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

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House 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:

Delete everything after the enacting clause and insert the following:

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

(b) The term does not include the following:

(1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.

(2) A public officer while performing official duties.

(3) A person who is a dealer solely because of activities as a transfer dealer.

(4) An automotive mobility dealer.

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

(1) boats; or

(2) trailers:

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

(B) sold in general association with the sale of watercraft;

per year.

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

(1) research;

(2) development; or

(3) manufacture;

of a vehicle subcomponent system.

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

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

(2) motor vehicles, semitrailers, or recreational vehicles that are held for resale by the manufacturer, converter manufacturer, automotive mobility dealer, or dealer;

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

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

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

(2) may not be removed from Indiana.

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

(1) issue a research and development license plate under this chapter to a manufacturer of a vehicle subcomponent system; and

(2) adopt rules under IC 4-22-2 to prescribe the general conditions for the:

(A) application;

(B) issuance; and

(C) use;

of research and development license plates for manufacturers of vehicle component systems.

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

IC 9-29-5-14.5.

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

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

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

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

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

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

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

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

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

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

compliance with this chapter.

SECTION 11. 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 application. However, the secretary of state may not issue a license until the applicant files the affidavit.

(e) 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.

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

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

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

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

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

Chapter 5.1. International Reciprocity

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

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

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

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

(2) an international driving permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The dealer's license number.

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

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

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

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

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

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

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

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

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

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

motor vehicle insurance policy is first exhausted.

SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-18-26-2.5(a)(2), as added by this act, and IC 9-13-2-42(a) and IC 9-18-26-8, both as amended by this act, the secretary of state shall carry out the duties imposed upon the secretary of state under IC 9-18-26-2.5(a)(2), as added by this act, and IC 9-13-2-42(a) and IC 9-18-26-8, both as amended by this act, under interim written guidelines approved by the secretary of state.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-18-26-2.5(a)(2), as added by this act, and IC 9-13-2-42(a) and IC 9-18-26-8, both as amended by this act.

(2) December 31, 2011.

SECTION 19. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-28-5.1-5, as added by this act, the bureau of motor vehicles shall carry out the duties imposed upon the bureau of motor vehicles under IC 9-28-5.1-5, as added by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-28-5.1-5, as added by this act.

(2) December 31, 2011.

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**