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# HOUSE BILL No. 1361

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-13-2-42; IC 9-17-8-8; IC 9-18-26; IC 9-22; IC 9-23; IC 9-31.

**Synopsis:** Various motor vehicle matters. Transfers various responsibilities concerning vehicle dealers from the bureau of motor vehicles to the secretary of state, and makes corresponding changes. Adds motorcycle dealer-new, motorcycle dealer-used, and transfer dealer to the categories for which dealer license plates may be issued. Authorizes the secretary of state or an agent or employee of the secretary of state to enter the premises of certain businesses dealing in salvage vehicles to determine compliance with laws concerning salvage motor vehicles. (Current law authorizes the bureau of motor vehicles or an agent of the bureau of motor vehicles to enter the premises.) Provides that the secretary of state or an agent of the secretary of state is immune from civil or criminal liability regarding laws concerning salvage motor vehicles. Requires certain persons to be licensed to buy or sell trailers. Makes it a Class B misdemeanor for a vehicle manufacturer or vehicle distributor to fail to compensate to a dealer the contracted labor rate for the work and services the dealer is required to perform in connection with the dealer's delivery and preparation obligations under any franchise or to fail to compensate to a dealer the contracted labor rate for labor and other expenses incurred by the dealer under the manufacturer's warranty agreements. Repeals language concerning vehicle: (1) dealers; (2) sales; (3) salvaging; and (4) merchandising.

**Effective:** July 1, 2010.

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## GiaQuinta, Bell

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January 13, 2010, read first time and referred to Committee on Roads and Transportation.

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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.

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# HOUSE BILL No. 1361



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 9-13-2-42, AS AMENDED BY P.L.147-2009,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]: Sec. 42. (a) "Dealer" means, except as otherwise  
4 provided in this section, a person who sells to the general public,  
5 including a person who sells directly by the Internet or other computer  
6 network, at least twelve (12) vehicles each year for delivery in Indiana.  
7 The term includes a person who sells off-road vehicles. A dealer must  
8 have an established place of business that meets the minimum  
9 standards prescribed by the ~~bureau~~ **secretary of state** under rules  
10 adopted under IC 4-22-2.

- 11 (b) The term does not include the following:  
12 (1) A receiver, trustee, or other person appointed by or acting  
13 under the judgment or order of a court.  
14 (2) A public officer while performing official duties.  
15 (3) A person who is a dealer solely because of activities as a  
16 transfer dealer.  
17 (4) An automotive mobility dealer.



1 (c) "Dealer", for purposes of IC 9-31, means a person that sells to  
2 the general public for delivery in Indiana at least six (6):

3 (1) boats; or

4 (2) trailers:

5 (A) designed and used exclusively for the transportation of  
6 watercraft; and

7 (B) sold in general association with the sale of watercraft;  
8 per year.

9 SECTION 2. IC 9-17-8-8, AS AMENDED BY P.L.147-2009,  
10 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2010]: Sec. 8. (a) Before obtaining a manufacturer's, a  
12 converter manufacturer's, an automotive mobility dealer's, or a dealer's  
13 license from the ~~bureau~~, **secretary of state**, a person must agree to  
14 allow a police officer or an authorized representative of the ~~bureau~~  
15 **secretary of state** to inspect:

16 (1) certificates of origin, certificates of title, assignments of  
17 certificates of origin and certificates of title, or other proof of  
18 ownership or evidence of right of possession as determined by the  
19 secretary of state; and

20 (2) motor vehicles, semitrailers, or recreational vehicles that are  
21 held for resale by the manufacturer, converter manufacturer,  
22 automotive mobility dealer, or dealer;  
23 in the manufacturer's, converter manufacturer's, automotive mobility  
24 dealer's, or dealer's place of business during reasonable business hours.

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

27 (1) must be readily available for inspection by or delivery to the  
28 proper persons; and

29 (2) may not be removed from Indiana.

30 SECTION 3. IC 9-18-26-2, AS AMENDED BY P.L.106-2008,  
31 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2010]: Sec. 2. (a) The secretary of state shall issue dealer  
33 license plates under this chapter according to the following  
34 classifications:

35 (1) Dealer-new.

36 (2) Dealer-used.

37 (3) Manufacturer.

38 (4) **Motorcycle dealer-new.**

39 (5) **Motorcycle dealer-used.**

40 (6) **Transfer dealer.**

41 (b) The secretary of state may adopt rules under IC 4-22-2 to  
42 establish additional classifications of dealer license plates and may

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1 prescribe the general conditions for usage of an additional  
2 classification. The secretary of state shall establish the classification of  
3 antique car museum dealer license plates.

4 SECTION 4. IC 9-18-26-6 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. Except as provided  
6 in sections 7 and 8 of this chapter, dealer-new, dealer-used, ~~and~~  
7 manufacturer, **motorcycle dealer-new, motorcycle dealer-used, and**  
8 **transfer dealer** license plates may only be used on motor vehicles in  
9 the:

- 10 (1) dealer's inventory being held for sale;
- 11 (2) usual operation of that manufacturer's or dealer's business;
- 12 (3) movement of that manufacturer's or dealer's inventory; or
- 13 (4) inventory of a manufacturer or dealer that is unattended by
- 14 that manufacturer or dealer or the dealer's agent for a maximum
- 15 of ten (10) days by a prospective buyer or a service customer.

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

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

34 SECTION 6. IC 9-18-26-9 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. Dealer-new,  
36 dealer-used, ~~and~~ manufacturer, **motorcycle dealer-new, motorcycle**  
37 **dealer-used, and transfer dealer** license plates may not be used on a  
38 vehicle that:

- 39 (1) is required to be registered; and
- 40 (2) has a fee charged by dealers to others for the use of the
- 41 vehicle.

42 SECTION 7. IC 9-22-3-7 IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2010]: Sec. 7. A business that is registered with  
2 the ~~department secretary of state~~ as a dealer under IC 9-23 may  
3 reassign a certificate of salvage title one (1) time without applying to  
4 the bureau for the issuance of a new certificate of salvage title.

5 SECTION 8. IC 9-22-3-10 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) If a certificate  
7 of salvage title is lost, mutilated, or destroyed or becomes illegible, the  
8 person who owns the vehicle or the legal representative or legal  
9 successor in interest of the person who owns the motor vehicle,  
10 semitrailer, or recreational vehicle for which the certificate of salvage  
11 title was issued, as shown by the records of the bureau, ~~of motor~~  
12 ~~vehicles~~, shall immediately apply for a duplicate certificate of salvage  
13 title.

14 (b) A person described in subsection (a) may obtain a duplicate  
15 certificate of salvage title when the person furnishes information  
16 concerning the loss, mutilation, destruction, or illegibility satisfactory  
17 to the department and pays the fee set forth in IC 9-29-7. Upon the  
18 issuance of a duplicate certificate of salvage title, the most recent  
19 certificate of salvage title issued is considered void by the ~~department~~  
20 ~~secretary of state~~.

21 (c) A certificate of salvage title issued under this section must have  
22 recorded upon the title's face and back the words "DUPLICATE  
23 SALVAGE TITLE".

24 (d) If the lost, mutilated, destroyed, or illegible certificate of salvage  
25 title contained the notation "FLOOD DAMAGED", the duplicate  
26 certificate of salvage title must have recorded upon the title's face and  
27 back the words "FLOOD DAMAGED".

28 SECTION 9. IC 9-22-3-11, AS AMENDED BY P.L.110-2006,  
29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2010]: Sec. 11. (a) This section applies to the following  
31 persons:

32 (1) An insurance company that declares a wrecked or damaged  
33 motor vehicle, motorcycle, semitrailer, or recreational vehicle that  
34 meets at least one (1) of the criteria set forth in section 3 of this  
35 chapter and the ownership of which is not evidenced by a  
36 certificate of salvage title.

37 (2) An insurance company that has made and paid an agreed  
38 settlement for the loss of a stolen motor vehicle, motorcycle,  
39 semitrailer, or recreational vehicle that:

40 (A) has been recovered by the titled owner; and

41 (B) meets at least one (1) of the criteria set forth in section 3  
42 of this chapter.

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1 (b) A person who owns or holds a lien upon a vehicle described in  
2 subsection (a) shall assign the certificate of title to the insurance  
3 company described in subsection (a). The insurance company shall  
4 apply to the bureau within thirty-one (31) days after receipt of the  
5 certificate of title for a certificate of salvage title for each salvage or  
6 stolen vehicle subject to this chapter. The insurance company shall  
7 surrender the certificate of title to the ~~department~~ **secretary of state**  
8 and pay the fee prescribed under IC 9-29-7 for a certificate of salvage  
9 title.

10 (c) When the owner of a vehicle described in subsection (a) retains  
11 possession of the vehicle:

12 (1) the person who possesses the certificate of title shall surrender  
13 the certificate of title to the insurance company described in  
14 subdivision (2);

15 (2) the insurance company that completes an agreed settlement  
16 for the vehicle shall:

17 (A) obtain the certificate of title; and

18 (B) submit to the bureau:

19 (i) the certificate of title;

20 (ii) the appropriate fee; and

21 (iii) a request for a certificate of salvage title on a form  
22 prescribed by the bureau; and

23 (3) after the bureau has received the items set forth in subdivision  
24 (2)(B), the bureau shall issue a certificate of salvage title to the  
25 owner.

26 (d) When a self-insured entity is the owner of a salvage motor  
27 vehicle, motorcycle, semitrailer, or recreational vehicle that meets at  
28 least one (1) of the criteria set forth in section 3 of this chapter, the  
29 self-insured entity shall apply to the bureau within thirty-one (31) days  
30 after the date of loss for a certificate of salvage title in the name of the  
31 self-insured entity's name.

32 (e) Any other person acquiring a wrecked or damaged motor  
33 vehicle, motorcycle, semitrailer, or recreational vehicle that meets at  
34 least one (1) of the criteria set forth in section 3 of this chapter, which  
35 acquisition is not evidenced by a certificate of salvage title, shall apply  
36 to the bureau within thirty-one (31) days after receipt of the certificate  
37 of title for a certificate of salvage title.

38 (f) A person that violates this section commits a Class D infraction.

39 SECTION 10. IC 9-22-3-20 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. Unless otherwise  
41 specified or required, the records required under section 19 of this  
42 chapter shall be retained for a period of five (5) years from the date the

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1 vehicle or major component part was acquired, in the form prescribed  
2 by the ~~bureau~~ **secretary of state**.

3 SECTION 11. IC 9-22-3-21 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 21. The records  
5 required under section 19 of this chapter must be available to and  
6 produced at the request of a police officer or an authorized agent of the  
7 ~~bureau~~ **secretary of state** under this chapter.

8 SECTION 12. IC 9-22-3-24 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. The ~~bureau~~,  
10 **secretary of state, an agent of the secretary of state, an employee**  
11 **of the secretary of state, or a police officer** ~~or an agent of the bureau~~  
12 ~~or a police officer~~ may enter upon the premises of a disposal facility,  
13 insurance company, or other business dealing in salvage vehicles  
14 during normal business hours to inspect a motor vehicle, semitrailer,  
15 recreational vehicle, major component part, records, certificate of title,  
16 and other ownership documents to determine compliance with this  
17 chapter.

18 SECTION 13. IC 9-22-3-25 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 25. In the absence of  
20 fraud or bad faith, a person who releases or provides evidence or  
21 information under this chapter to any of the following is immune from  
22 civil or criminal liability for providing that evidence or information:

- 23 (1) The superintendent of the state police or the superintendent's  
24 designee.
- 25 (2) The attorney general or the attorney general's designee.
- 26 (3) The city police chief or the city police chief's designee.
- 27 (4) The county sheriff or the county sheriff's designee.
- 28 (5) The prosecuting attorney or the prosecuting attorney's  
29 designee responsible for prosecutions in the county that has  
30 jurisdiction of the auto theft.

31 **(6) The secretary of state or an agent of the secretary of state.**

32 SECTION 14. IC 9-23-2-1, AS AMENDED BY P.L.147-2009,  
33 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2010]: Sec. 1. (a) The following persons must be licensed  
35 under this article to engage in the business of buying or selling motor  
36 vehicles **or trailers**:

- 37 (1) An automobile auctioneer.
- 38 (2) A converter manufacturer.
- 39 (3) A dealer.
- 40 (4) A distributor.
- 41 (5) A distributor branch.
- 42 (6) A distributor representative.

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- 1 (7) A factory branch.
- 2 (8) A factory representative.
- 3 (9) A manufacturer.
- 4 (10) A transfer dealer.
- 5 (11) A wholesale dealer.
- 6 (12) An automotive mobility dealer.
- 7 (b) An automotive mobility dealer who engages in the business of:
- 8 (1) selling, installing, or servicing;
- 9 (2) offering to sell, install, or service; or
- 10 (3) soliciting or advertising the sale, installation, or servicing of;
- 11 equipment or modifications specifically designed to facilitate use or
- 12 operation of a vehicle by an individual who is disabled or aged must be
- 13 licensed under this article.

14 SECTION 15. IC 9-23-2-11, AS AMENDED BY P.L.184-2007,  
 15 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2010]: Sec. 11. A person who ceases a business activity for  
 17 which a license was issued under this chapter shall do the following:

- 18 (1) Notify the secretary of state of the date that the business
- 19 activity will cease.
- 20 (2) Deliver all permanent dealer license plates and interim license
- 21 plates issued to the person to the ~~bureau~~ **secretary of state** within
- 22 ten (10) days of the date the business activity will cease.

23 SECTION 16. IC 9-23-3-14, AS AMENDED BY P.L.184-2007,  
 24 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2010]: Sec. 14. (a) This section does not authorize a  
 26 manufacturer or distributor and its franchisees in Indiana to establish  
 27 a uniform hourly labor reimbursement rate effective for the entire state.

28 (b) It is an unfair practice for a manufacturer or distributor to fail to  
 29 compensate to a dealer the ~~posted hourly~~ **contracted** labor rate for the  
 30 work and services the dealer is required to perform in connection with  
 31 the dealer's delivery and preparation obligations under any franchise or  
 32 **to** fail to compensate to a dealer the ~~posted hourly~~ **contracted** labor  
 33 rate for labor and other expenses incurred by the dealer under the  
 34 manufacturer's warranty agreements. ~~as long as the posted rate is~~  
 35 ~~reasonable. Judgment of the reasonableness includes consideration of~~  
 36 ~~charges for similar repairs by comparable repair facilities in the local~~  
 37 ~~area as well as mechanic's wages and fringe benefits.~~

38 (c) A manufacturer or distributor and at least thirty percent (30%)  
 39 of its franchisees in Indiana of the same line make may agree in an  
 40 express written contract citing this section to a uniform warranty  
 41 reimbursement policy to be used by franchisees for the performance of  
 42 warranty repairs. The contract must include the reimbursement for

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1 parts used in warranty repairs or the use of a uniform time standards  
2 manual, or both. The allowance for diagnosis within the uniform time  
3 standards manual must be reasonable and adequate for the work and  
4 service to be performed. The manufacturer or distributor shall have:

- 5 (1) only one (1) agreement with each line make; and
- 6 (2) a reasonable and fair procedure for franchisees to request a  
7 modification or adjustment of a standard included in the uniform  
8 time standards manual.

9 (d) A contract described in subsection (c) must meet the following  
10 criteria:

11 (1) Establish a uniform parts reimbursement rate that must be  
12 greater than the manufacturer's or distributor's nationally  
13 established parts reimbursement rate in effect at the time the  
14 contract becomes effective. A subsequent contract must include  
15 a uniform reimbursement rate that is equal to or greater than the  
16 rate in the immediately prior contract.

17 (2) Apply to all warranty repair orders written while the  
18 agreement is in effect.

- 19 (3) At any time during the period the contract is in effect:
  - 20 (A) be available to any franchisee of the same line make as the
  - 21 franchisees who entered into the contract with the
  - 22 manufacturer or distributor; and
  - 23 (B) be available to the franchisee of the same line make on the
  - 24 same terms as apply to the franchisees who entered into the
  - 25 contract with the manufacturer or distributor.

26 (4) Be for a term not to exceed three (3) years.

27 (5) Allow any party to the uniform warranty reimbursement policy  
28 to terminate the policy with thirty (30) days prior written notice  
29 to all parties upon the annual anniversary of the policy, if the  
30 policy is for at least one (1) year.

31 (6) Remain in effect for the entire life of the original period if the  
32 manufacturer and at least one (1) franchisee remain parties to the  
33 policy.

34 (e) A manufacturer or distributor that enters into a contract with its  
35 franchisees under subsection (c) may only seek to recover its costs  
36 from a franchisee that receives a higher reimbursement rate, if  
37 authorized by law, subject to the following:

38 (1) Costs may be recovered only by increasing invoice prices on  
39 new vehicles received by the franchisee.

40 (2) A manufacturer or distributor may make an exception for  
41 vehicles that are titled in the name of a purchaser in another state.  
42 However, price increases imposed for the purpose of recovering

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1 costs imposed by this section may vary from time to time and  
2 from model to model and must apply uniformly to all franchisees  
3 of the same line make that have requested reimbursement for  
4 warranty repairs at a level higher than provided for in the  
5 agreement.

6 (f) A manufacturer or distributor that enters into a contract with its  
7 franchisees under subsection (c) shall do the following:

8 (1) Certify to the secretary of state under oath, in a writing signed  
9 by a representative of the manufacturer or distributor, that at the  
10 time the contract was entered into at least thirty percent (30%) of  
11 the franchisees of the line make were parties to the contract.

12 (2) File a copy of the contract with the bureau at the time of the  
13 certification.

14 (3) Maintain a file that contains the information upon which the  
15 certification required under subdivision (1) is based for three (3)  
16 years after the certification is made.

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

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

24 (1) The dealer's license number.

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

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

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

32 SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE  
33 JULY 1, 2010]: IC 9-18-26-14; IC 9-18-26-15; IC 9-18-26-16;  
34 IC 9-18-26-17; IC 9-22-4-6; IC 9-22-4-10; IC 9-22-4-14; IC 9-23-2-14;  
35 IC 9-23-2-17; IC 9-23-6-1; IC 9-23-6-4; IC 9-23-6-5; IC 9-23-6-6;  
36 IC 9-23-6-7; IC 9-23-6-8; IC 9-23-6-9; IC 9-31-4-6; IC 9-31-4-8.

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