scrap from a person who is licensed under IC 9-22-4 and who is required to keep records under this section.

SECTION 19. IC 9-22-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A disposal facility, a used parts dealer, or an automotive salvage rebuilder must be licensed by the ~~bureau~~ **secretary of state** 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.
- (5) Engage in the business of storing, disposing, salvaging, or recycling of vehicles, vehicle hulks, or the parts of vehicles.

SECTION 20. IC 9-22-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. To apply for a license under this chapter, a disposal facility, a used parts dealer, or an automotive salvage rebuilder must do the following:

- (1) File a completed application, which must be verified by the ~~bureau~~ **secretary of state**.
- (2) Submit with the application the licensing fee under IC 9-29-7 to the ~~bureau~~ **secretary of state**.

SECTION 21. IC 9-22-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The ~~bureau~~ **secretary of state** shall prescribe an application form to be used by persons applying for a license under this chapter. The application must include the following information:

- (1) The applicant's name.
- (2) The applicant's type of business organization and the following as appropriate:
 - (A) If the applicant is a corporation, the name and address of each officer and director of the corporation.
 - (B) If the applicant is a sole proprietorship, the name and address of the sole proprietor.
 - (C) If the applicant is a partnership, the name and address of each partner.
 - (D) If the applicant is an unincorporated association or similar form of business organization, the name and address of each

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1 member, trustee, or manager.
 2 (3) The applicant's principal place of business.
 3 (4) All places other than the applicant's principal place of
 4 business at which the applicant proposes to conduct any of the
 5 activities set out in section 1 of this chapter.
 6 (5) The types of activities set out in section 1 of this chapter that
 7 the applicant proposes to conduct.
 8 SECTION 22. IC 9-22-4-5 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Within a reasonable
 10 time, the ~~bureau~~ **secretary of state** shall do the following:
 11 (1) Review all applications submitted under this chapter.
 12 (2) Approve all applications submitted unless any of the following
 13 apply:
 14 (A) The application does not conform with this chapter.
 15 (B) The applicant has made a material misrepresentation on
 16 the application.
 17 (C) The applicant has been guilty of a fraudulent act in
 18 connection with one (1) of the activities specified in section 1
 19 of this chapter.
 20 SECTION 23. IC 9-22-4-6 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A person denied a
 22 license under section 5 of this chapter is entitled to a hearing under
 23 ~~IC 4-21-5-3~~ **section 10 of this chapter**.
 24 SECTION 24. IC 9-22-4-7 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. If the ~~bureau~~
 26 **secretary of state** approves an application under this chapter, the
 27 ~~bureau~~ **secretary of state** shall grant the applicant the following:
 28 (1) An original license for the applicant's principal place of
 29 business.
 30 (2) A supplemental license for each other place of business listed
 31 on the application.
 32 SECTION 25. IC 9-22-4-8 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The ~~bureau~~
 34 **secretary of state** shall prescribe the form of the licenses granted
 35 under section 7 of this chapter. A license granted under section 7 of
 36 this chapter must include the following information:
 37 (1) The licensee's name.
 38 (2) The licensee's type of business organization and the following
 39 as appropriate:
 40 (A) If a corporation, the name and address of each officer.
 41 (B) If a sole proprietorship, the name and address of the
 42 proprietor.

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- 1 (C) If a partnership, the name and address of each managing
- 2 partner.
- 3 (D) If an unincorporated association or similar form of
- 4 business organization, the name and address of the manager or
- 5 other chief administrative official.
- 6 (3) The licensee's principal place of business.
- 7 (4) The place of business to which each supplemental license
- 8 applies.
- 9 (5) A listing of the types of business activities specified in section
- 10 1 of this chapter that the licensee may conduct.
- 11 (6) The date the license expires.

12 SECTION 26. IC 9-22-4-10 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. **(a) The secretary**
 14 **of state may investigate a violation of this chapter, including a**
 15 **violation of a rule adopted under section 12 of this chapter. In**
 16 **conducting an investigation under this subsection, the secretary of**
 17 **state may do the following:**

- 18 (1) **Administer oaths and affirmations.**
- 19 (2) **Subpoena witnesses and compel attendance.**
- 20 (3) **Take evidence.**
- 21 (4) **Require the production of documents or records that the**
 22 **secretary of state determines are material to the investigation.**
 23 **Upon a motion by the secretary of state, the court may order a**
 24 **person that fails to obey a subpoena issued under subdivision (2) to**
 25 **obey the subpoena.**

26 (b) **A person may not be excused from:**

- 27 (1) **obeying a subpoena issued by;**
- 28 (2) **attending a proceeding and testifying as ordered by; or**
- 29 (3) **otherwise producing evidence as ordered by;**

30 **the secretary of state on grounds that the person's testimony or**
 31 **evidence may tend to incriminate the person or subject the person**
 32 **to a penalty or forfeiture. However, a person that asserts the**
 33 **privilege against self-incrimination may not be prosecuted or**
 34 **subjected to a penalty or forfeiture for any matter concerning the**
 35 **person's testimony or evidence.**

36 (c) **Following an investigation under subsection (a), the**
 37 **secretary of state may, without a hearing, issue orders and notices**
 38 **that the secretary of state determines to be in the public interest.**
 39 **The bureau secretary of state may revoke or suspend issue an order**
 40 **under this subsection suspending or revoking the license of a**
 41 **disposal facility, used parts dealer, or automotive salvage rebuilder**
 42 **after providing a fifteen (15) day written notice and conducting a**

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1 hearing under ~~IC 4-21.5-3~~ only if the ~~bureau~~ **secretary of state**
2 determines that any of the following conditions ~~exists:~~ **exist:**
3 (1) The licensee made a material misrepresentation on the license
4 application.
5 (2) The licensee committed a fraudulent act in connection with
6 one (1) of the activities specified in section 1 of this chapter.
7 (3) The licensee committed a material violation of the
8 recordkeeping requirements of IC 9-22-3-19.
9 (4) The licensee has violated any other provision of this chapter
10 or the rules adopted under this chapter by the bureau.
11 (5) The licensee has committed a violation of a statute concerning
12 theft, arson, mischief, forgery, deception, or fraud, or the motor
13 vehicle titling laws.
14 (6) The licensee has had a license issued under IC 9-23 revoked
15 or suspended.
16 **(d) Upon the entry of an order under subsection (c), the**
17 **secretary of state shall promptly notify all interested parties of the**
18 **following:**
19 **(1) The date of issuance.**
20 **(2) The reasons for issuance.**
21 **(3) That, upon written request, the matter will be set for**
22 **hearing within fifteen (15) business days after receipt of the**
23 **request.**
24 **(e) An order issued under subsection (c) remains in effect until**
25 **the secretary of state:**
26 **(1) modifies or vacates the order; or**
27 **(2) conducts a hearing and issues a final determination.**
28 **(f) If the secretary of state conducts a hearing under this section,**
29 **the secretary of state may depose any witness.**
30 **(g) In addition to all other remedies, the secretary of state may**
31 **seek the following remedies against a person that violates, attempts**
32 **to violate, or assists in a violation of or an attempt to violate this**
33 **chapter:**
34 **(1) An injunction.**
35 **(2) Appointment of a receiver or conservator.**
36 **(3) A civil penalty not to exceed five thousand dollars (\$5,000)**
37 **per violation.**
38 **(4) An action to enforce a civil penalty assessed under**
39 **subdivision (3).**
40 **(h) In a court proceeding initiated under this section in which**
41 **judgment is awarded to the secretary of state, the secretary of state**
42 **is entitled to recover the costs and expenses of investigation, and**

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the court shall include the costs in its final judgment.

SECTION 27. IC 9-22-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. If the ~~bureau~~ **secretary of state** receives a written complaint from a local zoning body that a disposal facility or automotive salvage rebuilder subject to this chapter is operating in violation of a local zoning ordinance, the ~~bureau~~ **secretary of state** shall delay the issuance or renewal of the facility's or rebuilder's license until the local zoning complaints have been satisfied.

SECTION 28. IC 9-22-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. The ~~bureau~~ **secretary of state** may adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 29. IC 9-22-4-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) **An appeal may be taken from a final order of the secretary of state under this chapter as follows:**

- (1) **By an applicant for a license under this chapter, from a final order of the secretary of state concerning the application.**
- (2) **By a licensee, from a final order of the secretary of state affecting the licensee's license under this chapter.**
- (3) **By a person against whom a civil penalty is assessed under section 10(g)(3) of this chapter, from the final order of the secretary of state assessing the civil penalty.**
- (4) **By a person named as a respondent in an investigation or a proceeding under section 10 of this chapter, from a final order of the secretary of state entered under section 10 of this chapter. An appeal under this subdivision may be taken in:**

- (A) **the Marion County circuit court; or**
- (B) **the circuit or superior court of the county in which the appellant resides or maintains a place of business.**

(b) **A person who seeks to appeal a final order of the secretary of state under this section must serve the secretary of state with the following not more than twenty (20) days after the entry of the order:**

- (1) **A written notice of the appeal stating:**
 - (A) **the court in which the appeal will be taken; and**
 - (B) **the grounds on which a reversal of the final order is sought.**
- (2) **A written demand from the appellant for:**
 - (A) **a certified transcript of the record; and**

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(B) all papers on file in the secretary of state's office; concerning the order from which the appeal is being taken.

(3) A bond in the penal sum of five hundred dollars (\$500) payable to the state with sufficient surety to be approved by the secretary of state, conditioned upon:

(A) the faithful prosecution of the appeal to final judgment; and

(B) the payment of all costs that are adjudged against the appellant.

(c) Not later than ten (10) days after the secretary of state is served with the items described in subsection (b), the secretary of state shall make, certify, and deliver to the appellant the transcript described in subsection (b)(2)(A). Not later than five (5) days after the appellant receives the transcript under this subsection, the appellant shall file the transcript and a copy of the notice of appeal with the clerk of the court. The notice of appeal serves as the appellant's complaint. The secretary of state may appear before the court, file any motion or pleading in the matter, and form the issue. The cause shall be entered on the court's calendar to be heard de novo and shall be given precedence over all matters pending in the court.

(d) The court shall receive and consider any pertinent oral or written evidence concerning the order of the secretary of state from which the appeal is taken. If the order of the secretary of state is reversed, the court shall in its mandate specifically direct the secretary of state as to the secretary of state's further action in the matter. The secretary of state is not barred from revoking or altering the order for any proper cause that accrues or is discovered after the order is entered. If the order is affirmed, the appellant may, after thirty (30) days from the date the order is affirmed, file a new application for a license under this chapter if the application is not otherwise barred or limited. During the pendency of the appeal, the order from which the appeal is taken is not suspended but remains in effect unless otherwise ordered by the court. An appeal may be taken from the judgment of the court on the same terms and conditions as an appeal is taken in civil actions.

(e) IC 4-21.5 does not apply to a proceeding under this chapter.

SECTION 30. IC 9-23-2-14, AS AMENDED BY P.L.184-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The secretary of state may investigate a violation of this chapter. In conducting an investigation under

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1 this subsection, the secretary of state may do the following:

2 (1) Administer oaths and affirmations.

3 (2) Subpoena witnesses and compel attendance.

4 (3) Take evidence.

5 (4) Require the production of documents or records that the

6 secretary of state determines are material to the investigation.

7 Upon a motion by the secretary of state, the court may order a

8 person that fails to obey a subpoena issued under subdivision (2) to

9 obey the subpoena.

10 (b) A person may not be excused from:

11 (1) obeying a subpoena issued by;

12 (2) attending a proceeding and testifying as ordered by; or

13 (3) otherwise producing evidence as ordered by:

14 the secretary of state on grounds that the person's testimony or

15 evidence may tend to incriminate the person or subject the person

16 to a penalty or forfeiture. However, a person that asserts the

17 privilege against self-incrimination may not be prosecuted or

18 subject to a penalty or forfeiture for any matter concerning the

19 person's testimony or evidence.

20 (c) Following an investigation under subsection (a), the

21 secretary of state may, without hearing, issue orders and notices

22 that the secretary of state determines to be in the public interest.

23 The secretary of state may issue an order under this subsection

24 denying, suspending, or revoking a license issued under this chapter

25 may be denied, suspended, or revoked for any of the following:

26 (1) Material misrepresentation in the application for the license

27 or other information filed with the secretary of state.

28 (2) Lack of fitness under the standards set forth in this article or

29 a rule adopted by the secretary of state under this article.

30 (3) Willful failure to comply with the provisions of this article or

31 a rule adopted by the secretary of state under this article.

32 (4) Willful violation of a federal or state law relating to the sale,

33 distribution, financing, or insuring of motor vehicles.

34 (5) Engaging in an unfair practice as set forth in this article or a

35 rule adopted by the secretary of state under this article.

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

37 (7) Violating IC 9-19-1.

38 Except as otherwise provided, in subsection (d), the procedures set

39 forth in IC 4-21-5 govern the denial, suspension, or revocation of a

40 license and a judicial review: a denial, suspension, or revocation of a

41 license takes effect after the secretary of state makes a determination

42 and notice of the determination has been served upon the affected

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person.

(b) If the secretary of state denies, suspends, or revokes a license issued or sought under this article, the affected person may file an action in the circuit court of Marion County, Indiana, or the circuit court of the Indiana county in which the person's principal place of business is located, seeking a judicial determination as to whether the action is proper. The filing of an action as described in this section within the thirty (30) day period is an automatic stay of the secretary of state's determination.

(d) Upon the entry of an order under subsection (c), the secretary of state shall promptly notify all interested parties of the following:

- (1) The date of issuance.
- (2) The reasons for issuance.
- (3) That, upon written request from a party, the matter will be set for hearing within fifteen (15) business days after receipt of the request.

(e) An order entered under subsection (c) remains in effect until the secretary of state:

- (1) modifies or vacates the summary order; or
- (2) conducts a hearing and issues a final determination.

(f) Revocation or suspension of a license of a manufacturer, a distributor, a factory branch, a distributor branch, 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.

(d) A license may be denied, suspended, or revoked for violating IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of a license under this subsection. The secretary of state may issue a temporary order to enforce this subsection.

(g) If the secretary of state conducts a hearing under this section, the secretary of state may depose any witness.

(h) In addition to all other remedies, the secretary of state may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate this chapter:

- (1) An injunction.
- (2) Appointment of a receiver or conservator.
- (3) A civil penalty not to exceed five thousand dollars (\$5,000) per violation.
- (4) An action to enforce a civil penalty assessed under subdivision (3).

(i) In a court proceeding initiated under this section in which

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1 judgment is awarded to the secretary of state, the secretary of state
2 is entitled to recover the costs and expenses of investigation, and
3 the court shall include the costs in its final judgment.

4 SECTION 31. IC 9-23-2-17 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2008]: Sec. 17. (a) An appeal may be taken from a final order of
7 the secretary of state under this chapter as follows:

8 (1) By an applicant for a license under this chapter, from a
9 final order of the secretary of state concerning the
10 application.

11 (2) By a licensee, from a final order of the secretary of state
12 affecting the licensee's license under this chapter.

13 (3) By a person against whom a civil penalty is imposed under
14 section 14 of this chapter, from the final order of the secretary
15 of state imposing the civil penalty.

16 (4) By a person named as a respondent in an investigation or
17 a proceeding under section 14 of this chapter, from a final
18 order of the secretary of state under section 14 of this chapter.

19 An appeal under this subdivision may be taken in:

20 (A) the Marion County circuit court; or

21 (B) the circuit or superior court of the county in which the
22 appellant resides or maintains a place of business.

23 (b) A person who seeks to appeal a final order of the secretary
24 of state under this section must serve the secretary of state with the
25 following not more than twenty (20) days after the entry of the
26 order:

27 (1) A written notice of the appeal stating:

28 (A) the court in which the appeal will be taken; and

29 (B) the grounds on which a reversal of the final order is
30 sought.

31 (2) A written demand from the appellant for:

32 (A) a certified transcript of the record; and

33 (B) all papers on file in the secretary of state's office;
34 concerning the order from which the appeal is being taken.

35 (3) A bond in the penal sum of five hundred dollars (\$500)
36 payable to the state with sufficient surety to be approved by
37 the secretary of state, conditioned upon:

38 (A) the faithful prosecution of the appeal to final
39 judgment; and

40 (B) the payment of all costs that are adjudged against the
41 appellant.

42 (c) Not later than ten (10) days after the secretary of state is

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1 served with the items described in subsection (b), the secretary of
 2 state shall make, certify, and deliver to the appellant the transcript
 3 described in subsection (b)(2)(A). Not later than five (5) days after
 4 the appellant receives the transcript under this subsection, the
 5 appellant shall file the transcript and a copy of the notice of appeal
 6 with the clerk of the court. The notice of appeal serves as the
 7 appellant's complaint. The secretary of state may appear before
 8 the court, file any motion or pleading in the matter, and form the
 9 issue. The cause shall be entered on the court's calendar to be
 10 heard de novo and shall be given precedence over all matters
 11 pending in the court.

12 (d) The court shall receive and consider any pertinent oral or
 13 written evidence concerning the order of the secretary of state
 14 from which the appeal is taken. If the order of the secretary of
 15 state is reversed, the court shall in its mandate specifically direct
 16 the secretary of state as to the secretary of state's further action in
 17 the matter. The secretary of state is not barred from revoking or
 18 altering the order for any proper cause that accrues or is
 19 discovered after the order is entered. If the order is affirmed, the
 20 appellant may, after thirty (30) days from the date the order is
 21 affirmed, file a new application for a license under this chapter if
 22 the application is not otherwise barred or limited. During the
 23 pendency of the appeal, the order from which the appeal is taken
 24 is not suspended but remains in effect unless otherwise ordered by
 25 the court. An appeal may be taken from the judgment of the court
 26 on the same terms and conditions as an appeal is taken in civil
 27 actions.

28 (e) IC 4-21.5 does not apply to a proceeding under this chapter.
 29 SECTION 32. IC 9-23-2-18 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 31 1, 2008]: Sec. 18. (a) The dealer compliance account is established
 32 as a separate account to be administered by the secretary of state.
 33 The funds in the account must be available, with the approval of
 34 the budget agency, for use in enforcing odometer laws.

35 (b) The expenses of administering the dealer compliance
 36 account shall be paid from money in the account.

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

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

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- 1 **(1) Beginning July 1, 2009, appropriations from the motor**
- 2 **vehicle odometer fund under IC 9-29-1-5(2)(B).**
- 3 **(2) Appropriations to the account from other sources.**
- 4 **(3) Grants, gifts, donations, or transfers intended for deposit**
- 5 **in the account.**
- 6 **(4) Interest the accrues from money in the account.**

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

9 SECTION 33. IC 9-29-1-5 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. All money in the
 11 motor vehicle odometer fund shall be allocated each July as follows:

- 12 (1) Forty percent (40%) is to be deposited in the motor vehicle
- 13 highway account (IC 8-14-1).
- 14 (2) Thirty percent (30%) is to be appropriated to:
- 15 **(A) the bureau, through the fiscal year ending June 30,**
- 16 **2009; and**
- 17 **(B) beginning July 1, 2009, the secretary of state, for**
- 18 **deposit in the dealer compliance account established by**
- 19 **IC 9-23-2-18;**

20 for use in enforcing odometer laws.

21 (3) Twenty percent (20%) is to be appropriated to the state police
 22 for use in enforcing odometer laws.

23 (4) Ten percent (10%) is to be appropriated to the attorney
 24 general for use in enforcing odometer laws.

25 SECTION 34. IC 9-29-7-6 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A licensing fee that
 27 is submitted with an application under IC 9-22-4 shall be returned to
 28 the applicant if the application is rejected by the ~~bureau~~ **secretary of**
 29 **state.**

30 SECTION 35. IC 9-29-15-7 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The fees under
 32 IC 9-31-4 for a boat dealer's license for each full year are as follows:

- 33 (1) For a Class A dealer, thirty dollars (\$30) for the first place of
- 34 business, plus ten dollars (\$10) for each additional location.
- 35 (2) For a Class B dealer, twenty dollars (\$20).

36 (b) The ~~bureau~~ **secretary of state** retains the fees collected under
 37 subsection (a).

38 SECTION 36. IC 9-29-15-8 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The fee for a
 40 change of business name or location under IC 9-31-4-4 is five dollars
 41 (\$5).

42 (b) The fee is retained by the ~~bureau~~ **secretary of state.**

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1 SECTION 37. IC 9-31-3-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. A motorboat that has
3 never been registered in Indiana and that is purchased from a dealer
4 licensed by the ~~bureau~~ **secretary of state** under IC 9-31-4 may be
5 operated on the waters of Indiana for a period of thirty-one (31) days
6 from the date of purchase if the operator has in the operator's
7 possession the following:

8 (1) A bill of sale from the dealer giving the purchaser's name and
9 address, the date of purchase, and the make and type of boat or
10 the hull identification number.

11 (2) A temporary permit displayed on the forward portion of the
12 boat, as provided in section 6 of this chapter.

13 SECTION 38. IC 9-31-3-6 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The ~~bureau~~
15 **secretary of state** shall furnish temporary permits and registration
16 forms to a registered dealer upon request.

17 (b) A plate or card described in subsection (a) must display the
18 following information:

19 (1) The dealer's license number.

20 (2) The date of purchase, plainly stamped or stenciled on the plate
21 or card.

22 (c) A temporary permit may not be used or displayed unless the
23 plate or card is furnished by the bureau.

24 (d) A dealer who authorizes the use of a temporary permit under this
25 section does not assume responsibility or incur liability for injury to a
26 person or property during the period the temporary permit is in effect.

27 SECTION 39. IC 9-31-3-19 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. A dealer licensed
29 by the ~~bureau~~ **secretary of state** under IC 9-31-4 may, upon
30 application to the ~~bureau~~, **secretary of state**, obtain a certificate of
31 number for use in the testing or demonstrating of motorboats upon
32 payment of the fee prescribed under IC 9-29-15-6 for each registration
33 number. The ~~bureau~~ **secretary of state** shall issue ~~two (2) plates~~ **one**
34 **(1) plate** for each certificate of number assigned under this section.
35 ~~One (1) The~~ **The** plate must be displayed on each side of a boat that is being
36 tested or demonstrated while the boat is being tested or demonstrated.

37 SECTION 40. IC 9-31-4-3 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) An application
39 for a license must meet all the following conditions:

40 (1) Be accompanied by the fee under IC 9-29-15-7.

41 (2) Be on a form prescribed by the ~~bureau~~ **secretary of state**.

42 (3) Contain any information that the ~~bureau~~ **secretary of state**

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1 reasonably needs to enable the ~~bureau~~ **secretary of state** to
2 determine fully the qualifications and eligibility of the applicant
3 to receive the license, the location of each of the applicant's places
4 of business in Indiana, and the ability of the applicant to conduct
5 properly the business for which the application is submitted.

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

8 SECTION 41. IC 9-31-4-4 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A license issued to
10 a dealer must specify the location of each place of business and shall
11 be conspicuously displayed at each business location. If a business
12 name or location is changed, the holder shall notify the ~~bureau~~
13 **secretary of state** within ten (10) days and remit the fee specified
14 under IC 9-29-15-8. The ~~bureau~~ **secretary of state** shall endorse that
15 change on the license if it is determined that the change is not subject
16 to other provisions of this chapter.

17 SECTION 42. IC 9-31-4-5 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~(a)~~ A license issued
19 under this chapter is valid for ~~two (2) years~~ **one (1) year** after the date
20 the license is issued. ~~as long as the annual fee is paid:~~ All license fees
21 shall be paid ~~in advance~~ at the annual rate under IC 9-29-15-7.

22 ~~(b) A person who surrenders a license at least twelve (12) months~~
23 ~~before the expiration date of the license may be refunded one-half (1/2)~~
24 ~~of the annual fee:~~

25 SECTION 43. IC 9-31-4-6 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) A license may be
27 denied, suspended, or revoked for any of the following:

- 28 (1) A material misrepresentation in the application for a license
29 or other information filed with the ~~bureau~~ **secretary of state**.
- 30 (2) A lack of fitness under the standards set forth in this chapter
31 or a rule adopted by the ~~bureau~~ **secretary of state** under this
32 chapter.
- 33 (3) A willful failure to comply with this chapter or any rule
34 adopted by the ~~bureau~~ **secretary of state** under this chapter.
- 35 (4) A willful violation of a federal or state law relating to the sale,
36 distribution, financing, or insuring of boats.

37 (b) The procedures set forth in ~~IC 4-21-5~~ **IC 9-22-4** govern
38 **governing the denial, suspension, or revocation of a license issued**
39 **under IC 9-22-4 also apply to** the denial, suspension, or revocation of
40 a license **issued under this chapter.** ~~and judicial review of these~~
41 ~~actions. However,~~ If the ~~bureau~~ **secretary of state** denies, suspends, or
42 revokes a license issued or sought under this chapter, the affected

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1 person may file an action in the circuit court of the Indiana county in
 2 which the person's principal place of business is located seeking a
 3 judicial determination as to whether the action is proper. The ~~bureau's~~
 4 **secretary of state's** action does not take effect until thirty (30) days
 5 after the ~~bureau's secretary of state's~~ determination has been made
 6 and a notice is served upon the affected person. The filing of an action
 7 as described in this section within the thirty (30) day period is an
 8 automatic stay of the ~~bureau's secretary of state's~~ determination.

9 (c) Revocation or suspension of a license of a dealer may be limited
 10 to one (1) or more locations, one (1) or more defined areas, or certain
 11 aspects of the business.

12 SECTION 44. IC 9-31-4-8 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. In carrying out its
 14 **the duties imposed on the secretary of state** under this chapter, the
 15 ~~bureau secretary of state~~ may do the following:

- 16 (1) Investigate and evaluate the qualifications of applicants for a
 17 license.
- 18 (2) Issue, deny, suspend, and revoke licenses.
- 19 (3) Investigate and conduct hearings on violations of this chapter.
- 20 (4) Issue orders and determinations.
- 21 (5) Sue and be sued in the name of the ~~bureau secretary of state~~
 22 or the state.

23 SECTION 45. IC 9-31-4-9 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The ~~bureau~~
 25 **secretary of state** shall use all revenues accruing to the ~~bureau~~
 26 **secretary of state** under this chapter to enforce this chapter and
 27 Indiana boat registration laws. All necessary expenses incurred and all
 28 compensation paid by the ~~bureau secretary of state~~ for administering
 29 this chapter shall be paid out of the revenue received under this chapter
 30 and from any supplemental appropriations.

31 SECTION 46. IC 15-7-1-29 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 29. The secretary of
 33 state shall charge and collect, for the benefit of the state, to be paid to
 34 the general fund of the state of Indiana, the following fees to wit:

- 35 (a) For filing with the secretary of state, the articles of
 36 incorporation of any association organized or corporation
 37 reorganized under this chapter, which provides for the issuance of
 38 membership certificates only, and not for certificates of stock, five
 39 dollars (\$5).
- 40 (b) For filing with the secretary of state, articles of incorporation
 41 of any association organized or any corporation reorganized under
 42 this chapter, which provides for the issue of capital stock, not in

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1 excess of five thousand dollars (\$5,000) of par value, five dollars
2 (\$5). If the capital stock authorized to be issued by any such
3 association shall exceed five thousand dollars (\$5,000), one cent
4 (\$0.01) for each one hundred dollars (\$100) of additional par
5 value.

6 (c) For filing with the secretary of state, a certificate of increase
7 of capital stock of any association for an increase of not more than
8 five thousand dollars (\$5,000) of par value, five dollars (\$5), and
9 for each one hundred dollars (\$100) of par value of increase
10 above such amount, one cent (\$0.01).

11 (d) For filing with the secretary of state, any certificate not herein
12 specified, five dollars (\$5) each, regardless of the number of
13 amendments contained in said certificate, except increases of
14 capital stock upon which the fee shall be as hereinbefore
15 provided.

16 (e) For filing biennial or special reports of associations, two
17 dollars (\$2) for each filing, which shall be in addition to any and
18 all other fees herein specified. The biennial report filing fee is one
19 dollar (\$1) per year, to be paid biennially.

20 ~~(f) For filing designation of or change of resident agent for any~~
21 ~~association, one dollar (\$1).~~

22 ~~(g)~~ (f) For each certificate issued by the secretary of state, one
23 dollar (\$1), and for each impression of the great seal of the state
24 of Indiana, affixed by ~~him~~ **the secretary of state** on said
25 certificate, fifty cents (\$0.50).

26 SECTION 47. IC 23-1-18-3, AS AMENDED BY P.L.60-2007,
27 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2008]: Sec. 3. (a) ~~Except as provided in subsection (c),~~ The
29 secretary of state shall collect the following fees when the documents
30 described in this subsection are delivered to the secretary of state for
31 filing:

32	Document	Electronic	Fee
33		Filing Fee	(Other than
34			electronic
35			filing)
36	(1) Articles of incorporation	\$75	\$90
37	(2) Application for use of		
38	indistinguishable name	\$10	\$20
39	(3) Application for reserved name	\$10	\$20
40	(4) Application for renewal	\$10	\$20
41	of reservation		
42	(5) Notice of transfer of	\$10	\$20

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1	reserved name		
2	(6) Application for registered		
3	name	\$20	\$30
4	(7) Application for renewal of		
5	registered name	\$20	\$30
6	(8) Corporation's statement of		
7	change of registered agent		
8	or registered office or both	No Fee	No Fee
9	(9) Agent's statement of change		
10	of registered office for each		
11	affected corporation	No Fee	No Fee
12	(10) Agent's statement of		
13	resignation	No Fee	No Fee
14	(11) Amendment of articles of		
15	incorporation	\$20	\$30
16	(12) Restatement of articles of		
17	incorporation	\$20	\$30
18	With amendment of articles	\$20	\$30
19	(13) Articles of merger or share		
20	exchange	\$75	\$90
21	(14) Articles of dissolution	\$20	\$30
22	(15) Articles of revocation of		
23	dissolution	\$20	\$30
24	(16) Certificate of administrative		
25	dissolution	No Fee	No Fee
26	(17) Application for reinstatement		
27	following administrative		
28	dissolution	\$20	\$30
29	(18) Certificate of reinstatement	No Fee	No Fee
30	(19) Certificate of judicial	No Fee	No Fee
31	dissolution		
32	(20) Application for certificate of		
33	authority	\$75	\$90
34	(21) Application for amended		
35	certificate of authority	\$20	\$30
36	(22) Application for certificate of		
37	withdrawal	\$20	\$30
38	(23) Certificate of revocation of		
39	authority to transact business	No Fee	No Fee
40	(24) Biennial report filed in		
41	writing including by		
42	facsimile	\$20	\$30

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1	(25) Biennial report filed by		
2	electronic medium	\$20	
3	(26) (25) Articles of correction	\$20	\$30
4	(27) (26) Application for certificate		
5	of existence or authorization	\$15	\$15
6	(28) (27) Any other document		
7	required or permitted to		
8	be filed by this article,		
9	including an application		
10	for any other certificates		
11	or certification certificate		
12	(except for any such other		
13	certificates that the secretary		
14	of state may determine to		
15	issue without additional fee		
16	in connection with particular		
17	filings) and a request for		
18	other facts of record under		
19	section 9(b)(6) of this		
20	chapter	\$20	\$30

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The fee set forth in subsection (a)(24) for filing a biennial report is:

- (1) fifteen dollars (\$15) per year, for a filing in writing, including facsimile; and
- (2) ten dollars (\$10) per year, for a filing by electronic ~~medium;~~
means;

to be paid biennially.

(c) The secretary of state shall collect a fee of ten dollars (\$10) each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, then that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- (1) Per page for copying \$ 1
- (2) For a certification stamp \$15

(e) If document described in subsection (a)(1) or (a)(20) is filed by electronic means as prescribed by the secretary of state, the secretary

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1 of state shall collect a filing fee of seventy-five dollars (\$75).
 2 SECTION 48. IC 23-15-1-1 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as
 4 otherwise provided in section 2 of this chapter:
 5 (1) a person conducting or transacting business in Indiana under
 6 a name, designation, or title other than the real name of the person
 7 conducting or transacting such business;
 8 (2) a corporation conducting business in Indiana under a name,
 9 designation, or title other than the name of the corporation as
 10 shown by its articles of incorporation;
 11 (3) a foreign corporation conducting business in Indiana under a
 12 name, designation, or title other than the name of the foreign
 13 corporation as shown by its application for certificate of authority
 14 to transact business in Indiana;
 15 (4) a limited partnership conducting business in Indiana under a
 16 name, designation, or title other than the name of the limited
 17 partnership as shown by its certificate of limited partnership;
 18 (5) a foreign limited partnership conducting business in Indiana
 19 under a name, designation, or title other than the name of the
 20 limited partnership as shown by its application for registration;
 21 (6) a limited liability company conducting business in Indiana
 22 under a name, designation, or title other than as shown by its
 23 articles of organization;
 24 (7) a foreign limited liability company conducting business in
 25 Indiana under a name, designation, or title other than the name of
 26 the limited liability company as shown by its application for
 27 registration;
 28 (8) a limited liability partnership conducting business in Indiana
 29 under a name, designation, or title other than the name of the
 30 limited liability partnership as shown by its application for
 31 registration; and
 32 (9) a foreign limited liability partnership conducting business in
 33 Indiana under a name, designation, or title other than the name of
 34 the limited liability partnership as shown by its application for
 35 registration;
 36 shall file for record in the office of the recorder of each county in which
 37 a place of business or an office of the person, limited partnership,
 38 foreign limited partnership, limited liability company, foreign limited
 39 liability company, corporation, or foreign corporation is situated;
 40 **secretary of state** a certificate stating the assumed name or names to
 41 be used, and, in the case of a person, the full name and address of the
 42 person engaged in or transacting business, or, in the case of a

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1 corporation, foreign corporation, limited liability company, foreign
 2 limited liability company, limited partnership, or foreign limited
 3 partnership, the full name and the address of the corporation's, limited
 4 liability company's, or limited partnership's principal office in Indiana.

5 (b) The recorder shall keep a record of the certificates filed under
 6 this section and shall keep an index of the certificates showing, in
 7 alphabetical order, the names of the persons; the names of the
 8 partnerships; the names of the limited liability companies; the corporate
 9 names of the corporations having such certificates on file in the
 10 recorder's office; and the assumed name or names which they intend to
 11 use in carrying on their businesses as shown by the certificates.

12 (c) Before the dissolution of any business for which a certificate is
 13 on file with the recorder, the person, limited liability company,
 14 partnership, or corporation to which the certificate appertains shall file
 15 a notice of dissolution for record in the recorder's office.

16 (d) The county recorder shall charge a fee in accordance with
 17 IC 36-2-7-10 for each certificate, notice of dissolution, and notice of
 18 discontinuance of use filed with the recorder's office and recorded
 19 under this chapter. The funds received shall be receipted as county
 20 funds the same as other money received by the recorders.

21 (e) A corporation, limited liability company, or limited partnership
 22 subject to this chapter shall, in addition to filing the certificate provided
 23 for in subsection (a), file with the secretary of state a copy of each
 24 certificate.

25 (f) (b) A person, partnership, limited liability company, or
 26 corporation that has filed a certificate of assumed business name or
 27 names under subsection (a) or (e) may file a notice of discontinuance
 28 of use of assumed business name or names with the secretary of state.
 29 and with the recorder's office in which the certificate was filed or
 30 transferred. The secretary of state and the recorder shall keep a record
 31 of notices filed under this subsection.

32 (g) (c) A corporation or limited partnership, domestic or foreign,
 33 that is subject to this chapter and that does not have a place of business
 34 or an office in Indiana, shall file the certificate required under
 35 subsection (a) in the office of the recorder of the county where the
 36 corporation's or limited partnership's registered office is located.
 37 **secretary of state.** The certificate must state the assumed name or
 38 names to be used, the name of the registered agent, and the address of
 39 the registered office. ~~The corporation or limited partnership must~~
 40 ~~comply with the requirements in subsection (e).~~

41 (h) (d) The secretary of state shall collect the following fees when
 42 a copy of a certificate is filed with the secretary of state under

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- 1 ~~subsection (e):~~ **subsection (a):**
 2 (1) A fee of:
 3 **(A) twenty dollars (\$20) for an electronic filing; or**
 4 **(B) thirty dollars (\$30) for a filing other than an electronic**
 5 **filing;**
 6 from a corporation (other than a nonprofit corporation), limited
 7 liability company, or a limited partnership.
 8 (2) A fee of:
 9 **(A) ten dollars (\$10) for an electronic filing; or**
 10 **(B) twenty-six dollars (\$26) for a filing other than an**
 11 **electronic filing;**
 12 from a nonprofit corporation.

13 **The secretary of state shall prescribe the electronic means of filing**
 14 **certificates for purposes of collecting fees under this subsection. A**
 15 **fee collected under this subsection is in addition to any other fee**
 16 **collected by the secretary of state.**

17 SECTION 49. IC 23-16-12-4, AS AMENDED BY P.L.60-2007,
 18 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2008]: Sec. 4. (a) ~~Except as provided in subsection (d);~~ The
 20 secretary of state shall collect the following fees when the documents
 21 described in this section are delivered by a domestic or foreign limited
 22 partnership to the secretary of state for filing:

Document	Electronic Filing Fee	Filing Fee (Other than electronic filing)
27 (1) Application for 28 reservation of name	\$10	\$20
29 (2) Application for use 30 of indistinguishable name	\$10	\$20
31 (3) Application for 32 renewal of reservation	\$10	\$20
33 (4) Notice of transfer of reserved name	\$10	\$20
34 (5) Application of registered name	\$20	\$30
35 (6) Application for renewal 36 of registered name	\$20	\$30
37 (7) Certificate of change 38 of registered agent's 39 business address	No fee	No fee
40 (8) Certificate of resignation of agent	No fee	No fee
41 (9) Certificate of limited partnership	\$75	\$90
42 (10) Certificate of amendment	\$20	\$30

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1	(11) Certificate of cancellation	\$75	\$90
2	(12) Restated certificate of		
3	limited partnership or registration	\$20	\$30
4	(13) Restated certificate of		
5	limited partnership or		
6	registration with amendments	\$20	\$30
7	(14) Application for registration	\$75	\$90
8	(15) Certificate of change of		
9	application	\$20	\$30
10	(16) Certificate of cancellation of		
11	registration	\$20	\$30
12	(17) Certificate of change		
13	of registered agent	No fee	No fee
14	(18) Application for certificate		
15	of existence or authorization	\$15	\$15
16	(19) Any other document required or		
17	permitted to be filed under this		
18	article, including an application		
19	for any other certificates or		
20	certification certificate (except		
21	for any such other certificates		
22	that the secretary of state may		
23	determine to issue without		
24	additional fee in connection with		
25	particular filings)	\$20	\$30

26 **The secretary of state shall prescribe the electronic means of filing**
 27 **documents to which the electronic filing fees set forth in this**
 28 **section apply.**

29 (b) The secretary of state shall collect a fee of ten dollars (\$10) each
 30 time process is served on the secretary of state under this article. If the
 31 party to a proceeding causing service of process prevails in the
 32 proceeding, then that party is entitled to recover this fee as costs from
 33 the nonprevailing party.

34 (c) The secretary of state shall collect the following fees for copying
 35 and certifying the copy of any filed document relating to a domestic or
 36 foreign limited partnership:

- 37 (1) Per page for copying \$ 1
 38 (2) For a certification stamp \$15

39 (d) If the document described in subsection (a)(9) or (a)(14) is filed
 40 by electronic means as prescribed by the secretary of state, the
 41 secretary of state shall collect a filing fee of seventy-five dollars (\$75).

42 SECTION 50. IC 23-17-29-3, AS AMENDED BY P.L.60-2007,

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1 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2008]: Sec. 3. (a) ~~Except as provided in subsection (d)~~; The
3 secretary of state shall collect the following fees when the following
4 documents are delivered for filing:

5	Document	Electronic Filing Fee	Filing Fee (Other than electronic filing)
6			
7			
8			
9	(1) Articles of Incorporation	\$20	\$30
10	(2) Application for use of		
11	indistinguishable name	\$10	\$20
12	(3) Application for reserved name	\$10	\$20
13	(4) Notice of transfer of	\$10	\$20
14	reserved name		
15	(5) Application for renewal	\$10	\$20
16	of reservation		
17	(6) Application for registered name	\$20	\$30
18	(7) Application for renewal of		
19	registered name	\$20	\$30
20	(8) Corporation's statement of		
21	change of registered agent		
22	or registered office or both	no fee	no fee
23	(9) Agent's statement of change of		
24	registered office for each		
25	affected corporation	no fee	no fee
26	(10) Agent's statement of resignation	no fee	no fee
27	(11) Amendment of articles of		
28	incorporation	\$20	\$30
29	(12) Restatement of articles of		
30	incorporation with amendments	\$20	\$30
31	(13) Articles of merger	\$20	\$30
32	(14) Articles of dissolution	\$20	\$30
33	(15) Articles of revocation of		
34	dissolution	\$20	\$30
35	(16) Certificate of administrative		
36	dissolution	no fee	no fee
37	(17) Application for reinstatement		
38	following administrative		
39	dissolution	\$20	\$30
40	(18) Certificate of reinstatement	no fee	no fee
41	(19) Certificate of judicial	no fee	no fee
42	dissolution		

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1	(20) Application for certificate of		
2	authority	\$20	\$30
3	(21) Application for amended		
4	certificate of authority	\$20	\$30
5	(22) Application for certificate of		
6	withdrawal	\$20	\$30
7	(23) Certificate of revocation of		
8	authority to transact business	no fee	no fee
9	(24) Annual report filed in writing,		
10	including a facsimile	\$5	\$10
11	(25) Annual report filed by electronic		
12	medium	\$ 5	
13	(26) (25) Certificate of existence	\$15	\$15
14	(27) (26) Any other document		
15	required or permitted to be		
16	filed by this article	\$20	\$30

The secretary of state shall prescribe the electronic means of filing documents to which the electronic filing fees set forth in this section apply.

(b) The secretary of state shall collect a fee of ten dollars (\$10) upon being served with process under this article. The party to a proceeding causing service of process may recover the fee paid the secretary of state as costs if the party prevails in the proceeding.

(c) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- (1) One dollar (\$1) a page for copying.
- (2) Fifteen dollars (\$15) for the certification stamp.

~~(d) If the document described in subsection (a)(1) or (a)(20) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of twenty dollars (\$20).~~

SECTION 51. IC 23-18-12-3, AS AMENDED BY P.L.60-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) ~~Except as provided in subsection (c),~~ The secretary of state shall collect the following fees when the documents described in this section are delivered for filing:

37	Document	Electronic	Filing Fee
38		Filing Fee	(Other than
39			electronic
40			filing)
41	(1) Articles of organization	\$75	\$90
42	(2) Application for use of		

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1	indistinguishable name	\$10	\$20
2	(3) Application for reservation	\$10	\$20
3	of name		
4	(4) Application for renewal of		
5	reservation	\$10	\$20
6	(5) Notice of transfer or cancellation		
7	of reservation	\$10	\$20
8	(6) Application of registered name	\$20	\$30
9	(7) Application for renewal	\$20	\$30
10	of registered name		
11	(8) Certificate of change of registered		
12	agent's business address	No Fee	No Fee
13	(9) Certificate of resignation of agent	No Fee	No Fee
14	(10) Articles of amendment	\$20	\$30
15	(11) Restatement of articles of		
16	organization	\$20	\$30
17	(12) Articles of dissolution	\$20	\$30
18	(13) Application for certificate of		
19	authority	\$75	\$90
20	(14) Application for amended		
21	certificate of authority	\$20	\$30
22	(15) Application for certificate of		
23	withdrawal	\$20	\$30
24	(16) Application for reinstatement		
25	following administrative		
26	dissolution	\$20	\$30
27	(17) Articles of correction	\$20	\$30
28	(18) Certificate of change of		
29	registered agent	No Fee	No Fee
30	(19) Application for certificate of		
31	existence or authorization	\$15	\$15
32	(20) Biennial report filed in writing,		
33	including by facsimile	\$20	\$30
34	(21) Biennial report filed by electronic		
35	medium	\$20	
36	(22) (21) Articles of merger		
37	involving a domestic limited		
38	liability company	\$75	\$90
39	(23) (22) Any other document		
40	required or permitted to be		
41	filed under this article	\$20	\$30
42	The secretary of state shall prescribe the electronic means of filing		

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1 documents to which the electronic filing fees set forth in this
2 section apply.

3 (b) The fee set forth in subsection (a)(20) for filing a biennial report
4 is:

- 5 (1) for an electronic filing, ten dollars (\$10) per year; or
- 6 (2) for a filing other than an electronic filing, fifteen dollars
- 7 (\$15) per year;
- 8 to be paid biennially.

9 (c) The secretary of state shall collect a fee of \$10 each time process
10 is served on the secretary of state under this article. If the party to a
11 proceeding causing service of process prevails in the proceeding, that
12 party is entitled to recover this fee as costs from the nonprevailing
13 party.

14 (d) The secretary of state shall collect the following fees for copying
15 and certifying the copy of any filed documents relating to a domestic
16 or foreign limited liability company:

- 17 (1) One dollar (\$1) per page for copying.
- 18 (2) Fifteen dollars (\$15) for certification stamp.

19 (e) If the document described in subsection (a)(1) or (a)(13) is filed
20 by electronic means as prescribed by the secretary of state, the
21 secretary of state shall collect a filing fee of seventy-five dollars (\$75):

22 SECTION 52. [EFFECTIVE JULY 1, 2008] The rules adopted by
23 the bureau of motor vehicles before July 1, 2008, concerning:

- 24 (1) IC 9-18-26; and
- 25 (2) IC 9-22-4;

26 are considered, after June 30, 2008, rules of the secretary of state.

27 SECTION 53. [EFFECTIVE JULY 1, 2008] Money appropriated
28 before July 1, 2009, to the bureau of motor vehicles under
29 IC 9-29-1-5(2)(A), as amended by this act, is considered money
30 appropriated to the secretary of state under IC 9-29-1-5(2)(B), as
31 amended by this act, for deposit in the dealer compliance account
32 established by IC 9-23-2-18, as added by this act, for use by the
33 secretary of state in enforcing odometer laws as memorialized in
34 a Memorandum of Understanding between the bureau of motor
35 vehicles and the secretary of state dated June 15, 2007.

36 SECTION 54. [EFFECTIVE JULY 1, 2008] IC 23-15-1-1, as
37 amended by this act, applies to certificates of assumed business
38 names filed after June 30, 2008.

39 SECTION 55. [EFFECTIVE JULY 1, 2008] (a) The legislative
40 services agency shall prepare legislation for introduction in the
41 2009 regular session of the general assembly to organize and
42 correct statutes affected by this act.

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1 (b) This SECTION expires January 1, 2011.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 307, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 307 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

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