



Reprinted  
February 23, 2010

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**ENGROSSED**  
**SENATE BILL No. 117**

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DIGEST OF SB 117 (Updated February 22, 2010 4:48 pm - DI 96)

**Citations Affected:** IC 9-23.

**Synopsis:** Vehicle sales and purchases. Provides that it is an unfair practice for a vehicle manufacturer or distributor to enter into an agreement in which a vehicle dealer is required to waive certain provisions dealing with unfair practices in the vehicle sales profession or franchise practices. Establishes an exception for voluntary agreements in which separate consideration is offered and accepted. Exempts certain persons that buy or sell motor vehicles from the requirement of maintaining a bond satisfactory to the secretary of state.

**Effective:** July 1, 2010.

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**Head, Alting, Deig**  
(HOUSE SPONSORS — AUSTIN, SAUNDERS)

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January 5, 2010, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.

January 28, 2010, amended, reported favorably — Do Pass.

February 1, 2010, read second time, amended, ordered engrossed.

February 2, 2010, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 8, 2010, read first time and referred to Committee on Courts and Criminal Code.

February 18, 2010, reported — Do Pass.

February 22, 2010, read second time, amended, ordered engrossed.

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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

## ENGROSSED SENATE BILL No. 117

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 9-23-2-2, AS AMENDED BY P.L.147-2009,  
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]: Sec. 2. (a) An application for a license under this  
4 chapter must:

- 5 (1) be accompanied by the fee required under IC 9-29-8;
- 6 (2) be on a form prescribed by the secretary of state;
- 7 (3) contain the information the secretary of state considers  
8 necessary to enable the secretary of state to determine fully the  
9 following information:
  - 10 (A) The qualifications and eligibility of the applicant to  
11 receive the license.
  - 12 (B) The location of each of the applicant's places of business  
13 in Indiana.
  - 14 (C) The ability of the applicant to conduct properly the  
15 business for which the application is submitted; and
- 16 (4) contain evidence of ~~the a~~ bond required in subsection (e).
- 17 (b) An application for a license as a dealer must show whether the

ES 117—LS 6247/DI 96+



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1 applicant proposes to sell new or used motor vehicles, or both.  
 2 (c) An applicant who proposes to use the Internet or other computer  
 3 network in aid of its sale of motor vehicles to consumers in Indiana,  
 4 which activities may result in the creation of business records outside  
 5 Indiana, shall provide the division with the name, address, and  
 6 telephone number of the person who has control of those business  
 7 records. The secretary of state may not issue a license to a dealer who  
 8 transacts business in this manner who does not have an established  
 9 place of business in Indiana.

10 (d) This subsection applies to an application for a license as a dealer  
 11 in a city having a population of more than ninety thousand (90,000) but  
 12 less than one hundred five thousand (105,000). The application must  
 13 include an affidavit from:

- 14 (1) the person charged with enforcing a zoning ordinance
- 15 described in this subsection; or
- 16 (2) the zoning enforcement officer under IC 36-7-4, if one exists;
- 17 who has jurisdiction over the real property where the applicant wants
- 18 to operate as a dealer. The affidavit must state that the proposed
- 19 location is zoned for the operation of a dealer's establishment. The
- 20 applicant may file the affidavit at any time after the filing of the
- 21 application. However, the secretary of state may not issue a license
- 22 until the applicant files the affidavit.

23 (e) **This subsection does not apply to a person listed in the**  
 24 **categories set forth in section 1(a)(10) through 1(a)(12) of this**  
 25 **chapter and that was licensed under this chapter before July 1,**  
 26 **2009.** A licensee shall maintain a bond satisfactory to the secretary of  
 27 state in the amount of twenty-five thousand dollars (\$25,000), which  
 28 must:

- 29 (1) be in favor of the state; and
- 30 (2) secure payment of fines, penalties, costs, and fees assessed by
- 31 the secretary of state after notice, opportunity for a hearing, and
- 32 opportunity for judicial review, in addition to securing the
- 33 payment of damages to a person aggrieved by a violation of this
- 34 chapter by the licensee after a judgment has been issued.

35 (f) Service shall be made in accordance with the Indiana Rules of  
 36 Trial Procedure.

37 SECTION 2. IC 9-23-3-7 IS AMENDED TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) It is an unfair practice for a  
 39 manufacturer or distributor to violate IC 23-2-2.7.

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

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1           **(1) this chapter; or**  
2           **(2) IC 23-2-2.7.**  
3           **However, this subsection does not apply to a voluntary agreement**  
4           **in which separate consideration is offered and accepted.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 117, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 8, after "IC 23-2-2.7." begin a new line blocked left and insert:

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

and when so amended that said bill do pass.

(Reference is to SB 117 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 117 be amended to read as follows:

Page 1, line 5, delete "asked to or".

(Reference is to SB 117 as printed January 29, 2010.)

HEAD

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 117, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

PIERCE, Chair

Committee Vote: yeas 7, nays 0.



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## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 117 be amended to read as follows:

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

"SECTION 1. IC 9-23-2-2, AS AMENDED BY P.L.147-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) An application for a license under this chapter must:

- (1) be accompanied by the fee required under IC 9-29-8;
- (2) be on a form prescribed by the secretary of state;
- (3) contain the information the secretary of state considers necessary to enable the secretary of state to determine fully the following information:

(A) The qualifications and eligibility of the applicant to receive the license.

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

(C) The ability of the applicant to conduct properly the business for which the application is submitted; and

- (4) contain evidence of ~~the~~ a bond required in subsection (e).

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

(c) An applicant who proposes to use the Internet or other computer network in aid of its sale of motor vehicles to consumers in Indiana, which activities may result in the creation of business records outside Indiana, shall provide the division with the name, address, and telephone number of the person who has control of those business records. The secretary of state may not issue a license to a dealer who transacts business in this manner who does not have an established place of business in Indiana.

(d) This subsection applies to an application for a license as a dealer in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000). The application must include an affidavit from:

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

(2) the zoning enforcement officer under IC 36-7-4, if one exists; who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The applicant may file the affidavit at any time after the filing of the

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application. However, the secretary of state may not issue a license until the applicant files the affidavit.

(e) **This subsection does not apply to a person listed in the categories set forth in section 1(a)(10) through 1(a)(12) of this chapter and that was licensed under this chapter before July 1, 2009.** A licensee shall maintain a bond satisfactory to the secretary of state in the amount of twenty-five thousand dollars (\$25,000), which must:

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

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

Renumber all SECTIONS consecutively.

(Reference is to ESB 117 as printed February 19, 2010.)

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