

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1188

Citations Affected: IC 9-13-2; IC 9-17-8-8; IC 9-18-26; IC 9-22-3; IC 9-23-2; IC 9-28-5.1; IC 9-29-5; IC 9-31-3-6; IC 27-8-9-7.

Synopsis: Various motor vehicle matters. Conference committee report for EHB 1188. Various motor vehicle matters. Requires the secretary of state to adopt rules to establish research and development license plates for use by manufacturers of vehicle subcomponent systems. Sets a \$20 fee for a research and development license plate. Requires the secretary of state to adopt interim written guidelines regarding the classification of research and development license plates. Revises language concerning the responsibility of the secretary of state related to vehicle dealer services. Exempts certain persons that buy or sell motor vehicles from the requirement of maintaining a bond satisfactory to the secretary of state by submitting to the secretary of state evidence that the licensee is a member of a risk retention group regulated by the Indiana department of insurance. Authorizes the bureau of motor vehicles to negotiate and enter into a reciprocal agreement with a foreign country to facilitate the exchange of operator's licenses and requires the bureau of motor vehicles to report annually to the general assembly regarding a reciprocal agreement. Specifies that all coverage available to a passenger of a motor vehicle under a motor vehicle owner's insurance policy is exhausted before any other insurance coverage is available to the passenger. **(This conference committee report: (1) adds a provision that certain: (A) automobile auctioneers; (B) converter manufacturers; (C) dealers; (D) distributors; (E) distributor branches; (F) distributor representatives; (G) factory branches; (H) factory representatives; (I) manufacturers; (J) transfer dealers; (K) wholesale dealers; and (L) automotive mobility dealers; that buy and sell motor vehicles are exempt from the requirements of maintaining a bond satisfactory to the secretary of state by submitting to the secretary of state evidence that the licensee is a member of a risk retention group regulated by the Indiana department of insurance; (2) authorizes the bureau of motor vehicles to negotiate and enter into a reciprocal agreement with a foreign country to facilitate the exchange of operator's licenses and requires the bureau of motor vehicles to report annually to the general assembly regarding a reciprocal agreement; and (3) specifies that all coverage available to a passenger of a motor vehicle under a motor vehicle owner's insurance policy is exhausted before any other insurance coverage is available to the passenger.)**

Effective: Upon passage; July 1, 2010.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1188 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
 2 SECTION 1. IC 9-13-2-42, AS AMENDED BY P.L.147-2009,
 3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2010]: Sec. 42. (a) "Dealer" means, except as otherwise
 5 provided in this section, a person who sells to the general public,
 6 including a person who sells directly by the Internet or other computer
 7 network, at least twelve (12) vehicles each year for delivery in Indiana.
 8 The term includes a person who sells off-road vehicles. A dealer must
 9 have an established place of business that meets the minimum
 10 standards prescribed by the ~~bureau~~ **secretary of state** under rules
 11 adopted under IC 4-22-2.
 12 (b) The term does not include the following:
 13 (1) A receiver, trustee, or other person appointed by or acting
 14 under the judgment or order of a court.
 15 (2) A public officer while performing official duties.
 16 (3) A person who is a dealer solely because of activities as a
 17 transfer dealer.
 18 (4) An automotive mobility dealer.
 19 (c) "Dealer", for purposes of IC 9-31, means a person that sells to
 20 the general public for delivery in Indiana at least six (6):
 21 (1) boats; or
 22 (2) trailers:

- 1 (A) designed and used exclusively for the transportation of
 2 watercraft; and
 3 (B) sold in general association with the sale of watercraft;
 4 per year.

5 SECTION 2. IC 9-13-2-97.5 IS ADDED TO THE INDIANA CODE
 6 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 7 **UPON PASSAGE]: Sec. 97.5. "Manufacturer of a vehicle**
 8 **subcomponent system" means a manufacturer of a vehicle**
 9 **subcomponent system essential to the operation of a motor vehicle.**
 10 **The term includes a public or private university that is engaged in**
 11 **the:**

- 12 (1) **research;**
 13 (2) **development; or**
 14 (3) **manufacture;**
 15 **of a vehicle subcomponent system.**

16 SECTION 3. IC 9-17-8-8, AS AMENDED BY P.L.147-2009,
 17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2010]: Sec. 8. (a) Before obtaining a manufacturer's, a
 19 converter manufacturer's, an automotive mobility dealer's, or a dealer's
 20 license from the ~~bureau~~, **secretary of state**, a person must agree to
 21 allow a police officer or an authorized representative of the ~~bureau~~
 22 **secretary of state** to inspect:

- 23 (1) certificates of origin, certificates of title, assignments of
 24 certificates of origin and certificates of title, or other proof of
 25 ownership or evidence of right of possession as determined by the
 26 secretary of state; and
 27 (2) motor vehicles, semitrailers, or recreational vehicles that are
 28 held for resale by the manufacturer, converter manufacturer,
 29 automotive mobility dealer, or dealer;

30 in the manufacturer's, converter manufacturer's, automotive mobility
 31 dealer's, or dealer's place of business during reasonable business hours.

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

- 34 (1) must be readily available for inspection by or delivery to the
 35 proper persons; and
 36 (2) may not be removed from Indiana.

37 SECTION 4. IC 9-18-26-2.5 IS ADDED TO THE INDIANA CODE
 38 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 39 **UPON PASSAGE]: Sec. 2.5. (a) The secretary of state shall:**

- 40 (1) **issue a research and development license plate under this**
 41 **chapter to a manufacturer of a vehicle subcomponent system;**
 42 **and**
 43 (2) **adopt rules under IC 4-22-2 to prescribe the general**
 44 **conditions for the:**
 45 (A) **application;**
 46 (B) **issuance; and**
 47 (C) **use;**
 48 **of research and development license plates for manufacturers**
 49 **of vehicle component systems.**

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

1 **IC 9-29-5-14.5.**

2 **(c) A research and development license plate for a manufacturer**
 3 **of a vehicle subcomponent system shall be displayed in accordance**
 4 **with IC 9-18-2-26.**

5 SECTION 5. IC 9-18-26-8 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. Dealer-new,
 7 dealer-used, and manufacturer license plates may be used without
 8 restriction by a designee of a dealer or a designee of a manufacturer
 9 under rules adopted by the ~~bureau~~ **secretary of state**. The rules must
 10 provide the following:

11 (1) The dealer or manufacturer is to be assessed and pay the
 12 motor vehicle excise tax under IC 6-6-5 attributable to that part of
 13 the total year that the designee operates the motor vehicle.

14 (2) The dealer or manufacturer shall report to the ~~bureau~~
 15 **secretary of state** the date of assignment to a designee, the
 16 designee's name and address, and the date of termination of the
 17 assignment within ten (10) days of the assignment or termination.

18 (3) The tax calculated in subdivision (1) shall be paid within
 19 thirty (30) days of the termination of the assignment to the
 20 designee or at the time the dealer or manufacturer purchases
 21 license plates under this chapter.

22 SECTION 6. IC 9-18-26-12, AS AMENDED BY P.L.106-2008,
 23 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]: Sec. 12. A person who knowingly violates a rule
 25 adopted by the secretary of state regarding the classification and use of
 26 a dealer plate **or the use of a research and development license plate**
 27 commits a Class A infraction.

28 SECTION 7. IC 9-22-3-7 IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2010]: Sec. 7. A business that is registered with
 30 the ~~department~~ **secretary of state** as a dealer under IC 9-23 may
 31 reassign a certificate of salvage title one (1) time without applying to
 32 the bureau for the issuance of a new certificate of salvage title.

33 SECTION 8. IC 9-22-3-20 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. Unless otherwise
 35 specified or required, the records required under section 19 of this
 36 chapter shall be retained for a period of five (5) years from the date the
 37 vehicle or major component part was acquired, in the form prescribed
 38 by the ~~bureau~~ **secretary of state**.

39 SECTION 9. IC 9-22-3-21 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 21. The records
 41 required under section 19 of this chapter must be available to and
 42 produced at the request of a police officer or an authorized agent of the
 43 ~~bureau~~ **secretary of state** under this chapter.

44 SECTION 10. IC 9-22-3-24 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. The ~~bureau~~;
 46 **secretary of state**, a police officer, or an agent of the ~~bureau~~ **secretary**
 47 **of state** or a police officer may enter upon the premises of a disposal
 48 facility, insurance company, or other business dealing in salvage
 49 vehicles during normal business hours to inspect a motor vehicle,
 50 semitrailer, recreational vehicle, major component part, records,
 51 certificate of title, and other ownership documents to determine

1 compliance with this chapter.

2 SECTION 11. IC 9-23-2-2, AS AMENDED BY P.L.147-2009,
3 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2010]: Sec. 2. (a) An application for a license under this
5 chapter must:

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

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

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

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

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

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

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

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

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

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

41 (e) A licensee shall maintain a bond satisfactory to the secretary of
42 state in the amount of twenty-five thousand dollars (\$25,000), which
43 must:

44 (1) be in favor of the state; and

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

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

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

5 SECTION 12. IC 9-23-2-11, AS AMENDED BY P.L.184-2007,
 6 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2010]: Sec. 11. A person who ceases a business activity for
 8 which a license was issued under this chapter shall do the following:

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

11 (2) Deliver all permanent dealer license plates and interim license
 12 plates issued to the person to the ~~bureau~~ **secretary of state** within
 13 ten (10) days of the date the business activity will cease.

14 SECTION 13. IC 9-28-5.1 IS ADDED TO THE INDIANA CODE
 15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2010]:

17 **Chapter 5.1. International Reciprocity**

18 **Sec. 1. To facilitate the exchange of driver's licenses, the bureau**
 19 **shall negotiate and enter into a reciprocal agreement with a foreign**
 20 **country. However, the bureau may not negotiate or enter into a**
 21 **reciprocal agreement with a country that is listed as a state sponsor**
 22 **of terrorism as determined by the Secretary of State of the United**
 23 **States.**

24 **Sec. 2. A reciprocal agreement entered into under section 1 of**
 25 **this chapter must authorize the bureau to enter into a written**
 26 **agreement with a foreign country to waive one (1) or more of the**
 27 **examination requirements under IC 9-24 for obtaining an**
 28 **operator's license from this state.**

29 **Sec. 3. A written reciprocity agreement entered into under**
 30 **section 2 of this chapter must require an applicant from the foreign**
 31 **country for an operator's license to possess:**

32 (1) a valid operator's license or the equivalent from the
 33 foreign country; or

34 (2) an international driving permit.

35 **Sec. 4. The bureau shall report annually in an electronic format**
 36 **under IC 5-14-6 regarding reciprocal agreements entered into**
 37 **under this chapter to the general assembly before February 1 of**
 38 **each year.**

39 **Sec. 5. The bureau shall adopt rules under IC 4-22-2 to carry**
 40 **out this chapter.**

41 SECTION 14. IC 9-29-5-14.5 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS
 43 [EFFECTIVE UPON PASSAGE]: **Sec. 14.5. The fee for a research**
 44 **and development license plate for a manufacturer of a vehicle**
 45 **subcomponent system under IC 9-18-26-2.5(a) is twenty dollars**
 46 **(\$20). There is no fee in addition to the regular registration fee for**
 47 **a research and development license plate for a manufacturer of a**
 48 **vehicle subcomponent system.**

49 SECTION 15. IC 9-29-5-43, AS AMENDED BY P.L.106-2008,
 50 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 51 JULY 1, 2010]: Sec. 43. (a) Except as otherwise provided by this

1 chapter, subsection (b), **subsection (c)**, and IC 9-29-1-2, registration
 2 fees collected under this chapter shall be paid into the state general
 3 fund for credit to the motor vehicle highway account.

4 (b) Fees collected under this chapter for license plates issued under
 5 IC 9-18-26 by the secretary of state shall be deposited as follows:

6 (1) Thirty percent (30%) to the dealer compliance account
 7 established by IC 9-23-2-18.

8 (2) Seventy percent (70%) to the motor vehicle highway account.

9 **(c) Notwithstanding subsection (b), fees collected under this**
 10 **chapter for interim license plates issued under IC 9-18-26-10 by the**
 11 **secretary of state shall be deposited as follows:**

12 **(1) Ninety percent (90%) to the dealer compliance account**
 13 **established by IC 9-23-2-18.**

14 **(2) Ten percent (10%) to the motor vehicle highway account.**

15 SECTION 16. IC 9-31-3-6, AS AMENDED BY P.L.106-2008,
 16 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2010]: Sec. 6. (a) The secretary of state shall furnish
 18 temporary permits and registration forms to a registered dealer upon
 19 request.

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

22 (1) The dealer's license number.

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

25 (c) A temporary permit may not be used or displayed unless the
 26 plate or card is furnished by the ~~bureau~~ **secretary of state**.

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

30 SECTION 17. IC 27-8-9-7, AS AMENDED BY P.L.74-2009,
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2010]: Sec. 7. (a) This section does not apply to cases covered
 33 by section 10 or 11 of this chapter.

34 (b) In any case arising from a permittee's use of a motor vehicle for
 35 which the owner of the vehicle has motor vehicle insurance coverage,
 36 the owner's motor vehicle insurance coverage is considered primary if
 37 both of the following apply:

38 (1) The vehicle, at the time damage occurred, was operated with
 39 the permission of the owner of the motor vehicle.

40 (2) The use was within the scope of the permission granted.

41 (c) The permittee may not recover under any other motor vehicle
 42 insurance coverage available to the permittee until the limit of all
 43 coverage provided by the owner's policy is first exhausted.

44 (d) In a case arising from an owner's use of a motor vehicle for
 45 which the owner of the vehicle has motor vehicle insurance coverage,
 46 the owner's motor vehicle insurance policy is considered primary for
 47 any claim made by a passenger in the motor vehicle.

48 (e) A passenger in a motor vehicle at the time a case described in
 49 subsection (b) or (d) arises may not recover under any other motor
 50 vehicle insurance coverage available to the passenger until the limit of
 51 all coverage ~~provided by~~ **available to the passenger under** the owner's

- 1 **motor vehicle insurance** policy is first exhausted.
- 2 SECTION 18. [EFFECTIVE UPON PASSAGE] (a)
- 3 **Notwithstanding IC 9-18-26-2.5(a)(2), as added by this act, and**
- 4 **IC 9-13-2-42(a) and IC 9-18-26-8, both as amended by this act, the**
- 5 **secretary of state shall carry out the duties imposed upon the**
- 6 **secretary of state under IC 9-18-26-2.5(a)(2), as added by this act,**
- 7 **and IC 9-13-2-42(a) and IC 9-18-26-8, both as amended by this act,**
- 8 **under interim written guidelines approved by the secretary of**
- 9 **state.**
- 10 (b) This SECTION expires on the earlier of the following:
- 11 (1) The date rules are adopted under IC 9-18-26-2.5(a)(2), as
- 12 added by this act, and IC 9-13-2-42(a) and IC 9-18-26-8, both
- 13 as amended by this act.
- 14 (2) December 31, 2011.
- 15 SECTION 19. [EFFECTIVE UPON PASSAGE] (a)
- 16 **Notwithstanding IC 9-28-5.1-5, as added by this act, the bureau of**
- 17 **motor vehicles shall carry out the duties imposed upon the bureau**
- 18 **of motor vehicles under IC 9-28-5.1-5, as added by this act, under**
- 19 **interim written guidelines approved by the commissioner of the**
- 20 **bureau of motor vehicles.**
- 21 (b) This SECTION expires on the earlier of the following:
- 22 (1) The date rules are adopted under IC 9-28-5.1-5, as added
- 23 by this act.
- 24 (2) December 31, 2011.
- 25 SECTION 20. **An emergency is declared for this act.**
(Reference is to EHB 1188 as printed February 17, 2010.)

Conference Committee Report
on
Engrossed House Bill 1188

Signed by:

Representative Austin
Chairperson

Senator Wyss

Representative Neese

Senator Rogers

House Conferees

Senate Conferees