



January 27, 2012

HOUSE BILL No. 1222

DIGEST OF HB 1222 (Updated January 25, 2012 5:30 pm - DI 96)

Citations Affected: IC 4-5; IC 4-22; IC 9-13; IC 9-16; IC 9-17; IC 9-18; IC 9-22; IC 9-23; IC 9-29; IC 9-31; IC 9-32; IC 23-19; IC 24-4; IC 24-5; IC 35-51; noncode.

Synopsis: Dealer services division of the secretary of state. Establishes a dealer services division (division) within the office of the secretary (secretary), and provides that the division administers and has jurisdiction over vehicle dealer (dealer) services (services). Establishes procedures: (1) for administration of the division; and (2) for judicial action concerning the division. Provides that a person who violates statutes or rules pertaining to services or an order issued by the secretary pertaining to services is subject to a civil penalty of up to \$10,000 for each violation. Establishes the dealer enforcement account to be used to support the division. Provides for criminal penalties for certain violations pertaining to services. Establishes the motor vehicle advisory board (board) and requires the board to study the feasibility of creating administrative adjudication processes for the purpose of addressing issues related to persons regulated in their buying and selling of motor vehicles or semitrailers. Requires the board to report to the legislative council and to the secretary on or before November 1, 2012. Specifies that a transfer dealer is not considered a dealer. Repeals and relocates language concerning dealer services. Provides that an auto auctioneer is a person providing a place of business or facilities for the purchase and sale of more than six motor vehicles a year. (Under current law the threshold is one motor vehicle a year.) Provides that the 30 business day period for purposes of determining whether a reasonable number of attempts have been made to correct a nonconformity is extended by any period of time during which repair services are unavailable due to civil unrest, fire, natural disasters,
(Continued next page)

Effective: July 1, 2012.

Yarde, Wolkins

January 9, 2012, read first time and referred to Committee on Roads and Transportation.
January 26, 2012, amended, reported — Do Pass.

HB 1222—LS 6886/DI 96+



C
O
P
Y

Digest Continued

terrorist attacks, or acts of God or war. (Current law extends the time period only when repair services are unavailable due to a strike.) Provides that a dealer who fails to deliver a certificate of title within a certain timeframe is subject to certain civil penalties for violations that occur within a calendar year. Requires a dealer to make payment to a third party to satisfy any obligation secured by the vehicle within 10 days after the date of sale. Makes it a Class D felony for a disposal facility, a scrap metal processor, or an agent of a disposal facility or scrap metal processor to knowingly, intentionally, or recklessly buy a motor vehicle that is less than 15 model years old without a certificate of title for the motor vehicle. Makes it a Class A misdemeanor for a dealer or another person who sells, exchanges, or transfers at least five vehicles each year to sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle. Makes conforming amendments. Makes an appropriation.

C
o
p
y

HB 1222—LS 6886/DI 96+



January 27, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

C
O
P
Y

HOUSE BILL No. 1222



A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-5-1-11, AS AMENDED BY P.L.197-2011,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2012]: Sec. 11. The secretary of state may adopt and enforce
- 4 rules under IC 4-22-2 that are necessary to carry out
- 5 (~~1~~) ~~IC 9-18-26~~;
- 6 (~~2~~) ~~IC 9-22-4~~;
- 7 (~~3~~) ~~IC 9-23-2~~;
- 8 (~~4~~) ~~IC 9-23-3~~; and
- 9 (~~5~~) ~~IC 9-23-6~~. **IC 9-32.**
- 10 SECTION 2. IC 4-5-1-12 IS ADDED TO THE INDIANA CODE
- 11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 12 1, 2012]: **Sec. 12. (a) The secretary of state shall establish a dealer**
- 13 **services division within the office of the secretary of state. The**
- 14 **dealer services division shall administer and has jurisdiction over**
- 15 **IC 9-29-17 and IC 9-32.**
- 16 **(b) The secretary of state shall appoint a director of the dealer**
- 17 **services division established by subsection (a).**

HB 1222—LS 6886/DI 96+



1 SECTION 3. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011,
 2 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2012]: Sec. 37.1. (a) This section applies to a rulemaking
 4 action resulting in any of the following rules:

5 (1) An order adopted by the commissioner of the Indiana
 6 department of transportation under IC 9-20-1-3(d) or
 7 IC 9-21-4-7(a) and designated by the commissioner as an
 8 emergency rule.

9 (2) An action taken by the director of the department of natural
 10 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

11 (3) An emergency temporary standard adopted by the
 12 occupational safety standards commission under
 13 IC 22-8-1.1-16.1.

14 (4) An emergency rule adopted by the solid waste management
 15 board under IC 13-22-2-3 and classifying a waste as hazardous.

16 (5) A rule, other than a rule described in subdivision (6), adopted
 17 by the department of financial institutions under IC 24-4.5-6-107
 18 and declared necessary to meet an emergency.

19 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
 20 department of financial institutions and declared necessary to
 21 meet an emergency under IC 24-4.5-6-107.

22 (7) A rule adopted by the Indiana utility regulatory commission to
 23 address an emergency under IC 8-1-2-113.

24 (8) An emergency rule adopted by the state lottery commission
 25 under IC 4-30-3-9.

26 (9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the
 27 executive board of the state department of health declares is
 28 necessary to meet an emergency.

29 (10) An emergency rule adopted by the Indiana finance authority
 30 under IC 8-21-12.

31 (11) An emergency rule adopted by the insurance commissioner
 32 under IC 27-1-23-7 or IC 27-1-12.1.

33 (12) An emergency rule adopted by the Indiana horse racing
 34 commission under IC 4-31-3-9.

35 (13) An emergency rule adopted by the air pollution control
 36 board, the solid waste management board, or the water pollution
 37 control board under IC 13-15-4-10(4) or to comply with a
 38 deadline required by or other date provided by federal law,
 39 provided:

40 (A) the variance procedures are included in the rules; and

41 (B) permits or licenses granted during the period the
 42 emergency rule is in effect are reviewed after the emergency

C
o
p
y



- 1 rule expires.
- 2 (14) An emergency rule adopted by the Indiana election
3 commission under IC 3-6-4.1-14.
- 4 (15) An emergency rule adopted by the department of natural
5 resources under IC 14-10-2-5.
- 6 (16) An emergency rule adopted by the Indiana gaming
7 commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3,
8 IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.
- 9 (17) An emergency rule adopted by the alcohol and tobacco
10 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
11 IC 7.1-3-20-24.4.
- 12 (18) An emergency rule adopted by the department of financial
13 institutions under IC 28-15-11.
- 14 (19) An emergency rule adopted by the office of the secretary of
15 family and social services under IC 12-8-1-12.
- 16 (20) An emergency rule adopted by the office of the children's
17 health insurance program under IC 12-17.6-2-11.
- 18 (21) An emergency rule adopted by the office of Medicaid policy
19 and planning under IC 12-15-41-15.
- 20 (22) An emergency rule adopted by the Indiana state board of
21 animal health under IC 15-17-10-9.
- 22 (23) An emergency rule adopted by the board of directors of the
23 Indiana education savings authority under IC 21-9-4-7.
- 24 (24) An emergency rule adopted by the Indiana board of tax
25 review under IC 6-1.1-4-34 (repealed).
- 26 (25) An emergency rule adopted by the department of local
27 government finance under IC 6-1.1-4-33 (repealed).
- 28 (26) An emergency rule adopted by the boiler and pressure vessel
29 rules board under IC 22-13-2-8(c).
- 30 (27) An emergency rule adopted by the Indiana board of tax
31 review under IC 6-1.1-4-37(l) (repealed) or an emergency rule
32 adopted by the department of local government finance under
33 IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.
- 34 (28) An emergency rule adopted by the board of the Indiana
35 economic development corporation under IC 5-28-5-8.
- 36 (29) A rule adopted by the department of financial institutions
37 under IC 34-55-10-2.5.
- 38 (30) A rule adopted by the Indiana finance authority:
39 (A) under IC 8-15.5-7 approving user fees (as defined in
40 IC 8-15.5-2-10) provided for in a public-private agreement
41 under IC 8-15.5;
42 (B) under IC 8-15-2-17.2(a)(10):

C
O
P
Y



- 1 (i) establishing enforcement procedures; and
 2 (ii) making assessments for failure to pay required tolls;
 3 (C) under IC 8-15-2-14(a)(3) authorizing the use of and
 4 establishing procedures for the implementation of the
 5 collection of user fees by electronic or other nonmanual
 6 means; or
 7 (D) to make other changes to existing rules related to a toll
 8 road project to accommodate the provisions of a public-private
 9 agreement under IC 8-15.5.
- 10 (31) An emergency rule adopted by the board of the Indiana
 11 health informatics corporation under IC 5-31-5-8.
- 12 (32) An emergency rule adopted by the department of child
 13 services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or
 14 IC 31-27-4-3.
- 15 (33) An emergency rule adopted by the Indiana real estate
 16 commission under IC 25-34.1-2-5(15).
- 17 (34) A rule adopted by the department of financial institutions
 18 under IC 24-4.4-1-101 and determined necessary to meet an
 19 emergency.
- 20 (35) An emergency rule adopted by the state board of pharmacy
 21 regarding returning unused medication under IC 25-26-23.
- 22 (36) An emergency rule adopted by the department of local
 23 government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.
- 24 (37) An emergency rule adopted by the office of the secretary of
 25 family and social services or the office of Medicaid policy and
 26 planning concerning the following:
- 27 (A) Federal Medicaid waiver program provisions.
 28 (B) Federal programs administered by the office of the
 29 secretary.
- 30 **(38) An emergency rule adopted by the dealer services**
 31 **division of the office of the secretary of state under**
 32 **IC 9-32-2-1.**
- 33 (b) The following do not apply to rules described in subsection (a):
 34 (1) Sections 24 through 36 of this chapter.
 35 (2) IC 13-14-9.
- 36 (c) After a rule described in subsection (a) has been adopted by the
 37 agency, the agency shall submit the rule to the publisher for the
 38 assignment of a document control number. The agency shall submit the
 39 rule in the form required by section 20 of this chapter and with the
 40 documents required by section 21 of this chapter. The publisher shall
 41 determine the format of the rule and other documents to be submitted
 42 under this subsection.

C
O
P
Y

1 (d) After the document control number has been assigned, the
 2 agency shall submit the rule to the publisher for filing. The agency
 3 shall submit the rule in the form required by section 20 of this chapter
 4 and with the documents required by section 21 of this chapter. The
 5 publisher shall determine the format of the rule and other documents
 6 to be submitted under this subsection.

7 (e) Subject to section 39 of this chapter, the publisher shall:

- 8 (1) accept the rule for filing; and
 9 (2) electronically record the date and time that the rule is
 10 accepted.

11 (f) A rule described in subsection (a) takes effect on the latest of the
 12 following dates:

- 13 (1) The effective date of the statute delegating authority to the
 14 agency to adopt the rule.
 15 (2) The date and time that the rule is accepted for filing under
 16 subsection (e).
 17 (3) The effective date stated by the adopting agency in the rule.
 18 (4) The date of compliance with every requirement established by
 19 law as a prerequisite to the adoption or effectiveness of the rule.

20 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,
 21 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in
 22 subsections (j), (k), and (l), a rule adopted under this section expires
 23 not later than ninety (90) days after the rule is accepted for filing under
 24 subsection (e). Except for a rule adopted under subsection (a)(13),
 25 (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting
 26 another rule under this section, but only for one (1) extension period.
 27 The extension period for a rule adopted under subsection (a)(28) may
 28 not exceed the period for which the original rule was in effect. A rule
 29 adopted under subsection (a)(13) may be extended for two (2)
 30 extension periods. Subject to subsection (j), a rule adopted under
 31 subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited
 32 number of extension periods. Except for a rule adopted under
 33 subsection (a)(13), for a rule adopted under this section to be effective
 34 after one (1) extension period, the rule must be adopted under:

- 35 (1) sections 24 through 36 of this chapter; or
 36 (2) IC 13-14-9;

37 as applicable.

38 (h) A rule described in subsection (a)(8), (a)(12), (a)(19), (a)(20),
 39 (a)(21), (a)(29), or (a)(37) expires on the earlier of the following dates:

- 40 (1) The expiration date stated by the adopting agency in the rule.
 41 (2) The date that the rule is amended or repealed by a later rule
 42 adopted under sections 24 through 36 of this chapter or this

C
o
p
y



- 1 section.
- 2 (i) This section may not be used to readopt a rule under IC 4-22-2.5.
- 3 (j) A rule described in subsection (a)(24) or (a)(25) expires not later
4 than January 1, 2006.
- 5 (k) A rule described in subsection (a)(28) expires on the expiration
6 date stated by the board of the Indiana economic development
7 corporation in the rule.
- 8 (l) A rule described in subsection (a)(30) expires on the expiration
9 date stated by the Indiana finance authority in the rule.
- 10 (m) A rule described in subsection (a)(5) or (a)(6) expires on the
11 date the department is next required to issue a rule under the statute
12 authorizing or requiring the rule.
- 13 SECTION 4. IC 9-13-2-1.3 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1.3. "Adjusted or net
15 capitalized cost", for purposes of ~~IC 9-23-2.5~~; **IC 9-32**, has the meaning
16 set forth in ~~IC 9-23-2.5-1~~; **IC 9-32-1-2**.
- 17 SECTION 5. IC 9-13-2-1.6 IS ADDED TO THE INDIANA CODE
18 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
19 **1, 2012]: Sec. 1.6. "Advisory board", for purposes of IC 9-32, has**
20 **the meaning set forth in IC 9-32-1-3.**
- 21 SECTION 6. IC 9-13-2-7 IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2012]: Sec. 7. "Automobile auctioneer", **means**
23 **a person who is engaged in the business of; or as a part of the**
24 **auctioneer's business participates in; providing a place of business or**
25 **facilities for the purchase and sale of motor vehicles on the basis of**
26 **bids by persons acting for themselves or others. The term does not**
27 **include a person acting only as an auctioneer under IC 25-6-1-1. for**
28 **purposes of IC 9-32, has the meaning set forth in IC 9-32-1-4.**
- 29 SECTION 7. IC 9-13-2-9 IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2012]: Sec. 9. "Automotive salvage rebuilder",
31 **means a person; firm; limited liability company; corporation; or other**
32 **legal entity engaged in the business:**
- 33 (1) **of acquiring salvage motor vehicles for the purpose of**
34 **restoring; reconstructing; or rebuilding the vehicles; and**
- 35 (2) **in the resale of these vehicles for use on the highway. for**
36 **purposes of IC 9-32, has the meaning set forth in IC 9-32-1-5.**
- 37 SECTION 8. IC 9-13-2-15 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. "Broker", for
39 purposes of ~~IC 9-23-3~~; **IC 9-32**, has the meaning set forth in
40 ~~IC 9-23-3-0.3~~; **IC 9-32-1-6**.
- 41 SECTION 9. IC 9-13-2-18.6 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18.6. "Capitalized

C
o
p
y

1 cost", for purposes of ~~IC 9-23-2.5~~; **IC 9-32**, has the meaning set forth
2 in ~~IC 9-23-2.5-2~~. **IC 9-32-1-7**.

3 SECTION 10. IC 9-13-2-18.7 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18.7. "Capitalized cost
5 reduction", for purposes of ~~IC 9-23-2.5~~; **IC 9-32**, has the meaning set
6 forth in ~~IC 9-23-2.5-3~~. **IC 9-32-1-8**.

7 SECTION 11. IC 9-13-2-19.5, AS ADDED BY P.L.226-2011,
8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2012]: Sec. 19.5. "Charge back", for purposes of ~~IC 9-23-3~~;
10 **IC 9-32-13**, has the meaning set forth in ~~IC 9-23-3-0.2~~. **IC 9-32-1-9**.

11 SECTION 12. IC 9-13-2-42, AS AMENDED BY P.L.93-2010,
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2012]: Sec. 42. (a) "Dealer" means, except as otherwise
14 provided in this section, a person who sells to the general public,
15 including a person who sells directly by the Internet or other computer
16 network, at least twelve (12) vehicles each year. ~~for delivery in Indiana~~.
17 The term includes a person who sells off-road vehicles. A dealer must
18 have an established place of business that meets the minimum
19 standards prescribed by the secretary of state under rules adopted under
20 IC 4-22-2.

21 (b) The term does not include the following:

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

24 (2) A public officer while performing official duties.

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

27 ~~(4) (3) An automotive mobility dealer.~~

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

30 (1) boats; or

31 (2) trailers:

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

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

35 per year.

36 SECTION 13. IC 9-13-2-43.3 IS ADDED TO THE INDIANA
37 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2012]: **Sec. 43.3. "Director", for purposes of**
39 **IC 9-32, has the meaning set forth in IC 9-32-1-10.**

40 SECTION 14. IC 9-13-2-44 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 44. (a) "Disposal
42 facility" means a person, firm, limited liability company, corporation,

C
o
p
y



1 or other legal entity that, in the course of business, engages in the
 2 acquisition and dismantling or demolition of motor vehicles,
 3 motorcycles, semitrailers, or recreational vehicles or their remains for
 4 the benefit of reusable components and parts or recyclable materials.

5 (b) The term includes the following enterprises:

6 (1) An automotive salvage recycler.

7 (2) A hulk crusher.

8 ~~(c) The term does not include~~ (3) A scrap metal processor.

9 SECTION 15. IC 9-13-2-45.5 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2012]: **Sec. 45.5. "Division", for purposes of**
 12 **IC 9-32, has the meaning set forth in IC 9-32-1-11.**

13 SECTION 16. IC 9-13-2-50 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 50. "Established place
 15 of business" means a permanent enclosed building or structure owned
 16 or leased for the purpose of ~~bartering,~~ **offering for sale,** trading, and
 17 selling motor vehicles. The term does not include a residence, tent,
 18 temporary stand, or permanent quarters temporarily occupied.

19 SECTION 17. IC 9-13-2-51 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 51. "Existing
 21 franchise", ~~means the franchise in effect on the date of a franchisee's~~
 22 ~~death or incapacity.~~ **for purposes of IC 9-32, has the meaning set**
 23 **forth in IC 9-32-1-12.**

24 SECTION 18. IC 9-13-2-66.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2012]: **Sec. 66.5. "Flood damaged vehicle",**
 27 **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-13.**

28 SECTION 19. IC 9-13-2-67 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 67. "Franchise", ~~means~~
 30 ~~an oral or a written agreement for a definite or an indefinite period in~~
 31 ~~which a manufacturer or distributor grants to a dealer a right to use a~~
 32 ~~trade name; trade or service mark; or related characteristic; and in~~
 33 ~~which there is a community of interest in the marketing of motor~~
 34 ~~vehicles or related services at retail or otherwise.~~ **for purposes of**
 35 **IC 9-32, has the meaning set forth in IC 9-32-1-14.**

36 SECTION 20. IC 9-13-2-68 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 68. "Franchisee",
 38 ~~means a dealer to whom a franchise is granted.~~ **for purposes of**
 39 **IC 9-32, has the meaning set forth in IC 9-32-1-15.**

40 SECTION 21. IC 9-13-2-69 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 69. "Franchisor",
 42 ~~means a manufacturer or distributor who grants a franchise to a dealer.~~



C
o
p
y

1 **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-16.**

2 SECTION 22. IC 9-13-2-90 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 90. "Labor rate", means
4 the hourly labor rate charged by a franchisee for service, filed
5 periodically with the bureau as the bureau may require, and posted
6 prominently in the franchisee's service department. **for purposes of
7 IC 9-32, has the meaning set forth in IC 9-32-1-17.**

8 SECTION 23. IC 9-13-2-92.5 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 92.5. "Lease
10 agreement", for purposes of ~~IC 9-23-2.5~~; **IC 9-32**, has the meaning set
11 forth in ~~IC 9-23-2.5-4~~; **IC 9-32-1-18.**

12 SECTION 24. IC 9-13-2-92.7 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 92.7. "Lease
14 transaction", for purposes of ~~IC 9-23-2.5~~; **IC 9-32**, has the meaning set
15 forth in ~~IC 9-23-2.5-5~~; **IC 9-32-1-19.**

16 SECTION 25. IC 9-13-2-98.5 IS ADDED TO THE INDIANA
17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2012]: **Sec. 98.5. "Material fact", for
19 purposes of IC 9-32, has the meaning set forth in IC 9-32-1-20.**

20 SECTION 26. IC 9-13-2-105, AS AMENDED BY P.L.9-2010,
21 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2012]: Sec. 105. (a) "Motor vehicle" means, except as
23 otherwise provided in this section, a vehicle that is self-propelled. The
24 term does not include a farm tractor, an implement of agriculture
25 designed to be operated primarily in a farm field or on farm premises,
26 or an electric personal assistive mobility device.

27 (b) "Motor vehicle", for purposes of IC 9-21, means:

- 28 (1) a vehicle except a motorized bicycle that is self-propelled; or
29 (2) a vehicle that is propelled by electric power obtained from
30 overhead trolley wires, but not operated upon rails.

31 (c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25,
32 means a vehicle that is self-propelled upon a highway in Indiana. The
33 term does not include a farm tractor.

34 (d) "Motor vehicle", for purposes of IC 9-30-10, does not include a
35 motorized bicycle.

36 (e) "Motor vehicle", for purposes of ~~IC 9-23-2~~ and ~~IC 9-23-3~~;
37 **IC 9-32-13**, includes a semitrailer.

38 (f) "Motor vehicle", for purposes of IC 9-24-6, has the meaning set
39 forth in 49 CFR 383.5 as in effect July 1, 2010.

40 SECTION 27. IC 9-13-2-114.5 IS ADDED TO THE INDIANA
41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2012]: **Sec. 114.5. "Offer to sell" means every**



C
o
p
y

1 attempt or offer to dispose of, or solicitation of an offer to
2 purchase, a motor vehicle or interest in a motor vehicle for hire.

3 SECTION 28. IC 9-13-2-149.5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 149.5. (a) "Record", for
5 purposes of IC 9-14-3.5, has the meaning set forth in IC 9-14-3.5-6.

6 (b) "Record", for purposes of IC 9-32-5-14, has the meaning set
7 forth in IC 9-32-1-21.

8 SECTION 29. IC 9-13-2-151.5, AS AMENDED BY P.L.37-2009,
9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2012]: Sec. 151.5. "Relevant market area", for purposes of
11 ~~IC 9-23-3~~, means the following:

12 (1) With respect to a new motor vehicle dealer who plans to
13 relocate the dealer's place of business in a county having a
14 population of more than one hundred thousand (100,000); the area
15 within a radius of six (6) miles of the intended site of the
16 relocated dealer. The six (6) mile distance shall be determined by
17 measuring the distance between the nearest surveyed boundary of
18 the existing new motor vehicle dealer's principal place of business
19 and the nearest surveyed boundary line of the relocated new
20 motor vehicle dealer's place of business.

21 (2) With respect to a:

22 (A) proposed new motor vehicle dealer; or

23 (B) new motor vehicle dealer who plans to relocate the dealer's
24 place of business in a county having a population that is not
25 more than one hundred thousand (100,000);

26 the area within a radius of ten (10) miles of the intended site of
27 the proposed or relocated dealer. The ten (10) mile distance shall
28 be determined by measuring the distance between the nearest
29 surveyed boundary line of the existing new motor vehicle dealer's
30 principal place of business and the nearest surveyed boundary line
31 of the proposed or relocated new motor vehicle dealer's principal
32 place of business.

33 **IC 9-32, has the meaning set forth in IC 9-32-1-22.**

34 SECTION 30. IC 9-13-2-154.5 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 154.5. "Retail lessee",
36 for purposes of ~~IC 9-23-2.5~~; **IC 9-32**, has the meaning set forth in
37 ~~IC 9-23-2.5-6~~. **IC 9-32-1-23.**

38 SECTION 31. IC 9-13-2-154.6 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 154.6. "Retail lessor",
40 for purposes of ~~IC 9-23-2.5~~; **IC 9-32**, has the meaning set forth in
41 ~~IC 9-23-2.5-7~~. **IC 9-32-1-24.**

42 SECTION 32. IC 9-13-2-159.5 IS ADDED TO THE INDIANA

C
o
p
y



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2012]: **Sec. 159.5. "Sale", for purposes of**
 3 **IC 9-32, has the meaning set forth in IC 9-32-1-25.**
 4 SECTION 33. IC 9-13-2-162 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 162. "Scrap metal
 6 processor" means a private, commercial, or governmental enterprise
 7 **having that engages in the acquisition of motor vehicles,**
 8 **motorcycles, semitrailers, or recreational vehicles or the remains**
 9 **of these vehicles and that has** facilities for processing iron, steel, or
 10 nonferrous scrap and whose principal product is scrap iron, scrap steel,
 11 or nonferrous scrap for sale for remelting purposes. ~~A scrap metal~~
 12 ~~processor is not a disposal facility or a used parts dealer.~~
 13 SECTION 34. IC 9-13-2-162.5 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2012]: **Sec. 162.5. "Secretary", for purposes**
 16 **of IC 9-32, has the meaning set forth in IC 9-32-1-26.**
 17 SECTION 35. IC 9-13-2-185 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 185. "Transfer dealer",
 19 means a person other than a dealer, manufacturer, or wholesale dealer
 20 who has the necessity of transferring a minimum of twelve (12) motor
 21 vehicles during a license year as part of the transfer dealer's primary
 22 business function: **for purposes of IC 9-32, has the meaning set forth**
 23 **in IC 9-32-1-27.**
 24 SECTION 36. IC 9-13-2-191.5 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 191.5. "Uniform time
 26 standards manual", for purposes of ~~IC 9-23-3,~~ **IC 9-32,** has the
 27 meaning set forth in ~~IC 9-23-3-0.5;~~ **IC 9-32-1-28.**
 28 SECTION 37. IC 9-13-2-195 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 195. "Used parts
 30 dealer", means a person who primarily buys, sells, barter, exchanges,
 31 or deals in used major component parts. ~~The term does not include a~~
 32 ~~scrap metal processor:~~ **for purposes of IC 9-32, has the meaning set**
 33 **forth in IC 9-32-1-29.**
 34 SECTION 38. IC 9-13-2-199 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 199. "Wholesale
 36 dealer", means a person who is engaged in the business of buying or
 37 selling motor vehicles for resale to other dealers, wholesale dealers,
 38 transfer dealers, or persons other than the general public: **for purposes**
 39 **of IC 9-32, has the meaning set forth in IC 9-32-1-30.**
 40 SECTION 39. IC 9-16-1-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this
 42 chapter, "qualified person" means any of the following:

COPY



- 1 (1) A motor club that is any of the following:
- 2 (A) A domestic corporation.
- 3 (B) A foreign corporation qualified to transact business in
- 4 Indiana under IC 23-1 or IC 23-17.
- 5 (2) A financial institution (as defined in IC 28-1-1-3).
- 6 (3) A new motor vehicle dealer licensed under ~~IC 9-23-2~~
- 7 **IC 9-32-10**.
- 8 (4) Other persons, including persons licensed under ~~IC 9-23-2~~
- 9 **IC 9-32-10** that are not covered by subdivision (3), that the
- 10 commission determines can meet the standards adopted by the
- 11 commission under ~~IC 9-15-2-1(7)~~ and the requirements for partial
- 12 service contractors under section 4.5 of this chapter.

13 SECTION 40. IC 9-17-2-4 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. If a certificate of
 15 title:

- 16 (1) has been previously issued for a vehicle in Indiana, an
- 17 application for a certificate of title must be accompanied by the
- 18 previously issued certificate of title, unless otherwise provided; or
- 19 (2) has not previously been issued for a vehicle in Indiana, an
- 20 application for a certificate of title must be accompanied by a
- 21 manufacturer's certificate of origin as provided in ~~IC 9-17-8~~;
- 22 **IC 9-32-4-3** unless otherwise provided.

23 SECTION 41. IC 9-17-3-3 IS REPEALED [EFFECTIVE JULY 1,
 24 2012]. Sec. 3: (a) If a vehicle for which a certificate of title has been
 25 issued is sold or if the ownership of the vehicle is transferred in any
 26 manner other than by a transfer on death conveyance under section 9
 27 of this chapter, the person who holds the certificate of title must do the
 28 following:

- 29 (1) Endorse on the certificate of title an assignment of the
- 30 certificate of title with warranty of title; in a form printed on the
- 31 certificate of title, with a statement describing all liens or
- 32 encumbrances on the vehicle.
- 33 (2) Except as provided in subdivisions (4) and (5); deliver the
- 34 certificate of title to the purchaser or transferee at the time of the
- 35 sale or delivery to the purchaser or transferee of the vehicle; if the
- 36 purchaser or transferee has made all agreed upon initial payments
- 37 for the vehicle; including delivery of a trade-in vehicle without
- 38 hidden or undisclosed statutory liens.
- 39 (3) Unless the vehicle is being sold or transferred to a dealer
- 40 licensed under ~~IC 9-23-2~~; complete all information concerning the
- 41 purchase on the certificate of title; including, but not limited to:
- 42 (A) the name and address of the purchaser; and

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (B) the sale price of the vehicle.
- (4) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.
- (5) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle; if all of the following conditions exist:
 - (A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.
 - (B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.
 - (C) The vehicle dealer reasonably believes that it will be able to deliver the certificate of title, without a lien or an encumbrance on the certificate of title, within the twenty-one (21) day period.
 - (D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3-1 of this chapter.
 - (E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.
- (b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title; if the dealer can comply with subsection (a)(4) or (a)(5) at the time of the sale:
- (c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:
 - (1) One hundred dollars (\$100) for the first violation.
 - (2) Two hundred fifty dollars (\$250) for the second violation.
 - (3) Five hundred dollars (\$500) for all subsequent violations.

Payment shall be made to the secretary of state and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance

C
o
p
y



1 expenses; and any other amount paid to the dealer by the purchaser.
 2 (d) For purposes of this subsection, "timely deliver", with respect to
 3 a third party, means to deliver to the purchaser or transferee with a
 4 postmark dated or hand delivered not more than ten (10) business days
 5 after there is no obligation secured by the vehicle. If the dealer's
 6 inability to timely deliver a valid certificate of title results from the acts
 7 or omissions of a third party who has failed to timely deliver a valid
 8 certificate of title to the dealer, the dealer is entitled to claim against
 9 the third party one hundred dollars (\$100). If:
 10 (1) the dealer's inability to timely deliver a valid certificate of title
 11 results from the acts or omissions of a third party who has failed
 12 to timely deliver the certificate of title in the third party's
 13 possession to the dealer; and
 14 (2) the failure continues for ten (10) business days after the dealer
 15 gives the third party written notice of the failure;
 16 the dealer is entitled to claim against the third party all damages
 17 sustained by the dealer in rescinding the dealer's sale with the
 18 purchaser or transferee, including the dealer's reasonable attorney's
 19 fees.
 20 (e) If a vehicle for which a certificate of title has been issued by
 21 another state is sold or delivered, the person selling or delivering the
 22 vehicle must deliver to the purchaser or receiver of the vehicle a proper
 23 certificate of title with an assignment of the certificate of title in a form
 24 prescribed by the bureau.
 25 (f) The original certificate of title and all assignments and
 26 subsequent reissues of the certificate of title shall be retained by the
 27 bureau and appropriately classified and indexed in the most convenient
 28 manner to trace title to the vehicle described in the certificate of title.
 29 (g) A dealer shall make payment to a third party to satisfy any
 30 obligation secured by the vehicle within five (5) days after the date of
 31 sale.
 32 SECTION 42. IC 9-17-3-3.1 IS REPEALED [EFFECTIVE JULY
 33 1, 2012]. Sec. 3-1: The affidavit required by section 3(a)(5) of this
 34 chapter shall be printed in the following form:
 35 STATE OF INDIANA)
 36) ss:
 37 COUNTY OF _____)
 38 I affirm under the penalties for perjury that all of the following are
 39 true:
 40 (1) That I am a dealer licensed under IC 9-23;
 41 (2) That I cannot deliver a valid certificate of title to the retail
 42 purchaser of the vehicle described in paragraph (3) at the time of

COPY



1 sale of the vehicle to the retail purchaser. The identity of the
 2 previous seller or transferor is _____.
 3 Payoff of lien was made on (date) _____. I expect to deliver a
 4 valid and transferable certificate of title not later than
 5 (date) _____ from the (State of) _____ to the
 6 purchaser.
 7 (3) That I will undertake reasonable commercial efforts to
 8 produce the valid certificate of title. The vehicle identification
 9 number is _____.
 10 Signed _____, Dealer

11 By _____

12 Dated _____, _____

13 CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS
 14 AFFIDAVIT.

15 _____

16 Customer Signature

17 NOTICE TO THE CUSTOMER

18 If you do not receive a valid certificate of title within the time
 19 specified by this affidavit, you have the right to return the vehicle to the
 20 vehicle dealer ten (10) days after giving the vehicle dealer written
 21 notice demanding delivery of a valid certificate of title and after the
 22 vehicle dealer's failure to deliver a valid certificate of title within that
 23 ten (10) day period. Upon return of the vehicle to the vehicle dealer in
 24 the same or similar condition as when it was delivered to you, the
 25 vehicle dealer shall pay you the purchase price plus sales taxes, finance
 26 expenses, insurance expenses, and any other amount that you paid to
 27 the vehicle dealer.

28 If a lien is present on the previous owner's certificate of title, it is the
 29 responsibility of the third party lienholder to timely deliver the
 30 certificate of title in the third party's possession to the dealer not more
 31 than ten (10) business days after there is no obligation secured by the
 32 vehicle. If the dealer's inability to deliver a valid certificate of title to
 33 you within the above-described ten (10) day period results from the
 34 acts or omissions of a third party who has failed to timely deliver the
 35 certificate of title in the third party's possession to the dealer, the dealer
 36 may be entitled to claim against the third party the damages allowed by
 37 law.

38 SECTION 43. IC 9-17-3-7, AS AMENDED BY P.L.131-2008,
 39 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2012]: Sec. 7. (a) This section does not apply to section 5 of
 41 this chapter.

42 (b) Except as provided in subsection (c); A person who violates this

C
o
p
y



1 chapter commits a Class C infraction.

2 (c) A person who knowingly or intentionally violates:

3 (1) section 3(a)(1), 3(a)(2), 3(a)(4), or 3(a)(5) of this chapter
4 commits a Class B misdemeanor; or

5 (2) section 3(a)(3) of this chapter commits:

6 (A) a Class A misdemeanor for the first violation; or

7 (B) a Class D felony for the second violation or any
8 subsequent violation.

9 SECTION 44. IC 9-17-6-4 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. If a certificate of
11 title:

12 (1) has been previously issued for a manufactured home in
13 Indiana, an application for a certificate of title must be
14 accompanied by the certificate of title; or

15 (2) has not previously been issued for a manufactured home in
16 Indiana, the application must be accompanied by a manufacturer's
17 certificate of origin as provided in ~~IC 9-17-8~~; **IC 9-32-4-3**.

18 SECTION 45. IC 9-17-8 IS REPEALED [EFFECTIVE JULY 1,
19 2012]. (Manufacturers, Converter Manufacturers, and Dealers;
20 Manufacturers' Certificates of Origin).

21 SECTION 46. IC 9-18-2-26, AS AMENDED BY P.L.184-2011,
22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2012]: Sec. 26. (a) License plates shall be displayed as
24 follows:

25 (1) For a motorcycle, trailer, semitrailer, or recreational vehicle,
26 upon the rear of the vehicle, except as provided in subdivision (4).

27 (2) For a tractor or dump truck, upon the front of the vehicle.

28 (3) For every other vehicle, upon the rear of the vehicle, except as
29 provided in subdivision (4).

30 (4) For a truck with a rear mounted forklift or a mechanism to
31 carry a rear mounted forklift or implement, upon the front of the
32 vehicle.

33 (b) A license plate shall be securely fastened, in a horizontal
34 position, to the vehicle for which the plate is issued:

35 (1) to prevent the license plate from swinging;

36 (2) at a height of at least twelve (12) inches from the ground,
37 measuring from the bottom of the license plate;

38 (3) in a place and position that are clearly visible;

39 (4) maintained free from foreign materials and in a condition to
40 be clearly legible; and

41 (5) not obstructed or obscured by tires, bumpers, accessories, or
42 other opaque objects.



C
o
p
y

1 **An interim license plate must be displayed in the manner required**
 2 **by IC 9-32-5-11(f).**

3 (c) The bureau may adopt rules the bureau considers advisable to
 4 enforce the proper mounting and securing of license plates on vehicles
 5 consistent with this chapter.

6 SECTION 47. IC 9-18-26 IS REPEALED [EFFECTIVE JULY 1,
 7 2012]. (Dealer License Plates).

8 SECTION 48. IC 9-22-3-18.5 IS ADDED TO THE INDIANA
 9 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 10 [EFFECTIVE JULY 1, 2012]: **Sec. 18.5. (a) This section does not**
 11 **apply to a person who sells, exchanges, or transfers golf carts.**

12 **(b) A seller that is:**

13 **(1) a dealer; or**

14 **(2) another person who sells, exchanges, or transfers at least**
 15 **five (5) vehicles each year;**

16 **may not sell, exchange, or transfer a rebuilt vehicle without**
 17 **disclosing in writing to the purchaser, customer, or transferee,**
 18 **before consummating the sale, exchange, or transfer, the fact that**
 19 **the vehicle is a rebuilt vehicle if the dealer or other person knows**
 20 **or should reasonably know the vehicle is a rebuilt vehicle.**

21 SECTION 49. IC 9-22-3-33 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 33. **(a)** A person who
 23 violates section 4, 5, 6, 7, 8, or 9 of this chapter commits a Class D
 24 felony.

25 **(b) A person who violates section 18.5 of this chapter commits**
 26 **a Class A misdemeanor.**

27 SECTION 50. IC 9-22-4 IS REPEALED [EFFECTIVE JULY 1,
 28 2012]. (Licensing of Vehicle Salvaging).

29 SECTION 51. IC 9-22-5-16 IS REPEALED [EFFECTIVE JULY 1,
 30 2012]. **Sec. 16. (a) This section does not apply to a person who sells;**
 31 **exchanges; or transfers golf carts:**

32 **(b) A seller that is:**

33 **(1) a dealer; or**

34 **(2) another person who sells; exchanges; or transfers at least five**
 35 **(5) vehicles each year;**

36 **may not sell; exchange; or transfer a rebuilt vehicle without disclosing**
 37 **in writing to the purchaser, customer, or transferee; before**
 38 **consummating the sale; exchange; or transfer; the fact that the vehicle**
 39 **is a rebuilt vehicle if the dealer or other person knows or should**
 40 **reasonably know the vehicle is a rebuilt vehicle.**

41 SECTION 52. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE
 42 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY

C
O
P
Y



1 1, 2012]: **Sec. 18. (a) A disposal facility, a scrap metal processor, or**
2 **an agent of a disposal facility or scrap metal processor may**
3 **purchase a motor vehicle without a certificate of title for the motor**
4 **vehicle if:**

- 5 (1) the motor vehicle is at least fifteen (15) model years old;
- 6 (2) the purchase is solely for the purpose of dismantling or
- 7 wrecking the motor vehicle for the recovery of scrap metal or
- 8 the sale of parts; and
- 9 (3) the disposal facility or scrap metal processor records all
- 10 purchase transactions of vehicles as required in subsection
- 11 (b).

12 (b) A disposal facility or scrap metal processor shall maintain
13 the following information with respect to each motor vehicle
14 purchase transaction to which the disposal facility or scrap metal
15 processor is a party for at least two (2) years following the date of
16 the purchase transaction:

- 17 (1) The name and address of any secondary metals recycler or
- 18 salvage yard.
- 19 (2) The name, initials, or other identifying symbol of the
- 20 person entering the information.
- 21 (3) The date of the purchase transaction.
- 22 (4) A description of the motor vehicle that was the subject of
- 23 the purchase transaction, including the make and model of the
- 24 motor vehicle, if practicable.
- 25 (5) The vehicle identification number of the motor vehicle.
- 26 (6) The amount of consideration given for the motor vehicle.
- 27 (7) A written statement signed by the seller or the seller's
- 28 agent certifying that the seller or the seller's agent has the
- 29 lawful right to sell and dispose of the motor vehicle.
- 30 (8) The name and address of the person from whom the motor
- 31 vehicle is being purchased.
- 32 (9) A photocopy or electronic scan of one (1) of the following
- 33 forms of identification issued to the seller or the seller's agent:
- 34 (A) A current and valid driver's license.
- 35 (B) An identification card issued under IC 9-24-16-1 or a
- 36 similar card issued under the laws of another state or the
- 37 federal government.
- 38 (C) A government issued document bearing an image of
- 39 the seller or seller's agent, as applicable.

40 For purposes of complying with this subdivision, a disposal
41 facility or scrap metal processor is not required to make a
42 separate copy of the seller's or seller's agent's identification

C
O
P
Y



1 **for each purchase transaction involving the seller or seller's**
 2 **agent but may instead refer to a copy maintained in reference**
 3 **to a particular purchase transaction.**
 4 **(c) A disposal facility or scrap metal processor may not**
 5 **complete a purchase transaction in the absence of the information**
 6 **required under subsection (b)(9).**
 7 **(d) A disposal facility, a scrap metal processor, or an agent of a**
 8 **disposal facility or scrap metal processor that knowingly,**
 9 **intentionally, or recklessly buys a motor vehicle that is less than**
 10 **fifteen (15) model years old without a certificate of title for the**
 11 **motor vehicle commits a Class D felony.**
 12 SECTION 53. IC 9-23-0.7 IS REPEALED [EFFECTIVE JULY 1,
 13 2012]. (Delegation of the Rights, Duties, and Obligations of the
 14 Secretary of State).
 15 SECTION 54. IC 9-23-2 IS REPEALED [EFFECTIVE JULY 1,
 16 2012]. (Regulation of Vehicle Merchandising).
 17 SECTION 55. IC 9-23-2.5 IS REPEALED [EFFECTIVE JULY 1,
 18 2012]. (Disclosures Required in Motor Vehicle Leases).
 19 SECTION 56. IC 9-23-3 IS REPEALED [EFFECTIVE JULY 1,
 20 2012]. (Unfair Practices).
 21 SECTION 57. IC 9-23-4 IS REPEALED [EFFECTIVE JULY 1,
 22 2012]. (Damage to New Motor Vehicles).
 23 SECTION 58. IC 9-23-5 IS REPEALED [EFFECTIVE JULY 1,
 24 2012]. (Succession to Franchise by Designated Family Members).
 25 SECTION 59. IC 9-23-6 IS REPEALED [EFFECTIVE JULY 1,
 26 2012]. (Penalties and Remedies).
 27 SECTION 60. IC 9-29-5-14 IS REPEALED [EFFECTIVE JULY 1,
 28 2012]. ~~Sec. 14. (a) The fee for the first two (2) sets of license plates for~~
 29 ~~a manufacturer or dealer is forty dollars (\$40):~~
 30 ~~(b) The fee for each additional set of license plates for a~~
 31 ~~manufacturer or dealer is fifteen dollars (\$15):~~
 32 SECTION 61. IC 9-29-5-14.5 IS REPEALED [EFFECTIVE JULY
 33 1, 2012]. ~~Sec. 14.5: The fee for a research and development license~~
 34 ~~plate for a manufacturer of a vehicle subcomponent system under~~
 35 ~~IC 9-18-26-2.5(a) is twenty dollars (\$20): There is no fee in addition to~~
 36 ~~the regular registration fee for a research and development license plate~~
 37 ~~for a manufacturer of a vehicle subcomponent system.~~
 38 SECTION 62. IC 9-29-5-15 IS REPEALED [EFFECTIVE JULY 1,
 39 2012]. ~~Sec. 15. (a) The fee for the first two (2) sets of license plates for~~
 40 ~~a manufacturer or dealer of motorcycles is fifteen dollars (\$15):~~
 41 ~~(b) The fee for each additional set of license plates for a motorcycle~~
 42 ~~manufacturer or dealer is seven dollars and fifty cents (\$7.50):~~

COPY



1 SECTION 63. IC 9-29-5-39 IS REPEALED [EFFECTIVE JULY 1,
2 2012]. Sec. 39: The fee for the issuance of an interim dealer license
3 plate under IC 9-18-26 is one dollar (\$1):

4 SECTION 64. IC 9-29-5-43 IS REPEALED [EFFECTIVE JULY 1,
5 2012]. Sec. 43: (a) Except as otherwise provided by this chapter;
6 subsection (b); subsection (c); and IC 9-29-1-2; registration fees
7 collected under this chapter shall be paid into the state general fund for
8 credit to the motor vehicle highway account.

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

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

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

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

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

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

20 SECTION 65. IC 9-29-7-3 IS REPEALED [EFFECTIVE JULY 1,
21 2012]. Sec. 3: The fee for an original license under IC 9-22-4 is ten
22 dollars (\$10):

23 SECTION 66. IC 9-29-7-4 IS REPEALED [EFFECTIVE JULY 1,
24 2012]. Sec. 4: The fee for a supplemental license under IC 9-22-4 is
25 five dollars (\$5):

26 SECTION 67. IC 9-29-7-5 IS REPEALED [EFFECTIVE JULY 1,
27 2012]. Sec. 5: The fee for a renewal license under IC 9-22-4 is ten
28 dollars (\$10):

29 SECTION 68. IC 9-29-7-6 IS REPEALED [EFFECTIVE JULY 1,
30 2012]. Sec. 6: A licensing fee that is submitted with an application
31 under IC 9-22-4 shall be returned to the applicant if the application is
32 rejected by the secretary of state:

33 SECTION 69. IC 9-29-7-7, AS AMENDED BY P.L.110-2006,
34 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2012]: Sec. 7. The revenues from the

36 (1) certificate of salvage titles collected under IC 9-22-3 and

37 (2) license fees collected under IC 9-22-4;

38 shall be deposited in the motor vehicle highway account.

39 SECTION 70. IC 9-29-8 IS REPEALED [EFFECTIVE JULY 1,
40 2012]. (Fees Under IC 9-23).

41 SECTION 71. IC 9-29-15-7 IS REPEALED [EFFECTIVE JULY 1,
42 2012]. Sec. 7: (a) The fees under IC 9-31-4 for a boat dealer's license

C
o
p
y



1 for each full year are as follows:
 2 (1) For a Class A dealer, thirty dollars (\$30) for the first place of
 3 business; plus ten dollars (\$10) for each additional location.
 4 (2) For a Class B dealer, twenty dollars (\$20).
 5 (b) The secretary of state retains the fees collected under subsection
 6 (a).
 7 SECTION 72. IC 9-29-15-8 IS REPEALED [EFFECTIVE JULY 1,
 8 2012]. Sec. 8. (a) The fee for a change of business name or location
 9 under IC 9-31-4-4 is five dollars (\$5).
 10 (b) The fee is retained by the secretary of state.
 11 SECTION 73. IC 9-29-17 IS ADDED TO THE INDIANA CODE
 12 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2012]:
 14 **Chapter 17. Fees Under IC 9-32**
 15 **Sec. 1. (a) The fee for the first two (2) sets of license plates under**
 16 **IC 9-32-5-1 for a manufacturer or dealer is forty dollars (\$40).**
 17 **(b) The fee for each additional set of license plates under**
 18 **IC 9-32-5-5 for a manufacturer or dealer is fifteen dollars (\$15).**
 19 **(c) The secretary of state retains the fees collected under**
 20 **subsections (a) and (b).**
 21 **Sec. 2. (a) The fee for a research and development license plate**
 22 **for a manufacturer of a vehicle subcomponent system under**
 23 **IC 9-32-5-3 is twenty dollars (\$20). There is no fee in addition to**
 24 **the regular registration fee for a research and development license**
 25 **plate for a manufacturer of a vehicle subcomponent system.**
 26 **(b) The secretary of state retains the fees collected under**
 27 **subsection (a).**
 28 **Sec. 3. (a) The fee for the first two (2) sets of license plates under**
 29 **IC 9-32-5-1 for a manufacturer or dealer of motorcycles is fifteen**
 30 **dollars (\$15).**
 31 **(b) The fee for each additional set of license plates under**
 32 **IC 9-32-5-5 for a motorcycle manufacturer or dealer is seven**
 33 **dollars and fifty cents (\$7.50).**
 34 **(c) The secretary of state retains the fees collected under**
 35 **subsections (a) and (b).**
 36 **Sec. 4. (a) The fee for the issuance of an interim dealer license**
 37 **plate under IC 9-32-5-11 is one dollar (\$1).**
 38 **(b) The secretary of state retains the fees collected under**
 39 **subsection (a).**
 40 **Sec. 5. (a) The fees under IC 9-32-7-2 for a boat dealer's license**
 41 **for each full year are as follows:**
 42 **(1) For a Class A dealer, thirty dollars (\$30) for the first place**

COPY



- 1 of business, plus ten dollars (\$10) for each additional location.
 2 (2) For a Class B dealer, twenty dollars (\$20).
 3 (b) The secretary of state retains the fees collected under
 4 subsection (a).
 5 Sec. 6. (a) The fee for a change of business name or location
 6 under IC 9-32-7-4 is five dollars (\$5).
 7 (b) The secretary of state retains the fees collected under
 8 subsection (a).
 9 Sec. 7. (a) The fee for an original license under IC 9-32-8 is ten
 10 dollars (\$10).
 11 (b) The fee for a supplemental license under IC 9-32-8 is five
 12 dollars (\$5).
 13 (c) The fee for a renewal license under IC 9-32-8 is ten dollars
 14 (\$10).
 15 (d) A licensing fee that is submitted with an application under
 16 IC 9-32-8 shall be returned to the applicant if the application is
 17 rejected by the secretary of state.
 18 Sec. 8. The fee for a license for a manufacturer or a distributor
 19 under IC 9-32-10-1 is thirty-five dollars (\$35), including a factory
 20 branch as set forth in IC 9-13-2-97(b)(1). The fees collected shall be
 21 deposited as set forth in IC 9-32-6-3.
 22 Sec. 9. The fee for a license for a dealer or an automobile
 23 auctioneer under IC 9-32-10-1 is:
 24 (1) thirty dollars (\$30) for the first place of business; and
 25 (2) an additional ten dollars (\$10) for each location not
 26 immediately adjacent to the first place of business.
 27 The fees collected shall be deposited as set forth in IC 9-32-6-3.
 28 Sec. 10. The fee for a factory representative, a distributor
 29 representative, a wholesale dealer, a transfer dealer, a converter
 30 manufacturer, or an automotive mobility dealer under
 31 IC 9-32-10-1 is twenty dollars (\$20). The fee for an automotive
 32 mobility dealer who:
 33 (1) buys or sells vehicles, or both;
 34 (2) sells, installs, or services, offers to sell, install, or service,
 35 or solicits or advertises the sale, installation, or servicing of
 36 equipment or modifications specifically designed to facilitate
 37 use or operation of a vehicle by an individual who is disabled
 38 or aged; or
 39 (3) performs acts described in both subdivisions (1) and (2);
 40 is twenty dollars (\$20). The fees collected shall be deposited as set
 41 forth in IC 9-32-6-3.
 42 Sec. 11. The fee for a business name or location change under



C
 o
 p
 y

1 IC 9-32-10-4 is five dollars (\$5).
 2 Sec. 12. The license fee for each offsite license issued under
 3 IC 9-32-10-9 is twenty-five dollars (\$25).
 4 Sec. 13. The permit fee for a special event permit issued under
 5 IC 9-32-10-16 is two hundred fifty dollars (\$250).
 6 Sec. 14. (a) Except as otherwise provided in subsection (b),
 7 subsection (c), and IC 9-29-1-2, registration fees collected under
 8 IC 9-32 and fees collected under section 7 of this chapter shall be
 9 paid into the state general fund for credit to the motor vehicle
 10 highway account.
 11 (b) Fees collected under this chapter for license plates issued
 12 under IC 9-32-5 by the secretary of state shall be deposited as
 13 follows:
 14 (1) Thirty percent (30%) to the dealer compliance account
 15 established by IC 9-32-6-1.
 16 (2) Seventy percent (70%) to the motor vehicle highway
 17 account.
 18 (c) Notwithstanding subsection (b), fees collected under this
 19 chapter for interim license plates issued under IC 9-32-5-11 by the
 20 secretary of state shall be deposited as follows:
 21 (1) Ninety percent (90%) to the dealer compliance account
 22 established by IC 9-32-6-1.
 23 (2) Ten percent (10%) to the motor vehicle highway account.
 24 Sec. 15. The revenue from the license fees collected under
 25 IC 9-32-8 shall be deposited in the motor vehicle highway account.
 26 Sec. 16. The revenue from sections 11 through 13 of this chapter
 27 shall be deposited in the dealer compliance account established by
 28 IC 9-32-6-1.
 29 SECTION 74. IC 9-31-3-5, AS AMENDED BY P.L.106-2008,
 30 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2012]: Sec. 5. A motorboat that has never been registered in
 32 Indiana and that is purchased from a dealer licensed by the secretary of
 33 state under ~~IC 9-31-4~~ IC 9-32-7 may be operated on the waters of
 34 Indiana for a period of thirty-one (31) days from the date of purchase
 35 if the operator has in the operator's possession the following:
 36 (1) A bill of sale from the dealer giving the purchaser's name and
 37 address, the date of purchase, and the make and type of boat or
 38 the hull identification number.
 39 (2) A temporary permit displayed on the forward portion of the
 40 boat, as provided in section 6 of this chapter.
 41 SECTION 75. IC 9-31-3-19, AS AMENDED BY P.L.106-2008,
 42 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

COPY



1 JULY 1, 2012]: Sec. 19. A dealer licensed by the secretary of state
 2 under ~~IC 9-31-4~~ **IC 9-32-7-2** may, upon application to the secretary of
 3 state, obtain a certificate of number for use in the testing or
 4 demonstrating of motorboats upon payment of the fee prescribed under
 5 IC 9-29-15-6 for each registration number. The secretary of state shall
 6 issue one (1) plate for each certificate of number assigned under this
 7 section. The plate must be displayed within a boat that is being tested
 8 or demonstrated while the boat is being tested or demonstrated.

9 SECTION 76. IC 9-31-4 IS REPEALED [EFFECTIVE JULY 1,
 10 2012]. (Boat Dealers).

11 SECTION 77. IC 9-32 IS ADDED TO THE INDIANA CODE AS
 12 A **NEW ARTICLE TO READ AS FOLLOWS** [EFFECTIVE JULY 1,
 13 2012]:

14 **ARTICLE 32. DEALER SERVICES**

15 **Chapter 0.5. Application**

16 **Sec. 1. Nothing in this article shall be construed to limit the**
 17 **authority of the bureau to administer this title.**

18 **Chapter 1. Definitions**

19 **Sec. 1. The definitions in this chapter apply throughout this**
 20 **article.**

21 **Sec. 2. "Adjusted or net capitalized cost" means the capitalized**
 22 **cost, less any capitalized cost reduction payments made by a retail**
 23 **lessee at the inception of a lease agreement. The adjusted or net**
 24 **capitalized cost is the basis for calculating the amount of a retail**
 25 **lessee's periodic payment under a lease agreement.**

26 **Sec. 3. "Advisory board" means the motor vehicle advisory**
 27 **board established by IC 9-32-9-1.**

28 **Sec. 4. "Automobile auctioneer" means a person who is engaged**
 29 **in providing a place of business or facilities for the purchase and**
 30 **sale of more than six (6) motor vehicles, on the basis of bids by**
 31 **persons acting for themselves or others, per calendar year. The**
 32 **term includes an auctioneer that as part of the business of the**
 33 **auctioneer participates in providing a place of business or facilities**
 34 **for the purchase and sale of motor vehicles on the basis of bids by**
 35 **persons acting for themselves or others. The term does not include**
 36 **a person acting only as an auctioneer under IC 25-6.1-1.**

37 **Sec. 5. "Automotive salvage rebuilder" means a person, firm,**
 38 **limited liability company, corporation, or other legal entity**
 39 **engaged in the business:**

- 40 (1) of acquiring salvage motor vehicles for the purpose of
 41 restoring, reconstructing, or rebuilding the vehicles; and
 42 (2) of reselling these vehicles for use on the highway.



C
O
P
Y

1 **Sec. 6. "Broker"** means a person that, for a fee, a commission,
2 or other valuable consideration, arranges or offers to arrange a
3 transaction involving the sale, for purposes other than resale, of a
4 new or used motor vehicle and who is not:

- 5 (1) a dealer or an employee of a dealer;
- 6 (2) a distributor or an employee of a distributor; or
- 7 (3) at any point in the transaction, the bona fide owner of the
8 vehicle involved in the transaction.

9 **Sec. 7. (a) "Capitalized cost"** means the amount that, after
10 deducting any capitalized cost reduction, serves as the basis for
11 determining the base lease payment, which is the part of the
12 periodic lease payment that is the sum of:

- 13 (1) the average periodic lease charge; and
- 14 (2) the average periodic depreciation.

15 **(b)** For a single payment lease, the base lease payment is the sum
16 of:

- 17 (1) the average periodic lease charge multiplied by the
18 number of months in the term of the lease; and
- 19 (2) the average periodic depreciation multiplied by the
20 number of months in the term of the lease.

21 **(c)** The capitalized cost may include any of the following:

- 22 (1) Taxes.
- 23 (2) Registration fees.
- 24 (3) License fees.
- 25 (4) Insurance charges.
- 26 (5) Charges for guaranteed auto protection or GAP coverage.
- 27 (6) Charges for service contracts and extended warranties.
- 28 (7) Fees and charges for accessories and for installing
29 accessories.
- 30 (8) Charges for delivery, service, and repair.
- 31 (9) Administrative fees, acquisition fees, and all fees or
32 charges for providing services incidental to the lease
33 agreement.
- 34 (10) The unpaid balance of an amount financed under an
35 outstanding motor vehicle loan agreement or motor vehicle
36 retail installment contract with respect to a motor vehicle
37 used as a trade-in vehicle.
- 38 (11) The unpaid part of the early termination obligation
39 under an outstanding lease agreement.
- 40 (12) The first periodic payment due at the inception of the
41 lease agreement, if not otherwise paid by the retail lessee.

42 **Sec. 8. "Capitalized cost reduction"** means a payment made by

C
O
P
Y



1 cash, check, credit card debit, net vehicle trade-in, rebate, or other
2 similar means in the nature of a down payment or credit, made by
3 a retail lessee at the inception of a lease agreement, for the purpose
4 of reducing the capitalized cost and does not include any periodic
5 payments received by the retail lessor at the inception of the lease
6 agreement.

7 Sec. 9. "Charge back" means a manufacturer induced return of
8 incentive payments to a manufacturer by a dealer. The term
9 includes a manufacturer drawing funds from an account of a
10 dealer.

11 Sec. 10. "Director" means the director of the dealer services
12 division within the office of the secretary of state appointed under
13 IC 4-5-1-12(b).

14 Sec. 11. "Division" means the dealer services division within the
15 office of the secretary of state established by IC 4-5-1-12(a).

16 Sec. 12. "Existing franchise" means the franchise in effect on the
17 date of a franchisee's death or incapacity.

18 Sec. 13. (a) "Flood damaged vehicle" means a passenger motor
19 vehicle that satisfies either of the following:

- 20 (1) The vehicle has been acquired by an insurance company
- 21 as part of a damage settlement due to water damage.
- 22 (2) The vehicle has been submerged in water to the point that
- 23 rising water has reached over the door sill, has entered the
- 24 passenger or trunk compartment, and has exposed any
- 25 electrical, computerized, or mechanical component to water.

26 (b) The term does not include a passenger motor vehicle that an
27 inspection conducted by an insurance adjuster or estimator, a
28 motor vehicle repairer, or a motor vehicle dealer determines:

- 29 (1) has no electrical, computerized, or mechanical components
- 30 that were damaged by water; or
- 31 (2) has one (1) or more electrical, computerized, or
- 32 mechanical components that were damaged by water, and all
- 33 such damaged components have been repaired or replaced.

34 Sec. 14. "Franchise" means an oral or a written agreement for
35 a definite or an indefinite period in which a manufacturer or
36 distributor grants to a dealer a right to use a trade name, trade or
37 service mark, or related characteristic, and in which there is a
38 community of interest in the marketing of motor vehicles or related
39 services at retail or otherwise.

40 Sec. 15. "Franchisee" means a dealer to whom a franchise is
41 granted.

42 Sec. 16. "Franchisor" means a manufacturer or distributor who

C
o
p
y



1 grants a franchise to a dealer.

2 Sec. 17. "Labor rate" means the hourly labor rate charged by
3 a franchisee for service, filed periodically with the division as the
4 division may require, and posted prominently in the franchisee's
5 service department.

6 Sec. 18. "Lease agreement" means a written agreement entered
7 into in Indiana for the transfer from a retail lessor to a retail lessee
8 of the right to possess and use a motor vehicle in exchange for
9 consideration for a scheduled term exceeding four (4) months,
10 whether or not the retail lessee has the option to purchase or
11 otherwise become the owner of the motor vehicle upon expiration
12 of the agreement. The term does not include an agreement that
13 covers an absolute sale, a sale pending approval, or a retail
14 installment sale.

15 Sec. 19. "Lease transaction" means a presentation made to a
16 retail lessee concerning a motor vehicle, including a sales
17 presentation or a document presented to the retail lessee, resulting
18 in the execution of a lease agreement.

19 Sec. 20. "Material fact" includes, but is not limited to:

- 20 (1) the misinformation or omission of any information to the
21 division; or
22 (2) any misinformation or omission of any information to a
23 consumer in the course of an offer of sale.

24 Sec. 21. "Record" includes, but is not limited to, the following:

- 25 (1) Bills of sale.
26 (2) Finance agreements.
27 (3) Titles.
28 (4) Inventory records.
29 (5) Sales receipts from auctions.
30 (6) Form ST-108 (department of state revenue certificate of
31 gross retail or use tax paid on the purchase of a motor vehicle
32 or watercraft).
33 (7) Interim plate log.

34 Sec. 22. "Relevant market area" means the following:

- 35 (1) With respect to a new motor vehicle dealer who plans to
36 relocate the dealer's place of business in a county having a
37 population of more than one hundred thousand (100,000), the
38 area within a radius of six (6) miles of the intended site of the
39 relocated dealer. The six (6) mile distance shall be determined
40 by measuring the distance between the nearest surveyed
41 boundary of the existing new motor vehicle dealer's principal
42 place of business and the nearest surveyed boundary line of

C
O
P
Y



1 the relocated new motor vehicle dealer's place of business.
 2 (2) With respect to a:
 3 (A) proposed new motor vehicle dealer; or
 4 (B) new motor vehicle dealer who plans to relocate the
 5 dealer's place of business in a county having a population
 6 that is not more than one hundred thousand (100,000);
 7 the area within a radius of ten (10) miles of the intended site
 8 of the proposed or relocated dealer. The ten (10) mile distance
 9 shall be determined by measuring the distance between the
 10 nearest surveyed boundary line of the existing new motor
 11 vehicle dealer's principal place of business and the nearest
 12 surveyed boundary line of the proposed or relocated new
 13 motor vehicle dealer's principal place of business.
 14 Sec. 23. "Retail lessee" means an individual who executes a lease
 15 agreement for a motor vehicle from a retail lessor primarily for
 16 personal, family, or household purposes.
 17 Sec. 24. "Retail lessor" means a person who regularly engages
 18 in the business of selling or leasing motor vehicles and who offers
 19 or arranges a lease agreement for a motor vehicle. The term
 20 includes an agent or affiliate who acts on behalf of the retail lessor
 21 and excludes any assignee of the lease agreement.
 22 Sec. 25. "Sale" includes every contract of sale, contract to sell,
 23 or disposition of a motor vehicle or interest in a motor vehicle for
 24 value.
 25 Sec. 26. "Secretary" refers to the secretary of state holding
 26 office as set forth in IC 4-5-1-1.
 27 Sec. 27. "Transfer dealer" means a person other than a dealer,
 28 manufacturer, or wholesale dealer who has the necessity of
 29 transferring at least twelve (12) motor vehicles during a license
 30 year as part of the transfer dealer's primary business function.
 31 Sec. 28. "Uniform time standards manual" means a schedule
 32 established by a manufacturer or distributor setting forth the time
 33 allowances for the diagnosis and performance of warranty work
 34 and service.
 35 Sec. 29. "Used parts dealer" means a person who primarily
 36 buys, sells, barter, exchanges, or deals in used major component
 37 parts. The term does not include a scrap metal processor.
 38 Sec. 30. "Wholesale dealer" means a person who is engaged in
 39 the business of buying or selling motor vehicles for resale to other
 40 dealers, wholesale dealers, transfer dealers, or persons other than
 41 the general public.
 42 Chapter 2. Powers and Duties of the Division

COPY



1 **Sec. 1. The secretary may delegate any or all of the rights,**
2 **duties, or obligations of the secretary under this article to:**

- 3 **(1) the director; or**
- 4 **(2) another designee under the supervision and control of the**
5 **secretary.**

6 **The individual delegated has the authority to adopt and enforce**
7 **rules under IC 4-22-2 as the secretary under IC 4-5-1-11. The**
8 **secretary may also adopt emergency rules under IC 4-22-2-37.1 to**
9 **carry out the secretary's duties under this article.**

10 **Sec. 2. The secretary shall do the following:**

- 11 **(1) Administer and enforce:**
 - 12 **(A) this article concerning the division; and**
 - 13 **(B) the policies and procedures of the division.**
- 14 **(2) Organize the division in the manner necessary to carry out**
15 **the duties of the division.**
- 16 **(3) Perform other duties as required by the division.**

17 **Chapter 3. Obtaining, Expiration, Replacement, and Transfer**
18 **of Certificate of Title**

19 **Sec. 1. (a) If a vehicle for which a certificate of title has been**
20 **issued is sold or if the ownership of the vehicle is transferred in any**
21 **manner other than by a transfer on death conveyance under**
22 **IC 9-17-3-9, the person who holds the certificate of title must do**
23 **the following:**

- 24 **(1) Endorse on the certificate of title an assignment of the**
25 **certificate of title with warranty of title, in a form printed on**
26 **the certificate of title, with a statement describing all liens or**
27 **encumbrances on the vehicle.**
- 28 **(2) Except as provided in subdivisions (4) and (5), deliver the**
29 **certificate of title to the purchaser or transferee at the time of**
30 **the sale or delivery to the purchaser or transferee of the**
31 **vehicle, if the purchaser or transferee has made all agreed**
32 **upon initial payments for the vehicle, including delivery of a**
33 **trade-in vehicle without hidden or undisclosed statutory liens.**
- 34 **(3) Complete all information concerning the purchase on the**
35 **certificate of title, including, but not limited to:**
 - 36 **(A) the name and address of the purchaser; and**
 - 37 **(B) the sale price of the vehicle.**
- 38 **(4) In the case of a sale or transfer between vehicle dealers**
39 **licensed by this state or another state, deliver the certificate**
40 **of title within twenty-one (21) days after the date of the sale or**
41 **transfer.**
- 42 **(5) Deliver the certificate of title to the purchaser or**

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under this article.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.

(C) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3 of this chapter.

(D) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(4) or (a)(5) at the time of the sale.

(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars (\$100) for the first violation in a calendar year.

(2) Two hundred fifty dollars (\$250) for the second violation in a calendar year.

(3) Five hundred dollars (\$500) for all subsequent violations in a calendar year.

Payment shall be made to the secretary of state and deposited in the dealer enforcement account established under IC 9-32-6-2.

(d) If a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee has the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

(e) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than

C
o
p
y



1 ten (10) business days after there is no obligation secured by the
2 vehicle. If the dealer's inability to timely deliver a valid certificate
3 of title results from the acts or omissions of a third party who has
4 failed to timely deliver a valid certificate of title to the dealer, the
5 dealer is entitled to claim against the third party one hundred
6 dollars (\$100). If:

7 (1) the dealer's inability to timely deliver a valid certificate of
8 title results from the acts or omissions of a third party who
9 has failed to timely deliver the certificate of title in the third
10 party's possession to the dealer; and

11 (2) the failure continues for ten (10) business days after the
12 dealer gives the third party written notice of the failure;
13 the dealer is entitled to claim against the third party all damages
14 sustained by the dealer in rescinding the dealer's sale with the
15 purchaser or transferee, including the dealer's reasonable
16 attorney's fees.

17 (f) If a vehicle for which a certificate of title has been issued by
18 another state is sold or delivered, the person selling or delivering
19 the vehicle shall deliver to the purchaser or receiver of the vehicle
20 a proper certificate of title with an assignment of the certificate of
21 title in a form prescribed by the bureau.

22 (g) The original certificate of title and all assignments and
23 subsequent reissues of the certificate of title shall be retained by
24 the bureau and appropriately classified and indexed in the most
25 convenient manner to trace the title to the vehicle described in the
26 certificate of title.

27 (h) A dealer shall make payment to a third party to satisfy any
28 obligation secured by the vehicle within ten (10) days after the date
29 of sale.

30 Sec. 2. The affidavit required by section 2(a)(5)(C) of this
31 chapter shall be printed in the following form:

32 STATE OF INDIANA)
33) ss:
34 COUNTY OF _____)

35 I affirm under the penalties for perjury that all of the following
36 are true:

- 37 (1) That I am a dealer licensed under IC 9-32.
38 (2) That I cannot deliver a valid certificate of title to the retail
39 purchaser of the vehicle described in paragraph (3) at the
40 time of sale of the vehicle to the retail purchaser. The identity
41 of the previous seller or transferor is _____.
42 Payoff of lien was made on (date)_____. I expect to deliver

C
o
p
y



1 a valid and transferable certificate of title not later than
2 (date)_____ from the State of (state)_____ to
3 the purchaser.
4 (3) That I will undertake reasonable commercial efforts to
5 produce the valid certificate of title. The vehicle identification
6 number is _____.

7 Signed _____, Dealer

8 By _____

9 Dated _____, _____

10 **CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF**
11 **THIS AFFIDAVIT.**

12 _____

13 **Customer Signature**

14 **NOTICE TO THE CUSTOMER**

15 If you do not receive a valid certificate of title within twenty-one
16 (21) days from the date of sale, you have the right to return the
17 vehicle to the vehicle dealer ten (10) days after giving the vehicle
18 dealer written notice demanding delivery of a valid certificate of
19 title and after the vehicle dealer's failure to deliver a valid
20 certificate of title within that ten (10) day period. Upon return of
21 the vehicle to the vehicle dealer in the same or similar condition as
22 when it was delivered to you, the vehicle dealer shall pay you the
23 purchase price plus sales taxes, finance expenses, insurance
24 expenses, and any other amount that you paid to the vehicle dealer.
25 If a lien is present on the previous owner's certificate of title, it is
26 the responsibility of the third party lienholder to timely deliver the
27 certificate of title in the third party's possession to the dealer not
28 more than ten (10) business days after there is no obligation
29 secured by the vehicle. If the dealer's inability to deliver a valid
30 certificate of title to you within the ten (10) day period described
31 above results from the acts or omissions of a third party who has
32 failed to timely deliver the certificate of title in the third party's
33 possession to the dealer, the dealer may be entitled to claim against
34 the third party the damages allowed by law.

35 **Chapter 4. Manufacturers, Converter Manufacturers, and**
36 **Dealers; Manufacturers' Certificates of Origin**

37 **Sec. 1. This chapter does not apply to an off-road vehicle.**

38 **Sec. 2. A manufacturer, a converter manufacturer, an**
39 **automotive mobility dealer, a dealer, or other person may not sell**
40 **or otherwise dispose of a new motor vehicle to another person, to**
41 **be used by the other person for purposes of display or resale,**
42 **without delivering to the other person a manufacturer's certificate**

C
o
p
y



1 of origin under this chapter that indicates the assignments of the
 2 certificate of origin necessary to show the ownership of the title to
 3 a person who purchases the motor vehicle.

4 **Sec. 3.** A person may not purchase or acquire a new motor
 5 vehicle without obtaining a valid manufacturer's certificate of
 6 origin from the seller of the motor vehicle.

7 **Sec. 4. (a)** Except as provided in subsection (b), certificates of
 8 origin and assignments of certificates of origin must be in a form:

- 9 (1) prescribed by the bureau; or
 10 (2) approved by the bureau.

11 (b) A manufacturer's certificate of origin for a low speed vehicle
 12 must indicate that the motor vehicle is a low speed vehicle.

13 **Sec. 5.** A manufacturer, a converter manufacturer, an
 14 automotive mobility dealer, or a dealer must have:

- 15 (1) a certificate of title;
 16 (2) an assigned certificate of title;
 17 (3) a manufacturer's certificate of origin;
 18 (4) an assigned manufacturer's certificate of origin; or
 19 (5) other proof of ownership or evidence of right of possession
 20 as determined by the secretary;

21 for a motor vehicle, semitrailer, or recreational vehicle in the
 22 manufacturer's, converter manufacturer's, automotive mobility
 23 dealer's, or dealer's possession.

24 **Sec. 6. (a)** If a dealer purchases or acquires ownership of a:

- 25 (1) motor vehicle;
 26 (2) semitrailer; or
 27 (3) recreational vehicle;

28 in a state that does not have a certificate of title law, the dealer
 29 shall apply for an Indiana certificate of title for the motor vehicle,
 30 semitrailer, or recreational vehicle not more than thirty-one (31)
 31 days from the date of purchase or the date ownership of the motor
 32 vehicle, semitrailer, or recreational vehicle was acquired.

33 (b) The bureau shall collect a delinquent title fee as provided in
 34 IC 9-29-4-4 if a dealer fails to apply for a certificate of title for a
 35 motor vehicle, semitrailer, or recreational vehicle as described
 36 under subsection (a).

37 **Sec. 7.** The bureau shall provide forms on which applications for
 38 certificates of title and assignments of certificates of title must be
 39 made under this chapter.

40 **Sec. 8.** A manufacturer, a converter manufacturer, an
 41 automotive mobility dealer, or a dealer shall deliver an assigned
 42 certificate of title or certificate of origin to a person entitled to the

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

certificate of title or certificate of origin.

Sec. 9. (a) In order to obtain or maintain a manufacturer's, a converter manufacturer's, an automotive mobility dealer's, or a dealer's license from the secretary, a person must agree to allow a police officer or an authorized representative of the secretary 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; 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.

Chapter 5. Dealer License Plates

Sec. 1. A person licensed under IC 9-32-10 may apply for a dealer license plate. The application must include any information the secretary reasonably requires. Upon application, a distinctive registration number shall be assigned to each applicant. Two (2) certificates of registration and two (2) metal license plates bearing the registration number of the applicant shall then be issued to the applicant.

Sec. 2. (a) The secretary shall issue dealer license plates under this chapter according to the following classifications:

(1) Dealer-new.

(2) Dealer-used.

(3) Manufacturer.

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

Sec. 3. (a) The secretary shall:

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

C
O
P
Y



1 and
2 (2) adopt rules under IC 4-22-2 to prescribe the general
3 conditions for the:
4 (A) application;
5 (B) issuance; and
6 (C) use;
7 of research and development license plates for manufacturers of
8 vehicle component systems.
9 (b) The fee for a research and development license plate for a
10 manufacturer of a vehicle subcomponent system is the fee under
11 IC 9-29-17-2.
12 (c) A research and development license plate for a manufacturer
13 of a vehicle subcomponent system shall be displayed in accordance
14 with section 2(b) of this chapter.
15 Sec. 4. The secretary shall determine the color, dimension, and
16 style of the letters and the information required on a dealer license
17 plate issued under this chapter.
18 Sec. 5. Upon payment of the fee under IC 9-29-17-1(b), an
19 applicant may obtain additional dealer license plates of the same
20 category. The applicant must demonstrate the applicant's need for
21 additional plates by stating the applicant's number of employees,
22 annual sales, and other supporting factors. The secretary shall
23 determine whether the applicant is entitled to additional plates.
24 Sec. 6. Dealer license plates issued to licensed dealers under this
25 chapter expire as follows:
26 (1) A person whose business name begins with the letters A
27 through B, inclusive, March 1 of each year.
28 (2) A person whose business name begins with the letters C
29 through D, inclusive, April 1 of each year.
30 (3) A person whose business name begins with the letters E
31 through G, inclusive, May 1 of each year.
32 (4) A person whose business name begins with the letters H
33 through I, inclusive, June 1 of each year.
34 (5) A person whose business name begins with the letters J
35 through L, inclusive, July 1 of each year.
36 (6) A person whose business name begins with the letters M
37 through O, inclusive, August 1 of each year.
38 (7) A person whose business name begins with the letters P
39 through R, inclusive, September 1 of each year.
40 (8) A person whose business name begins with the letters S
41 through T, inclusive, October 1 of each year.
42 (9) A person whose business name begins with the letters U

COPY



1 through Z, inclusive, November 1 of each year.
2 Dealer license plates issued to a sole proprietor expire based upon
3 the name of the sole proprietorship.

4 Sec. 7. (a) Except as provided in sections 8 and 9 of this chapter,
5 dealer-new, dealer-used, manufacturer, and wholesale license
6 plates may be used only on motor vehicles in the:

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

15 (b) The motor vehicles referenced in subsection (a) must be:
16 (1) primarily used or stored at an address within Indiana; or
17 (2) transported to or from an address within Indiana.

18 Sec. 8. Dealer-new, dealer-used, manufacturer, and wholesale
19 license plates may be used without restriction by a manufacturer,
20 a dealer, or an employee of a manufacturer or a dealer in
21 compliance with rules adopted by the secretary to prohibit use of
22 the plates solely to avoid payment of applicable taxes.

23 Sec. 9. Dealer-new, dealer-used, manufacturer, and wholesale
24 license plates may be used without restriction by a designee of a
25 dealer or a designee of a manufacturer under rules adopted by the
26 secretary. The rules must provide the following:

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

39 Sec. 10. Dealer-new, dealer-used, manufacturer, and wholesale
40 license plates may not be used on a vehicle that:

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

C
O
P
Y



- 1 vehicle.
- 2 **Sec. 11. (a)** The secretary may issue an interim license plate to
 3 a dealer or manufacturer who is licensed and has been issued a
 4 license plate under section 2 of this chapter.
- 5 **(b)** The secretary shall prescribe the form of an interim license
 6 plate issued under this section. However, a plate must bear the
 7 assigned registration number and provide sufficient space for the
 8 expiration date as provided in subsection (c).
- 9 **(c)** Whenever a dealer or manufacturer sells or leases a motor
 10 vehicle, the dealer or manufacturer may provide the buyer or
 11 lessee with an interim license plate. The dealer shall, in the manner
 12 provided by the secretary, affix on the plate in numerals and letters
 13 at least three (3) inches high the date on which the interim license
 14 plate expires.
- 15 **(d)** An interim license plate authorizes a motor vehicle owner or
 16 lessor to operate the vehicle for a maximum period of thirty-one
 17 (31) days from the date of sale or lease of the vehicle to the
 18 vehicle's owner or until a regular license plate is issued, whichever
 19 occurs first.
- 20 **(e)** A motor vehicle that is required by law to display license
 21 plates on the front and rear of the vehicle is required to display
 22 only a single interim plate.
- 23 **(f)** An interim plate shall be displayed:
 24 (1) in the same manner required in IC 9-18-2-26; or
 25 (2) in a location on the left side of a window facing the rear of
 26 the motor vehicle that is clearly visible and unobstructed. The
 27 plate must be affixed to the window of the motor vehicle.
- 28 **(g)** The dealer must provide an ownership document to the
 29 purchaser at the time of issuance of the interim plate that must be
 30 kept in the motor vehicle during the period an interim plate is used.
- 31 **(h)** All interim plates not issued by the dealer must be retained
 32 in the possession of the dealer at all times.
- 33 **Sec. 12.** A dealer may not knowingly or intentionally issue an
 34 altered interim license plate or an interim license plate with false
 35 or fictitious information.
- 36 **Sec. 13.** A person may not knowingly or intentionally operate a
 37 vehicle displaying an altered interim license plate issued under
 38 section 11 of this chapter.
- 39 **Sec. 14.** A record directly related to the use of interim plates by
 40 a dealer must be made available to an investigating employee of the
 41 secretary upon demand at the place of business of the dealer.
- 42 **Chapter 6. Accounts and Distribution of License and Permit**

C
O
P
Y

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

Fees Under IC 9-32-10

Sec. 1. (a) The dealer compliance account is established as a separate account to be administered by the secretary. The funds in the account must be available, with the approval of the budget agency, for use in enforcing and administering this article.

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

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

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

(1) Money deposited under:

(A) IC 9-29-17-14(b);

(B) IC 9-29-17-14(c);

(C) IC 9-29-17-16; and

(D) section 3(1) of this chapter.

(2) Appropriations to the account from other sources.

(3) Grants, gifts, donations, or transfers intended for deposit in the account.

(4) Interest that accrues from money in the account.

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

(f) Money in the dealer compliance account is continuously appropriated to the secretary for the purposes of the account.

Sec. 2. (a) The dealer enforcement account is established as a separate account to be administered by the secretary.

(b) The dealer enforcement account consists of money deposited from:

(1) IC 9-32-3-1(c);

(2) IC 9-32-15-1(f);

(3) IC 9-32-15-17(d);

(4) IC 9-32-16-8; and

(5) IC 9-32-16-10.

The funds in the account shall be available, with the approval of the budget agency, for use to augment and supplement the funds appropriated for the administration of this article.

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

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

deposited into the account.

(d) Money in the dealer enforcement account at the end of the state fiscal year does not revert to the state general fund.

(e) Money in the dealer enforcement account is continuously appropriated to the secretary for the purposes of the account.

Sec. 3. All money collected by the secretary from manufacturers, factory branches, distributors, dealers, automobile auctioneers, factory representatives, distributor representatives, wholesale dealers, transfer dealers, converter manufacturers, or automotive mobility dealers for licenses and permit fees under IC 9-29-17-8 through IC 9-29-17-10 shall be deposited as follows:

- (1) Thirty percent (30%) to the dealer compliance account established by section 1 of this chapter.
- (2) Forty percent (40%) to the motor vehicle highway account.
- (3) Twenty percent (20%) to the state police department for use in enforcing odometer laws.
- (4) Ten percent (10%) to the attorney general for use in enforcing odometer laws.

Chapter 7. Boat Dealers

Sec. 1. Boat dealers are classified for the purposes of this chapter and IC 9-29-17-5 into two (2) categories as follows:

- (1) Class A dealers having more than one (1) business location for the sale of boats.
- (2) Class B dealers having only one (1) business location for the sale of boats.

Sec. 2. A person must be licensed under this chapter before the person may engage in the business of selling boats.

Sec. 3. (a) An application for a boat dealer license must meet all the following conditions:

- (1) Be accompanied by the fee under IC 9-29-17-5.
- (2) Be on a form prescribed by the secretary.
- (3) Contain any information that the secretary reasonably needs to enable the secretary to determine fully the:
 - (A) qualifications and eligibility of the applicant to receive the license;
 - (B) location of each of the applicant's places of business in Indiana; and
 - (C) ability of the applicant to conduct properly the business for which the application is submitted.

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

C
O
P
Y



1 new and used boats.

2 **Sec. 4.** A license issued to a boat dealer must specify the location
3 of each place of business and shall be conspicuously displayed at
4 each business location. If a business name or location is changed,
5 the holder shall notify the secretary within ten (10) days and remit
6 the fee specified under IC 9-29-17-6(a). The secretary shall endorse
7 that change on the boat dealer license if it is determined that the
8 change is not subject to other provisions of this chapter.

9 **Sec. 5.** A boat dealer license issued under this chapter is valid
10 for one (1) year after the date the boat dealer license is issued. All
11 license fees shall be paid at the annual rate under IC 9-29-17-5.

12 **Sec. 6. (a)** A person licensed under this chapter shall furnish
13 evidence that the person currently has liability insurance covering
14 the person's place of business. The policy must have limits of not
15 less than the following:

- 16 (1) One hundred thousand dollars (\$100,000) for bodily injury
17 to one (1) person.
- 18 (2) Three hundred thousand dollars (\$300,000) per accident.
- 19 (3) Fifty thousand dollars (\$50,000) for property damage.

20 (b) The minimum amounts must be maintained during the time
21 the license is valid.

22 **Sec. 7.** The secretary shall use all revenues accruing to the
23 secretary under this chapter to enforce this chapter and Indiana
24 boat registration laws. All necessary expenses incurred and all
25 compensation paid by the secretary for administering this chapter
26 shall be paid out of the revenue received under this chapter and
27 from any supplemental appropriations.

28 **Chapter 8. Licensing of Vehicle Salvaging**

29 **Sec. 1.** A disposal facility, a used parts dealer, or an automotive
30 salvage rebuilder must be licensed by the secretary under this
31 chapter before the facility, dealer, or rebuilder may do any of the
32 following:

- 33 (1) Sell a used major component part of a vehicle.
- 34 (2) Wreck or dismantle a vehicle for resale of the major
35 component parts of the vehicle.
- 36 (3) Rebuild a wrecked or dismantled vehicle.
- 37 (4) Possess more than two (2) inoperable vehicles subject to
38 registration for more than thirty (30) days unless the facility,
39 dealer, or rebuilder holds a mechanic's lien on each vehicle
40 over the quantity of two (2).
- 41 (5) Engage in the business of storing, disposing, salvaging, or
42 recycling of vehicles, vehicle hulks, or the parts of vehicles.



C
o
p
y

1 **Sec. 2. A disposal facility, a used parts dealer, or an automotive**
 2 **salvage rebuilder licensed in Indiana must have a principal place**
 3 **of business in Indiana conducting the business that is the basis for**
 4 **the license. A place of business that performs only ministerial tasks**
 5 **is not considered to be conducting business.**

6 **Sec. 3. To apply for a license under this chapter, a disposal**
 7 **facility, a used parts dealer, or an automotive salvage rebuilder**
 8 **must submit the following to the secretary:**

9 **(1) A completed application, which must be verified by the**
 10 **secretary.**

11 **(2) The licensing fee under IC 9-29-17-7.**

12 **Sec. 4. The secretary shall prescribe an application form to be**
 13 **used by persons applying for a license under this chapter. The**
 14 **application must include the following information:**

15 **(1) The applicant's name.**

16 **(2) The applicant's type of business organization and the**
 17 **following as appropriate:**

18 **(A) If the applicant is a corporation, the name and address**
 19 **of each officer and director of the corporation.**

20 **(B) If the applicant is a sole proprietorship, the name and**
 21 **address of the sole proprietor.**

22 **(C) If the applicant is a partnership, the name and address**
 23 **of each partner.**

24 **(D) If the applicant is an unincorporated association or**
 25 **similar form of business organization, the name and**
 26 **address of each member, trustee, or manager.**

27 **(3) The applicant's principal place of business.**

28 **(4) The types of activities set out in section 1 of this chapter**
 29 **that the applicant proposes to conduct.**

30 **Sec. 5. Each license under this chapter, except an initial license,**
 31 **shall be issued for a twelve (12) month period beginning March 1**
 32 **and expiring the last day of February of each year. An initial**
 33 **license may be issued for a period of less than twelve (12) months,**
 34 **but the license must expire on the last day of February immediately**
 35 **following the date the license is issued.**

36 **Sec. 6. Within a reasonable time, the secretary shall do the**
 37 **following:**

38 **(1) Review all license applications submitted under this**
 39 **chapter.**

40 **(2) Approve a submitted license application unless any of the**
 41 **following apply:**

42 **(A) The application does not conform with this chapter.**

C
O
P
Y



1 **(B) The applicant has made a material fact**
 2 **misrepresentation on the application.**
 3 **(C) The applicant has been convicted of committing a**
 4 **fraudulent act in connection with one (1) of the activities**
 5 **specified in section 1 of this chapter.**
 6 **Sec. 7. A person denied a license under section 6 of this chapter**
 7 **is entitled to a hearing under IC 9-32-15.**
 8 **Sec. 8. If the secretary approves a license application under this**
 9 **chapter, the secretary shall grant the applicant:**
 10 **(1) an original license for the applicant's principal place of**
 11 **business; and**
 12 **(2) a supplemental license for each other place of business**
 13 **listed on the application.**
 14 **Sec. 9. The secretary shall prescribe the form of the licenses**
 15 **granted under section 8 of this chapter. A license granted under**
 16 **section 8 of this chapter must include the following information:**
 17 **(1) The licensee's name.**
 18 **(2) The licensee's type of business organization and the**
 19 **following as appropriate:**
 20 **(A) If a corporation, the name and address of each officer.**
 21 **(B) If a sole proprietorship, the name and address of the**
 22 **proprietor.**
 23 **(C) If a partnership, the name and address of each**
 24 **managing partner.**
 25 **(D) If an unincorporated association or similar form of**
 26 **business organization, the name and address of the**
 27 **manager or other chief administrative official.**
 28 **(3) The licensee's principal place of business.**
 29 **(4) A listing of the types of business activities specified in**
 30 **section 1 of this chapter that the licensee may conduct.**
 31 **(5) The date the license expires.**
 32 **Sec. 10. A licensee shall post a license granted to the licensee**
 33 **under this chapter in a conspicuous place at the licensed place of**
 34 **business.**
 35 **Sec. 11. If the secretary receives a written complaint from a**
 36 **local zoning body that a disposal facility or automotive salvage**
 37 **rebuilder, subject to this chapter, is operating in violation of a local**
 38 **zoning ordinance, the secretary shall delay the issuance or renewal**
 39 **of the facility's or rebuilder's license under this chapter until the**
 40 **local zoning complaints have been satisfied.**
 41 **Chapter 9. Motor Vehicle Sales Advisory Board**
 42 **Sec. 1. The motor vehicle sales advisory board is established to**

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

advise the secretary in the administration of this article.

Sec. 2. (a) The advisory board is composed of the secretary and nine (9) persons appointed by the governor upon the recommendation of the secretary as follows:

(1) Two (2) of the appointed members must be franchised new motor vehicle dealers as follows:

(A) One (1) member must have sold fewer than seven hundred fifty (750) new motor vehicles in the year before the member's appointment.

(B) One (1) member must have sold more than seven hundred forty-nine (749) new motor vehicles in the year before the member's appointment.

(2) Two (2) of the appointed members must represent the automobile manufacturing industry, and each must have been an Indiana resident for at least two (2) years immediately preceding the member's appointment.

(3) Two (2) of the appointed members must represent the general public and may not have any direct interest in the manufacture or sale of motor vehicles.

(4) One (1) member must represent used motor vehicle dealers that are not franchised new motor vehicle dealers.

(5) One (1) member must represent used motor vehicle auctioneers.

(6) One (1) member must represent the automobile salvage and recycling industry.

(b) Not more than five (5) members of the advisory board may be of the same political party.

Sec. 3. (a) A member appointed to the advisory board under section 2 of this chapter serves a three (3) year term. A person may not serve more than two (2) consecutive full terms. Each appointed member serves until the member's successor is appointed and qualified.

(b) A member may be removed for good cause.

(c) A vacancy shall be filled by appointment of the governor for the unexpired term.

Sec. 4. Members of the advisory board are entitled to receive the expenses and per diem allowed by law. Membership on the advisory board does not constitute the holding of a public office.

Sec. 5. The secretary shall serve as chairman of the advisory board. The advisory board shall elect a vice chairman and secretary from the appointed members during the first month of each year. The vice chairman and secretary serve until their

C
o
p
y



1 successors are appointed and qualified and may be removed for
2 good cause.

3 Sec. 6. The advisory board shall meet at least one (1) time
4 during a calendar year. Additional meetings may be convened at
5 the call of the secretary or the written request of any three (3)
6 members.

7 Sec. 7. Six (6) members of the advisory board constitute a
8 quorum for doing business. The majority vote of the members of
9 the quorum, present and voting, is required for the passage of a
10 matter put to a vote of the advisory board.

11 Sec. 8. The advisory board is vested with the following powers:

- 12 (1) To consult with and advise the secretary.
- 13 (2) To suggest rules, including the following:
 - 14 (A) The contents of forms.
 - 15 (B) Methods and procedures for the investigation and
 - 16 evaluation of the qualifications of applicants for licenses.
 - 17 (C) The criteria upon which to issue, deny, suspend, and
 - 18 revoke licenses.
 - 19 (D) Procedures for the investigation into and conduct of
 - 20 hearings on unfair practices.

21 Chapter 10. Regulation of Vehicle Merchandising

22 Sec. 1. (a) The following persons must be licensed under this
23 article to engage in the business of buying or selling motor vehicles
24 or semitrailers:

- 25 (1) An automobile auctioneer.
- 26 (2) A converter manufacturer.
- 27 (3) A dealer.
- 28 (4) A distributor.
- 29 (5) A distributor representative.
- 30 (6) A factory branch.
- 31 (7) A factory representative.
- 32 (8) A manufacturer.
- 33 (9) A transfer dealer.
- 34 (10) A wholesale dealer.
- 35 (11) An automotive mobility dealer.

36 (b) An automotive mobility dealer who engages in the business
37 of:

- 38 (1) selling, installing, or servicing;
- 39 (2) offering to sell, install, or service; or
- 40 (3) soliciting or advertising the sale, installation, or servicing

41 of;
42 equipment or modifications specifically designed to facilitate use

C
O
P
Y



1 or operation of a vehicle by an individual who is disabled or aged
2 must be licensed under this article.

3 **Sec. 2. (a) An application for a license under this chapter must:**

- 4 (1) be accompanied by the fee required under IC 9-29-17;
5 (2) be on a form prescribed by the secretary;
6 (3) contain the information the secretary considers necessary
7 to enable the secretary to determine fully:

8 (A) the qualifications and eligibility of the applicant to
9 receive the license;

10 (B) the location of each of the applicant's places of business
11 in Indiana; and

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

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

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

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

26 (d) The application must include an affidavit from:

- 27 (1) the person charged with enforcing a zoning ordinance
28 described in this subsection; or
29 (2) the zoning enforcement officer under IC 36-7-4, if one
30 exists;

31 who has jurisdiction over the real property where the applicant
32 wants to operate as a dealer. The affidavit must state that the
33 proposed location is zoned for the operation of a dealer's
34 establishment. The applicant may file the affidavit at any time after
35 the filing of the application. However, the secretary may not issue
36 a license until the applicant files the affidavit.

37 (e) Except as provided in subsection (g), a licensee shall
38 maintain a bond satisfactory to the secretary in the amount of
39 twenty-five thousand dollars (\$25,000). The bond must:

- 40 (1) be in favor of the state; and
41 (2) secure payment of fines, penalties, costs, and fees assessed
42 by the secretary after notice, opportunity for a hearing, and

C
O
P
Y



- 1 opportunity for judicial review, in addition to securing the
 2 payment of damages to a person aggrieved by a violation of
 3 this chapter by the licensee after a judgment has been issued.
- 4 (f) Service under this chapter shall be made in accordance with
 5 the Indiana Rules of Trial Procedure.
- 6 (g) Instead of meeting the requirement in subsection (e), a
 7 licensee may submit to the secretary evidence that the licensee is a
 8 member of a risk retention group regulated by the Indiana
 9 department of insurance.
- 10 **Sec. 3. A manufacturer, distributor, factory branch, or dealer**
 11 **proposing to sell new motor vehicles shall file and maintain with**
 12 **the secretary:**
- 13 (1) a current copy of each franchise to which the person is a
 14 party; or
- 15 (2) if the person is a party to multiple franchises that are
 16 identical except for stated items, a copy of the form franchise
 17 with supplemental schedules of variations from the form.
- 18 **Sec. 4. (a) The license issued to a factory branch, an automobile**
 19 **auctioneer, a transfer dealer, or a dealer under this chapter:**
- 20 (1) must specify the location of each place of business; and
 21 (2) shall be conspicuously displayed at each business location.
- 22 (b) If a licensee's business name or location is changed, the
 23 licensee shall notify the secretary not later than ten (10) days after
 24 the change and remit the fee required under IC 9-29-17. The
 25 secretary shall endorse the change on the license if the secretary
 26 determines that the change is not subject to other provisions of this
 27 article.
- 28 (c) A dealer who uses the Internet or another computer network
 29 to facilitate the sale of motor vehicles as set forth in section 2(c) of
 30 this chapter shall notify the secretary not later than ten (10) days
 31 after any change in a name, address, or telephone number
 32 documented in business records located outside Indiana that have
 33 been created in transactions made in Indiana by the dealer. A
 34 report made under this subsection is not subject to the fee required
 35 under IC 9-29-17.
- 36 (d) A dealer who wants to change a location must submit to the
 37 secretary an application for approval of the change. The
 38 application must be accompanied by an affidavit from:
- 39 (1) the person charged with enforcing a zoning ordinance
 40 described in this subsection; or
 41 (2) the zoning enforcement officer under IC 36-7-4, if one
 42 exists;



C
O
P
Y

1 who has jurisdiction over the real property where the applicant
 2 wants to operate as a dealer. The affidavit must state that the
 3 proposed location is zoned for the operation of a dealer's
 4 establishment. The secretary may not approve a change of location
 5 or endorse a change of location on the dealer's license until the
 6 dealer provides the affidavit.

7 (e) For the purpose of this section, an offsite license issued under
 8 section 9 of this chapter does not constitute a change of location.

9 Sec. 5. A license issued to a factory representative or distributor
 10 representative must state the name of the representative's
 11 employer. Within ten (10) days after a change of employer, the
 12 licensee shall mail the license to the secretary and indicate the
 13 name and address of the licensee's new employer. The secretary
 14 shall endorse the change on the license and return the license to the
 15 licensee in care of the new employer of the licensee. A factory
 16 representative, distributor representative, or wholesale dealer
 17 must have a license when engaged in business and shall display the
 18 license upon request. A temporary license for a factory
 19 representative or distributor representative may be issued for a
 20 period of up to one hundred twenty (120) days pending
 21 investigation by the secretary of the representative's qualification
 22 for a license.

23 Sec. 6. The secretary shall, by rule adopted under IC 4-22-2,
 24 establish requirements for an initial application for and renewal of
 25 an automotive mobility dealer's license. The rules must include a
 26 requirement that each initial or renewal application for an
 27 automotive mobility dealer's license include proof that the
 28 applicant is accredited through the Quality Assurance Program of
 29 the National Mobility Equipment Dealers Association.

30 Sec. 7. An automotive mobility dealer licensed under this
 31 chapter is entitled to:

- 32 (1) display;
- 33 (2) inventory;
- 34 (3) advertise;
- 35 (4) offer for sale; or
- 36 (5) do any combination of subdivisions (1) through (4)
- 37 concerning;

38 any adapted vehicle.

39 Sec. 8. This section does not apply to sales made at a motor
 40 vehicle industry sponsored trade show. A dealer may not sell or
 41 offer to sell a vehicle at a location away from the dealer's
 42 established place of business without obtaining an offsite sales



C
O
P
Y

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

license under section 9 of this chapter.

Sec. 9. (a) Except as provided in subsections (b) through (g), the secretary shall issue an offsite sales license to a dealer licensed under this chapter who submits an application for the license not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. License applications under this section shall be made public upon the request of any person.

(b) The secretary may not issue an offsite sales license to a dealer who does not have an established place of business within Indiana.

(c) This subsection does not apply to:

- (1) new manufactured housing dealers;
- (2) recreational vehicle dealers;
- (3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates; or
- (4) off-road vehicle dealers.

The secretary may not issue an offsite sales license to a licensed dealer proposing to conduct a sale outside a radius of twenty (20) miles from the established place of business of the licensed dealer.

(d) A vehicle display is not considered an offsite sale if it is conducted by a new vehicle franchised dealer in an open area where no sales personnel and no sales material are present.

(e) The secretary may not issue an offsite sales license to a licensed dealer proposing to conduct an offsite sale for more than ten (10) calendar days.

(f) As used in this subsection, "executive" has the meaning set forth in IC 36-1-2-5. The secretary may not issue an offsite sales license to a licensed dealer if the dealer does not have certification that the offsite sale would be in compliance with local zoning ordinances or other local ordinances. Authorization under this subsection may be obtained only from the following:

- (1) If the offsite sale would be located within the corporate boundaries of a city or town, the executive of the city or town.
- (2) If the offsite sale would be located outside the corporate boundaries of a city or town:
 - (A) except as provided in clause (B), the executive of the county; or
 - (B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.

(g) The secretary may not issue an offsite sales license to a

C
o
p
y



1 licensed dealer who has held more than three (3) nonconsecutive
2 offsite sales in the year ending on the date of the offsite sale for
3 which the license application is being submitted.

4 (h) Section 2(c) of this chapter does not apply to the application
5 or issuance of an offsite sales license under this section.

6 Sec. 10. A license issued under this chapter is valid for a one (1)
7 year period in accordance with the following schedule:

8 (1) A person whose business name begins with the letters A
9 through B, inclusive, shall register before March 1 of each
10 year.

11 (2) A person whose business name begins with the letters C
12 through D, inclusive, shall register before April 1 of each year.

13 (3) A person whose business name begins with the letters E
14 through G, inclusive, shall register before May 1 of each year.

15 (4) A person whose business name begins with the letters H
16 through I, inclusive, shall register before June 1 of each year.

17 (5) A person whose business name begins with the letters J
18 through L, inclusive, shall register before July 1 of each year.

19 (6) A person whose business name begins with the letters M
20 through O, inclusive, shall register before August 1 of each
21 year.

22 (7) A person whose business name begins with the letters P
23 through R, inclusive, shall register before September 1 of each
24 year.

25 (8) A person whose business name begins with the letters S
26 through T, inclusive, shall register before October 1 of each
27 year.

28 (9) A person whose business name begins with the letters U
29 through Z, inclusive, shall register before November 1 of each
30 year.

31 A sole proprietor shall register based upon the name of the sole
32 proprietorship.

33 Sec. 11. A person licensed under this article may transfer or
34 assign a title for a motor vehicle.

35 Sec. 12. (a) A person licensed under this article shall furnish
36 evidence that the person has liability insurance or garage liability
37 insurance covering the person's place of business. The policy must
38 have limits of not less than the following:

39 (1) One hundred thousand dollars (\$100,000) for bodily injury
40 to one (1) person.

41 (2) Three hundred thousand dollars (\$300,000) for bodily
42 injury for each accident.

C
o
p
y



1 **(3) Fifty thousand dollars (\$50,000) for property damage.**
2 **(b) The minimum amounts required by subsection (a) must be**
3 **maintained during the time the license is valid.**
4 **Sec. 13. (a) A person who ceases a business activity for which a**
5 **license was issued under this chapter shall do the following:**
6 **(1) Notify the secretary of the date that the business activity**
7 **will cease.**
8 **(2) Deliver to the secretary all permanent dealer license plates**
9 **and interim license plates issued to the person not later than**
10 **ten (10) days before the date the business activity will cease.**
11 **(b) A dealer may not transfer or sell the:**
12 **(1) dealer's license; or**
13 **(2) use of the dealer's license.**
14 **(c) A dealer that changes its form of organization or state of**
15 **incorporation may continue the dealer's licensure by filing an**
16 **amendment to the registration if the change does not involve a**
17 **material fact in the financial condition or management of the**
18 **dealer. The amendment becomes effective when filed or on the date**
19 **designated by the registrant in its filing. The new organization is a**
20 **successor to the original registrant for the purposes of this article.**
21 **(d) If there is a change in the dealer's ownership, the successive**
22 **owner shall file a new application for a license under this chapter.**
23 **Sec. 14. Except as provided in IC 9-29-17, all revenues accruing**
24 **to the secretary under this chapter shall be deposited in the motor**
25 **vehicle highway account.**
26 **Sec. 15. A dealer who sells a motor vehicle through the use of**
27 **the Internet or another computer network shall deliver the motor**
28 **vehicle to the customer at the place of business of the dealer in**
29 **Indiana.**
30 **Sec. 16. (a) A person licensed under this article shall be issued**
31 **a special event permit from the secretary for a special event that**
32 **meets the following conditions:**
33 **(1) The event is a vehicle auction conducted by auctioneers**
34 **licensed under IC 25-6.1-3.**
35 **(2) The vehicles to be auctioned are:**
36 **(A) at least fifteen (15) years old; or**
37 **(B) classified as classic, collector, or antique vehicles under**
38 **rules adopted by the secretary.**
39 **(3) At least one hundred (100) vehicles will be auctioned**
40 **during the special event.**
41 **(4) The licensee submits to the secretary an application for a**
42 **special event permit not later than thirty (30) days before the**

COPY



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

beginning date of the special event.

(5) The application under subdivision (4) is accompanied by the permit fee required under IC 9-29-17-13.

(b) Not more than two (2) special event permits may be issued by the secretary to the same applicant within a twelve (12) month period.

Chapter 11. Disclosures Required in Motor Vehicle Leases

Sec. 1. A retail lessor shall do the following:

(1) Comply with the requirements of Regulation M (12 CFR 213) for disclosure of gross capitalized cost, capitalized cost reduction, and adjusted capitalized cost adopted under the federal Truth in Lending Act (15 U.S.C. 1601 et seq.).

(2) Disclose to a retail lessee in a separate blocked section in a lease agreement, in capital letters in at least 10 point bold type the following:
THIS IS A LEASE AGREEMENT.
THIS IS NOT A PURCHASE AGREEMENT.
PLEASE REVIEW THESE MATTERS CAREFULLY AND SEEK INDEPENDENT PROFESSIONAL ADVICE IF YOU HAVE ANY QUESTIONS CONCERNING THIS TRANSACTION. YOU ARE ENTITLED TO AN EXACT COPY OF THE AGREEMENT YOU SIGN.

(3) Provide the retail lessee with a copy of each document signed by the retail lessee during the course of the lease transaction.

Sec. 2. A trade-in vehicle used, in whole or in part, to pay amounts due at lease signing or delivery of the vehicle must be identified as a trade-in vehicle in the lease agreement and identified by year, make, and model. The lease agreement must state the net credit of the trade-in vehicle used to pay amounts due at lease signing or delivery of the vehicle.

Sec. 3. A bona fide printing error identified on the face of the lease agreement does not constitute a violation of this chapter.

Sec. 4. (a) A retail lessor who fails to comply with the requirements of this chapter is liable to the retail lessee for:

(1) actual damages sustained;
(2) a civil penalty of not more than one thousand dollars (\$1,000) per lease transaction; and
(3) reasonable attorney's fees and costs.

(b) In addition to any other remedies provided by law, a retail lessee may bring an action in circuit court to recover the damages, penalties, and fees described in subsection (a).

C
o
p
y



1 (c) The total recovery of damages, penalties, and fees in a class
2 action civil suit brought under this section may not exceed one
3 hundred thousand dollars (\$100,000).

4 Sec. 5. A civil suit described under section 4 of this chapter may
5 be brought on behalf of a consumer by the attorney general.

6 Sec. 6. An action authorized by sections 4 and 5 of this chapter
7 must be brought not later than three (3) years after the date the
8 lease agreement is signed.

9 **Chapter 12. Unfair Practices**

10 Sec. 1. It is an unfair practice for a dealer to require a
11 purchaser of a motor vehicle, as a condition of sale and delivery of
12 the motor vehicle, to purchase any equipment, part, or accessory
13 not ordered by the purchaser unless the equipment, part, or
14 accessory is:

15 (1) already installed on the motor vehicle when the motor
16 vehicle is received by or offered for sale by the dealer; or

17 (2) required by law.

18 Sec. 2. It is an unfair practice for a dealer to willingly fail to
19 perform the obligations imposed on the dealer in connection with
20 the delivery and preparation of a new motor vehicle for retail sale
21 as provided in the preparation and delivery agreement of the
22 manufacturer or distributor applicable to the motor vehicle.

23 Sec. 3. It is an unfair practice for a dealer to willingly fail to
24 perform the obligations imposed on the dealer in connection with
25 the warranty agreement of the manufacturer or distributor
26 applicable to any motor vehicle sold by the dealer.

27 Sec. 4. It is an unfair practice for a dealer to sell a new motor
28 vehicle having a trade name, trade or service mark, or related
29 characteristic for which the dealer does not have a franchise in
30 effect at the time of the sale. However, a vehicle having more than
31 one (1) trade name, trade or service mark, or related characteristic
32 as a result of modification or further manufacture by a
33 manufacturer, converter manufacturer, or an automotive mobility
34 dealer licensed under this article may be sold by a franchisee
35 appointed by that manufacturer, converter manufacturer, or
36 automotive mobility dealer.

37 Sec. 5. It is an unfair practice for a dealer to willingly fail to
38 perform the fiduciary duty imposed on the dealer by IC 6-2.5-2-1
39 with regard to the collection and remittance of the state gross retail
40 tax. Willful violation of the fiduciary duty includes written or oral
41 agreements between a dealer and a prospective purchaser that
42 would give the appearance that a bona fide trade-in has taken

C
o
p
y



1 place, when in fact the purpose of the agreement is to reduce the
2 prospective purchaser's state gross retail tax and thereby deprive
3 the state of revenue.

4 **Sec. 6. It is an unfair practice for a dealer to sell, exchange, or**
5 **transfer a rebuilt vehicle without disclosing in writing to the**
6 **purchaser, customer, or transferee the fact that the vehicle is a**
7 **rebuilt vehicle if the dealer knows or should reasonably know**
8 **before consummating the sale, exchange, or transfer that the**
9 **vehicle is a rebuilt vehicle.**

10 **Sec. 7. It is an unfair practice for a dealer to require a**
11 **purchaser of a motor vehicle as a condition of the sale and delivery**
12 **of the motor vehicle to pay a document preparation fee, unless the**
13 **fee:**

- 14 (1) reflects expenses actually incurred for the preparation of
- 15 documents;
- 16 (2) was affirmatively disclosed by the dealer;
- 17 (3) was negotiated by the dealer and the purchaser;
- 18 (4) is not for the preparation, handling, or service of
- 19 documents that are incidental to the extension of credit; and
- 20 (5) is set forth on a buyer's order or similar agreement by a
- 21 means other than preprinting.

22 **Sec. 8. (a) It is an unfair practice for a manufacturer or**
23 **distributor to violate IC 23-2-2.7.**

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

- 27 (1) this chapter; or
- 28 (2) IC 23-2-2.7.

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

31 **Sec. 9. It is an unfair practice for a manufacturer or distributor**
32 **to coerce a dealer to order parts, accessories, equipment,**
33 **machinery, tools, appliances, or any other commodity from a**
34 **person.**

35 **Sec. 10. It is an unfair practice for a manufacturer or**
36 **distributor to prevent or require, or attempt to prevent or require,**
37 **by contract or otherwise, a change in the capital structure of a**
38 **dealer or the means by or through which the dealer finances the**
39 **dealer's operation, if the dealer at all times meets reasonable**
40 **capital standards agreed to by the dealer and the manufacturer or**
41 **distributor. A change in capital structure does not cause a change**
42 **in the principal management or have the effect of a sale of the**



C
O
P
Y

1 franchise without the consent of the manufacturer or distributor.

2 Sec. 11. It is an unfair practice for a manufacturer or
3 distributor to prevent or require, or attempt to prevent or require,
4 a dealer to change the dealer's executive management, other than
5 the principal dealer operator or operators, if the franchise was
6 granted in reliance upon the personal qualifications of the
7 principal dealer operator or operators.

8 Sec. 12. It is an unfair practice for a manufacturer or
9 distributor to prevent or require, or attempt to prevent or require,
10 by contract or otherwise, a dealer or an officer, a partner, or a
11 stockholder of a dealer to sell or transfer a part of the interest of
12 the officer, partner, or stockholder to any other person. A dealer,
13 an officer, a partner, or a stockholder may not sell, transfer, or
14 assign the franchise or a right under the franchise without the
15 consent of the manufacturer or distributor. This consent may not
16 be withheld unreasonably.

17 Sec. 13. It is an unfair practice for a manufacturer or
18 distributor to prevent or attempt to prevent a dealer from
19 receiving fair and reasonable compensation for the value of the
20 franchised business as a going concern. The dealer may not
21 transfer or assign the dealer's franchise without the consent of the
22 manufacturer or distributor, and the manufacturer or distributor
23 may not unreasonably withhold consent.

24 Sec. 14. It is an unfair practice for a manufacturer or
25 distributor to employ a person as a representative who has not
26 been licensed under this article.

27 Sec. 15. (a) It is an unfair practice for a manufacturer or
28 distributor to fail to compensate to a dealer the posted labor rate
29 for the work and services the dealer is required to perform in
30 connection with the dealer's delivery and preparation obligations
31 under any franchise or fail to compensate to a dealer the posted
32 hourly labor rate for labor and other expenses incurred by the
33 dealer under the manufacturer's warranty agreements as long as
34 the posted rate is reasonable. Judgment of the reasonableness
35 includes consideration of charges for similar repairs by
36 comparable repair facilities in the local area as well as mechanic's
37 wages and fringe benefits.

38 (b) This section does not authorize a manufacturer or
39 distributor and its franchisees in Indiana to establish a uniform
40 hourly labor reimbursement rate effective for the entire state.

41 Sec. 16. (a) A manufacturer or distributor and at least thirty
42 percent (30%) of its franchisees in Indiana of the same line make

C
O
P
Y



1 may agree in an express written contract citing this section to a
 2 uniform warranty reimbursement policy to be used by franchisees
 3 for the performance of warranty repairs. The contract must
 4 include reimbursement for parts used in warranty repairs or the
 5 use of a uniform time standards manual, or both. The allowance
 6 for diagnosis within the uniform time standards manual must be
 7 reasonable and adequate for the work and service to be performed.

8 **The manufacturer or distributor:**

9 (1) may have only one (1) agreement with regard to each line
 10 make; and

11 (2) must have a reasonable and fair procedure for franchisees
 12 to request a modification or adjustment of a standard
 13 included in the uniform time standards manual.

14 (b) A contract described in subsection (a) must meet the
 15 following criteria:

16 (1) Establish a uniform parts reimbursement rate that must
 17 be greater than the manufacturer's or distributor's nationally
 18 established parts reimbursement rate in effect at the time the
 19 contract becomes effective. A subsequent contract must
 20 include a uniform reimbursement rate that is equal to or
 21 greater than the rate in the immediately prior contract.

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

24 (3) At any time during the period the contract is in effect:

25 (A) be available to any franchisee of the same line make as
 26 the franchisees who entered into the contract with the
 27 manufacturer or distributor; and

28 (B) be available to a franchisee of the same line make on
 29 the same terms as apply to the franchisees who entered
 30 into the contract with the manufacturer or distributor.

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

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

36 (6) Remain in effect for the entire original period if the
 37 manufacturer and at least one (1) franchisee remain parties
 38 to the policy.

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

C
O
P
Y



COPY

- 1 (1) Costs may be recovered only by increasing invoice prices
- 2 on new vehicles received by the franchisee.
- 3 (2) A manufacturer or distributor may make an exception for
- 4 vehicles that are titled in the name of a purchaser in another
- 5 state. However, price increases imposed for the purpose of
- 6 recovering costs imposed by this section may vary from time
- 7 to time and from model to model and must apply uniformly to
- 8 all franchisees of the same line make that have requested
- 9 reimbursement for warranty repairs at a level higher than
- 10 provided for in the agreement.
- 11 (d) A manufacturer or distributor that enters into a contract
- 12 with its franchisees under subsection (a) shall do the following:
- 13 (1) Certify to the secretary under oath, in a writing signed by
- 14 a representative of the manufacturer or distributor, that at
- 15 the time the contract was entered into at least thirty percent
- 16 (30%) of the franchisees of the line make were parties to the
- 17 contract.
- 18 (2) File a copy of the contract with the bureau at the time of
- 19 the certification.
- 20 (3) Maintain a file that contains the information upon which
- 21 the certification required under subdivision (1) is based for
- 22 three (3) years after the certification is made.
- 23 Sec. 17. (a) It is an unfair practice for a manufacturer or
- 24 distributor to:
- 25 (1) fail to pay all claims made by dealers for compensation for
- 26 delivery and preparation work and warranty work not later
- 27 than thirty (30) days after the claim is approved;
- 28 (2) fail to approve or disapprove a claim not later than thirty
- 29 (30) days after receipt of the claim; or
- 30 (3) disapprove a claim without notice to the dealer in writing
- 31 of the grounds for disapproval.
- 32 (b) A manufacturer or distributor may:
- 33 (1) audit a claim made by a dealer; or
- 34 (2) charge back to a dealer any amounts paid on a false or
- 35 unsubstantiated claim;
- 36 for up to two (2) years after the date on which the claim is paid.
- 37 However, the limitations of this subsection do not apply if the
- 38 manufacturer or distributor can prove fraud on a claim. A
- 39 manufacturer or distributor shall not discriminate among dealers
- 40 with regard to auditing or charging back claims.
- 41 Sec. 18. It is an unfair practice for a manufacturer or
- 42 distributor to sell a motor vehicle for resale to a person not



1 licensed under this article.

2 **Sec. 19.** It is an unfair practice for a manufacturer or
3 distributor to refuse or fail to indemnify and hold harmless a
4 dealer, upon written notification from the dealer, from all losses,
5 costs, and expenses that result or arise from or are related to a
6 complaint, claim, defense, or suit against the dealer that concerns
7 defects in a motor vehicle or other goods or services that are the
8 responsibility of the manufacturer.

9 **Sec. 20.** It is an unfair practice for an automobile auctioneer, a
10 wholesale dealer, or a transfer dealer, in connection with the
11 auctioneer's or dealer's business, to use false, deceptive, or
12 misleading advertising or to engage in deceptive acts or practices.

13 **Sec. 21.** It is an unfair practice for an employee, an agent, an
14 officer, a partner, or a representative of a licensee to engage in a
15 practice prohibited by this chapter.

16 **Sec. 22. (a)** It is an unfair practice for a manufacturer to
17 terminate a franchise in violation of IC 23-2-2.7-3. A dealer may
18 not transfer, assign, or sell the business and assets of a dealership
19 or an interest in the dealership to another person under an
20 agreement that contemplates or is conditioned on a continuation of
21 the franchise relationship with the manufacturer or distributor
22 unless the dealer first:

23 (1) notifies the manufacturer or distributor of the dealer's
24 decision to make the transfer, assignment, or sale by written
25 notice; and

26 (2) obtains the approval of the manufacturer or distributor.
27 The dealer must provide the manufacturer or distributor with
28 completed application forms and related information generally
29 used by the manufacturer or distributor to conduct a review of
30 such a proposal and a copy of all agreements regarding the
31 proposed transfer, assignment, or sale.

32 (b) The manufacturer or distributor shall send a letter by
33 certified mail to the dealer not later than sixty (60) days after the
34 manufacturer or distributor receives the information specified in
35 subsection (a). The letter must indicate any disapproval of the
36 transfer, assignment, or sale and must set forth the material
37 reasons for the disapproval. If the manufacturer or distributor
38 does not respond by letter not later than sixty (60) days after the
39 manufacturer or distributor receives the information under
40 subsection (a), the manufacturer's or distributor's consent to the
41 proposed transfer, assignment, or sale is considered to have been
42 granted. A manufacturer or distributor may not unreasonably

C
O
P
Y



1 withhold approval of a transfer, assignment, or sale under this
2 section.

3 (c) A manufacturer or distributor has a right of first refusal as
4 specified in the franchise agreement to acquire the new vehicle
5 dealer's assets or ownership if there is a proposed change of more
6 than fifty percent (50%) of the dealer's ownership or proposed
7 transfer of more than fifty percent (50%) of the new vehicle
8 dealer's assets and all the following are met:

9 (1) The manufacturer or distributor notifies the dealer in
10 writing of the intent of the manufacturer or distributor to
11 exercise the right of first refusal within the sixty (60) day
12 notice period under subsection (b).

13 (2) The exercise of the right of first refusal will result in the
14 dealer and the dealer's owners receiving consideration, terms,
15 and conditions that are either the same as or better than those
16 they have contracted to receive under the proposed change of
17 more than fifty percent (50%) of the dealer's ownership or
18 transfer of more than fifty percent (50%) of the new vehicle
19 dealer's assets.

20 (3) The proposed change of the dealership's ownership or
21 transfer of the new vehicle dealer's assets does not involve the
22 transfer of assets or the transfer or issuance of stock by the
23 dealer or one (1) or more of the dealer's owners to any of the
24 following:

25 (A) A designated family member or members, including
26 any of the following members of one (1) or more dealer
27 owners:

- 28 (i) The spouse.
- 29 (ii) A child.
- 30 (iii) A grandchild.
- 31 (iv) The spouse of a child or a grandchild.
- 32 (v) A sibling.
- 33 (vi) A parent.

34 (B) A manager:

- 35 (i) employed by the dealer in the dealership during the
36 previous four (4) years; and
- 37 (ii) who is otherwise qualified as a dealer operator.

38 (C) A partnership or corporation controlled by any of the
39 family members described in clause (A).

40 (D) A trust arrangement established or to be established:
41 (i) for the purpose of allowing the new vehicle dealer to
42 continue to qualify as such under the manufacturer's or

C
O
P
Y



1 distributor's standards; or

2 (ii) to provide for the succession of the franchise
3 agreement to designated family members or qualified
4 management in the event of the death or incapacity of
5 the dealer or the principal owner or owners.

6 (4) Except as otherwise provided in this subsection, the
7 manufacturer or distributor agrees to pay the reasonable
8 expenses, including reasonable attorney's fees, that do not
9 exceed the usual, customary, and reasonable fees charged for
10 similar work done for other clients, and that are incurred by
11 the proposed owner or transferee before the manufacturer's
12 or distributor's exercise of the right of first refusal in
13 negotiating and implementing the contract for the proposed
14 change of the dealer ownership or the transfer of the new
15 vehicle dealer's assets. Payment of expenses and attorney's
16 fees is not required if the dealer has failed to submit an
17 accounting of those expenses not later than twenty (20) days
18 after the dealer receives the manufacturer's or distributor's
19 written request for such an accounting. An expense
20 accounting may be requested by a manufacturer or
21 distributor before exercising the right of first refusal.

22 (d) Violation of this section by the manufacturer or distributor
23 is an unfair practice by a manufacturer or distributor.

24 Sec. 23. It is an unfair practice for a manufacturer, distributor,
25 officer, or agent to do any of the following:

26 (1) Require, coerce, or attempt to coerce a new motor vehicle
27 dealer in Indiana to:

28 (A) change the location of the dealership;

29 (B) make any substantial alterations to the use of
30 franchises; or

31 (C) make any substantial alterations to the dealership
32 premises or facilities;

33 if to do so would be unreasonable or would not be justified by
34 current economic conditions or reasonable business
35 considerations. This subdivision does not prevent a
36 manufacturer or distributor from establishing and enforcing
37 reasonable facility requirements.

38 (2) Require, coerce, or attempt to coerce a new motor vehicle
39 dealer in Indiana to divest ownership of or management in
40 another line or make of motor vehicles that the dealer has
41 established in its dealership facilities with the prior written
42 approval of the manufacturer or distributor.

C
O
P
Y



1 (3) Establish or acquire wholly or partially a franchisor
2 owned outlet engaged wholly or partially in a substantially
3 identical business to that of the franchisee within the exclusive
4 territory granted the franchisee by the franchise agreement
5 or, if no exclusive territory is designated, competing unfairly
6 with the franchisee within a reasonable market area. A
7 franchisor is not considered to be competing unfairly if
8 operating:

- 9 (A) a business for less than two (2) years;
- 10 (B) in a bona fide retail operation that is for sale to any
11 qualified independent person at a fair and reasonable
12 price; or
- 13 (C) in a bona fide relationship in which an independent
14 person has made a significant investment subject to loss in
15 the business operation and can reasonably expect to
16 acquire majority ownership or managerial control of the
17 business on reasonable terms and conditions.

18 This subdivision does not apply to recreational vehicle
19 manufacturer franchisors.

20 Sec. 24. (a) This section does not apply to the relocation of a new
21 motor vehicle dealer to a location that is not more than two (2)
22 miles from its established place of business.

23 (b) This section does not apply to the reopening or replacement
24 in a relevant market area of a closed dealership that has been
25 closed within the preceding year, if the established place of
26 business of the reopened or replacement dealer is within two (2)
27 miles of the established place of business of the closed dealership.

28 (c) Before a franchisor enters into a franchise establishing or
29 relocating a new motor vehicle dealer within a relevant market
30 area where the same line make is represented, the franchisor shall
31 give written notice to each new motor vehicle dealer of the same
32 line make in the relevant market area of the franchisor's intention
33 to establish an additional dealer or to relocate an existing dealer
34 within that relevant market area.

- 35 (d) Not later than thirty (30) days after:
 - 36 (1) receiving the notice provided for in subsection (c); or
 - 37 (2) the end of any appeal procedure provided by the
38 franchisor;

39 a new motor vehicle dealer may bring a declaratory judgment
40 action in the circuit court for the county in which the new motor
41 vehicle dealer is located to determine whether good cause exists for
42 the establishing or relocating of a proposed new motor vehicle

C
o
p
y



1 dealer. If an action is filed under this section, the franchisor may
2 not establish or relocate the proposed new motor vehicle dealer
3 until the circuit court has rendered a decision on the matter. An
4 action brought under this section shall be given precedence over all
5 other civil matters on the docket of the court.

6 (e) In determining whether good cause exists for establishing or
7 relocating an additional new motor vehicle dealer for the same line
8 make, the court shall take into consideration the existing
9 circumstances, including the following:

- 10 (1) Permanency of the investment.
- 11 (2) Effect on the retail new motor vehicle business and the
- 12 consuming public in the relevant market area.
- 13 (3) Whether it is injurious or beneficial to the public welfare.
- 14 (4) Whether the new motor vehicle dealers of the same line
- 15 make in that relevant market area are providing adequate
- 16 competition and convenient consumer care for the motor
- 17 vehicles of that line make in the market area, including the
- 18 adequacy of motor vehicle sales and qualified service
- 19 personnel.
- 20 (5) Whether the establishment or relocation of the new motor
- 21 vehicle dealer would promote competition.
- 22 (6) Growth or decline of the population and the number of
- 23 new motor vehicle registrations in the relevant market area.
- 24 (7) The effect on the relocating dealer of a denial of its
- 25 relocation into the relevant market area.

26 **Sec. 25. It is an unfair practice for a person to:**

- 27 (1) act as;
 - 28 (2) offer to act as; or
 - 29 (3) profess to be;
- 30 a broker in the advertising, buying, or selling of at least five (5)
- 31 new or used vehicles per year.

32 **Sec. 26. It is an unfair practice for a dealer to, in connection**
33 **with the offer, sale, or purchase of a vehicle, directly or indirectly:**

- 34 (1) employ a device, scheme, or artifice to defraud;
- 35 (2) make an untrue statement of a material fact or omit to
- 36 state a material fact necessary to make the statement made,
- 37 in light of the circumstances under which the statement was
- 38 made, not misleading; or
- 39 (3) engage in an act, practice, or course of business that
- 40 operates or would operate as a fraud or deceit upon another
- 41 person.

42 **Chapter 13. Damage to New Motor Vehicles**

C
o
p
y



1 **Sec. 1. Notwithstanding the terms, provisions, or conditions of**
 2 **an agreement or franchise, a motor vehicle dealer is solely liable**
 3 **for damage to a new motor vehicle:**

- 4 (1) after acceptance from the carrier or transporter; and
 5 (2) before delivery to the ultimate purchaser.

6 **Sec. 2. Notwithstanding the terms, provisions, or conditions of**
 7 **any agreement or franchise, a manufacturer, converter**
 8 **manufacturer, or automotive mobility dealer is liable for all**
 9 **damage to a new motor vehicle before delivery of the motor vehicle**
 10 **to a carrier or transporter.**

11 **Sec. 3. A motor vehicle dealer is liable for damage to a new**
 12 **motor vehicle after the motor vehicle is delivered to the carrier or**
 13 **transporter only if the dealer selects the method of transportation,**
 14 **mode of transportation, and the carrier or transporter. In all other**
 15 **instances, the manufacturer is liable for carrier related damage to**
 16 **a new motor vehicle.**

17 **Sec. 4. (a) This section does not apply to damage to:**

- 18 (1) glass;
 19 (2) radios;
 20 (3) tires; and
 21 (4) bumpers;

22 **when replaced by identical manufacturer's original equipment.**

23 **(b) Any uncorrected or corrected damage to a new motor**
 24 **vehicle exceeding four percent (4%) of the manufacturer's**
 25 **suggested retail price (as defined in 26 U.S.C. 4216), as measured**
 26 **by retail repair costs, must be disclosed in writing before delivery**
 27 **of the motor vehicle to an ultimate purchaser.**

28 **Sec. 5. Repaired damage to a new motor vehicle ordered by a**
 29 **customer not exceeding four percent (4%) of the manufacturer's**
 30 **suggested retail price (as defined in 26 U.S.C. 4216) does not need**
 31 **to be disclosed at the time of sale.**

32 **Chapter 14. Succession to Franchise by Designated Family**
 33 **Members**

34 **Sec. 1. This chapter does not apply to a franchise if:**

- 35 (1) the franchise is granted to a dealer other than a new motor
 36 vehicle dealer; and
 37 (2) the franchise or other written document filed with the
 38 franchisor includes the franchisee's designation of a successor
 39 to the franchise who is not the:
 40 (A) spouse of the franchisee;
 41 (B) child of the franchisee;
 42 (C) grandchild of the franchisee;



C
O
P
Y

- 1 (D) spouse of a:
- 2 (i) child; or
- 3 (ii) grandchild;
- 4 of the franchisee;
- 5 (E) parent of the franchisee; or
- 6 (F) sibling of the franchisee.

7 Sec. 2. A designated family member of a deceased or
 8 incapacitated franchisee may succeed the franchisee under the
 9 existing franchise if:

- 10 (1) the manufacturer or distributor determines, subject to
- 11 section 3 of this chapter, that the existing franchise should be
- 12 honored; and
- 13 (2) the designated family member complies with section 4 of
- 14 this chapter.

15 Sec. 3. A manufacturer or distributor may refuse to honor the
 16 succession of an existing franchise under section 2 of this chapter
 17 only for good cause.

18 Sec. 4. To qualify under section 2 of this chapter to succeed a
 19 franchisee under the existing franchise, a designated family
 20 member must do all the following:

- 21 (1) Not later than one hundred twenty (120) days after the
- 22 franchisee's death or disability, give the manufacturer or
- 23 distributor written notice of the designated family member's
- 24 intention to succeed to the franchise.
- 25 (2) Agree to be bound by all terms and conditions of the
- 26 existing franchise.
- 27 (3) Meet the criteria generally applied at the time of the death
- 28 or incapacity of the franchisee by the manufacturer or
- 29 distributor in qualifying new motor vehicle dealers as
- 30 franchisees.
- 31 (4) If requested by the manufacturer or distributor, promptly
- 32 supply personal and financial data that is reasonably
- 33 necessary for the manufacturer or distributor to determine if
- 34 the existing franchise should be honored.

35 Sec. 5. (a) Not later than sixty (60) days after receipt of:

- 36 (1) notice from a designated family member under section 4(1)
- 37 of this chapter; or
- 38 (2) requested personal or financial data under section 4(4) of
- 39 this chapter;

40 a manufacturer or distributor that determines that good cause
 41 exists for refusing to honor the existing franchise shall serve notice
 42 of the determination on the designated family member.

C
O
P
Y



- 1 **(b) The notice required under subsection (a) must state the**
- 2 **following:**
- 3 **(1) The specific grounds for the manufacturer's or**
- 4 **distributor's determination.**
- 5 **(2) The date on which the existing franchise will be**
- 6 **discontinued, which must be at least ninety (90) days after the**
- 7 **date the notice is served.**
- 8 **(c) If notice of the manufacturer's determination is not served**
- 9 **within the time specified in subsection (a) and does not comply with**
- 10 **subsection (b), the franchise must be honored and is not subject to**
- 11 **discontinuance under this chapter.**

Chapter 15. Administration and Legal Proceedings

12 **Sec. 1. (a) This chapter shall be administered by the division.**

13 **The secretary shall appoint the director, who is responsible for the**

14 **direction and supervision of the division and the administration of**

15 **this article under the direction and control of the secretary. The**

16 **salary of the director shall be paid out of funds appropriated for**

17 **the administration of this article. The director serves at the will of**

18 **the secretary.**

- 19 **(b) The secretary:**
- 20 **(1) shall employ employees, including a director, investigators**
- 21 **or attorneys, necessary for the administration of this article;**
- 22 **and**
- 23 **(2) shall fix the compensation of the employees with the**
- 24 **approval of the budget agency.**

25 **(c) It is unlawful for the director or an officer, employee, or**

26 **designee of the secretary to use for personal benefit or the benefit**

27 **of others records or other information obtained by or filed with the**

28 **dealer services division under this article that are not public. This**

29 **article does not authorize the director or an officer, employee, or**

30 **designee of the secretary to disclose the record or information,**

31 **except in accordance with this chapter.**

32 **(d) This article does not create or diminish a privilege or**

33 **exemption that exists at common law, by statute or rule, or**

34 **otherwise.**

35 **(e) The director may develop and implement dealer's and**

36 **vehicle purchaser's education initiatives to inform dealers and the**

37 **public about the offer or sale of vehicles, with particular emphasis**

38 **on the prevention and detection of fraud involving vehicle sales. In**

39 **developing and implementing these initiatives, the director may**

40 **collaborate with public and nonprofit organizations with an**

41 **interest in consumer education. The director may accept a grant or**

42

COPY



1 donation from a person that is not affiliated with the dealer
 2 industry or from a nonprofit organization, regardless of whether
 3 the organization is affiliated with the dealer industry, to develop
 4 and implement consumer education initiatives. This subsection
 5 does not authorize the director to require participation or
 6 monetary contributions of a registrant in an education program.

7 (f) Fees and funds of any kind accruing from the administration
 8 of this article shall be accounted for by the secretary and shall be
 9 deposited with the treasurer of state to be deposited in either the
 10 state general fund or the dealer enforcement account established
 11 by IC 9-32-6-2. Expenses incurred in the administration of this
 12 article shall be paid from the state general fund upon
 13 appropriation being made for the expenses in the manner provided
 14 by law for the making of those appropriations. However, grants
 15 and donations under subsection (e), costs of investigations, and civil
 16 penalties recovered under this chapter shall be deposited by the
 17 treasurer of state in the dealer enforcement account established by
 18 IC 9-32-6-2. The funds in the dealer compliance account
 19 established by IC 9-32-6-1 must be available, with the approval of
 20 the budget agency, to augment and supplement the funds
 21 appropriated for the administration of this article.

22 (g) In connection with the administration and enforcement of
 23 this article, the attorney general shall render all necessary
 24 assistance to the director upon the request of the director. To that
 25 end, the attorney general shall employ legal and other professional
 26 services as are necessary to adequately and fully perform the
 27 service under the direction of the director as the demands of the
 28 division require. Expenses incurred by the attorney general for the
 29 purposes stated under this subsection are chargeable against and
 30 shall be paid out of funds appropriated to the attorney general for
 31 the administration of the attorney general's office. The attorney
 32 general may authorize the director and the director's designee to
 33 represent the director and the division in any proceeding involving
 34 enforcement or defense of this article.

35 (h) The secretary, the director, and employees of the division are
 36 not liable in an individual capacity, except to the state, for an act
 37 done or omitted in connection with the performance of their duties
 38 under this article.

39 (i) The director, and each attorney or investigator designated by
 40 the director:

- 41 (1) are police officers of the state;
- 42 (2) have all the powers and duties of police officers in

C
O
P
Y



1 conducting investigations for violations of this article, or in
2 serving any process, notice, or order issued by an officer,
3 authority, or court in connection with the enforcement of this
4 article; and

5 (3) comprise the enforcement department of the division.
6 The division is a criminal justice agency for purposes of
7 IC 5-2-4-1(3) and IC 10-13-3-6.

8 (j) The provisions of this article delegating and granting power
9 to the secretary, the division, and the director shall be liberally
10 construed to the end that:

11 (1) the practice or commission of fraud may be prohibited and
12 prevented; and

13 (2) disclosure of sufficient and reliable information in order
14 to afford reasonable opportunity for the exercise of
15 independent judgment of the persons involved may be
16 assured.

17 It is the intent and purpose of this article to delegate to, grant to,
18 and vest in the secretary, the division, and the director full and
19 complete power to carry into effect and accomplish the purpose of
20 this article and to charge them with full and complete
21 responsibility for the effective administration of this article.

22 (k) Copies of any statement and documents filed in the office of
23 the secretary and of any records of the secretary certified by the
24 director shall be admissible in any prosecution, action, suit, or
25 proceeding based on, arising out of, or under this article to the
26 same effect as the original of the statement, document, or record
27 would be if actually produced.

28 Sec. 2. (a) An order issued under this article may deny a dealer
29 license application for registration if the secretary finds that the
30 order is in the public interest and subsection (c) authorizes the
31 action. An order may condition or limit the license of an applicant
32 to be a dealer and, if the applicant for a dealer license is a partner,
33 officer, director, or person having similar status or performing
34 similar functions, or a person directly or indirectly in control of the
35 dealership, the order may condition or limit the license.

36 (b) If the secretary finds that the order is in the public interest
37 and subsection (c) authorizes the action, an order issued under this
38 article may deny, revoke, suspend, condition, limit, or permanently
39 bar the granting of a license to or an application for a license from
40 a dealer, or a partner, an officer, a director, or a person having a
41 similar status or performing similar functions as a dealer, or a
42 person directly or indirectly in control of the dealer. However, the

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- secretary may not:
- (1) institute a revocation or suspension proceeding under this subsection based on an order issued under the law of another state that is reported to the secretary or a designee of the secretary more than one (1) year after the date of the order on which it is based; or
 - (2) issue an order on the basis of an order issued under the dealer services laws of another state unless the other order was based on conduct for which subsection (c) would authorize the action had the conduct occurred in Indiana.
- (c) A person may be disciplined under subsections (a) and (b) if the person:
- (1) has filed an application for a dealer license in this state under this article within the previous ten (10) years, which, as of the effective date of license or registration or as of any date after filing in the case of an order denying effectiveness, was incomplete as to a material fact or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;
 - (2) knowingly violated or knowingly failed to comply with this article within the previous ten (10) years;
 - (3) has been convicted of a felony within the previous ten (10) years or has been convicted of a misdemeanor involving theft, fraud, or an aspect of business involving the offer, sale, financing, repair, or manufacture of a vehicle;
 - (4) is enjoined or restrained by a court with jurisdiction in an action instituted by a state or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving the offer, barter, sale, purchase, transfer, financing, repair, or manufacture of a vehicle;
 - (5) refuses to allow or otherwise impedes the secretary from conducting an audit or inspection;
 - (6) has engaged in dishonest or unethical practices in a business involving the offer, barter, sale, purchase, transfer, financing, repair, or manufacture of a vehicle within the previous ten (10) years;
 - (7) is engaging in unfair practices as set forth in this article;
 - (8) is on the most recent tax warrant list supplied to the secretary by the department of state revenue;
 - (9) violates IC 23-2-2.7; or
 - (10) violates IC 9-19-9.

C
o
p
y



1 (d) The secretary may suspend or deny an application
 2 summarily or restrict, condition, limit, censure, bar, or suspend a
 3 dealer license before final determination of an administrative
 4 proceeding. Upon the issuance of an order, the secretary shall
 5 promptly notify each person subject to the order:

- 6 (1) that the order has been issued;
 7 (2) the reasons for the action; and
 8 (3) that within fifteen (15) days after the receipt of a request
 9 in a record from the person the matter will be scheduled for
 10 a hearing.

11 If a hearing is not requested and no hearing is ordered by the
 12 secretary within thirty (30) days after the date of service of the
 13 order, the order becomes final by operation of law. If a hearing is
 14 requested or ordered, the secretary, after notice of and opportunity
 15 for hearing to each person subject to the order, may modify or
 16 vacate the order or extend the order until final determination.

17 (e) Revocation or suspension of a license of a manufacturer, a
 18 distributor, a factory branch, a dealer, or an automobile auctioneer
 19 may be limited to one (1) or more locations, to one (1) or more
 20 defined areas, or only to certain aspects of the business.

21 (f) Except as provided in subsection (d), an order may not be
 22 issued under this section without:

- 23 (1) appropriate notice to the applicant or registrant;
 24 (2) an opportunity for a hearing; and
 25 (3) findings of fact and conclusion of law in a record.

26 (g) A person that controls, directly or indirectly, a person not in
 27 compliance with this section may be disciplined by order of the
 28 secretary under subsections (a) and (b) to the same extent as the
 29 noncomplying person, unless the controlling person did not know,
 30 and in the exercise of reasonable care could not have known, of the
 31 existence of conduct that is a ground for discipline under this
 32 section.

33 **Sec. 3. Information or documents obtained by the division in the**
 34 **course of an investigation, unless such information or documents**
 35 **are published by the division under the authority of the division**
 36 **under statute or rule, are confidential. Such information and**
 37 **documents may be disclosed to:**

- 38 (1) representatives of domestic or foreign governmental
 39 authorities;
 40 (2) self-regulatory agencies;
 41 (3) state or federal law enforcement officers;
 42 (4) special counsels; and



C
O
P
Y

1 (5) trustees in a bankruptcy proceeding;
2 upon the acceptance of an access request letter. The division may
3 also, to the extent necessary, disclose such information and
4 documents in court proceedings, when ordered to do so by a court
5 with jurisdiction, or when appropriate in furtherance of any
6 ongoing investigation or proceeding.

7 Sec. 4. A person complying with any request, order, or subpoena
8 issued by the division for the production of documentary evidence
9 shall retain the originals and shall provide the division with clearly
10 legible, true, and complete copies of the documents requested,
11 along with a signed cover letter, which must identify those
12 documents with a reasonable degree of specificity.

13 Sec. 5. The secretary may cooperate, coordinate, consult, and
14 subject to this article, share records and information with:

- 15 (1) the dealer services regulator in another state;
- 16 (2) a foreign jurisdiction;
- 17 (3) the United States Department of Justice;
- 18 (4) an insurance regulator; or
- 19 (5) a governmental law enforcement agency.

20 Sec. 6. All dealers licensed with the division shall, upon request,
21 provide members of the staff of the division prompt access, during
22 reasonable business hours, to that part of the premises at the
23 dealer's place of business where:

- 24 (1) documents are stored; or
- 25 (2) vehicle sales are offered, made, or processed.

26 Sec. 7. (a) A dealer licensed or required to be licensed under this
27 article shall make and maintain the records, accounts,
28 correspondence, memoranda, papers, books, and other records
29 required under this article.

30 (b) Dealer records required to be maintained under
31 IC 9-32-5-14 and other records required under this article may be
32 maintained in any form of data storage acceptable to the secretary
33 if the records are readily accessible and available to copy by an
34 investigating or auditing employee of the secretary upon demand
35 at the place of business of the dealer.

36 (c) The records of a dealer licensed or required to be licensed
37 under this article are subject to such reasonable periodic, special,
38 or other audits or inspections by a representative of the secretary,
39 within or outside Indiana, as the secretary considers necessary or
40 appropriate in the public interest and for the protection of
41 investors. An audit or inspection may be made at any time and
42 without prior notice. The representative of the secretary may copy,

C
o
p
y



1 and remove for audit or inspection copies of, the records the
 2 secretary reasonably considers necessary or appropriate to
 3 conduct the audit or inspection.

4 (d) Dealer records required to be maintained under
 5 IC 9-32-5-14 and other records required under this article must be
 6 maintained at the place of business of a dealer for a period of two
 7 (2) years. Following the two (2) year period, records may be moved
 8 offsite but must be maintained for a period of five (5) years.

9 Sec. 8. At the request of the dealer services division or
 10 equivalent regulator of another state or foreign jurisdiction, the
 11 secretary may provide assistance if the requesting regulator states
 12 that the requesting regulator is conducting an investigation to
 13 determine whether a person has violated, is violating, or is about
 14 to violate a law or rule of the other state or foreign jurisdiction
 15 relating to dealer matters that the requesting regulator administers
 16 or enforces. The secretary may provide assistance by using the
 17 authority to investigate and the powers conferred by this article as
 18 the secretary determines is necessary or appropriate. The
 19 assistance may be provided without regard to whether the conduct
 20 described in the request would also constitute a violation of this
 21 article or other law of Indiana if occurring in Indiana. In deciding
 22 whether to provide the assistance, the secretary may consider:

- 23 (1) whether the requesting regulator is permitted and has
 24 agreed to provide assistance reciprocally within the state or
 25 foreign jurisdiction of the requesting regulator to the
 26 secretary on dealer matters when requested;
 27 (2) whether compliance with the request would violate or
 28 prejudice the public policy of Indiana; and
 29 (3) the availability of resources and employees of the division
 30 to carry out the request for assistance.

31 Sec. 9. (a) A person shall cooperate in an inquiry, investigation,
 32 or inspection conducted by, or on behalf of, the division for
 33 purposes of determining whether or not a person has violated or is
 34 about to violate any provision under this article. The willful failure
 35 of a person to cooperate, absent a bona fide claim of privilege,
 36 may:

- 37 (1) be considered by the division a violation of statute; and
 38 (2) thus subject the person to denial, suspension, or revocation
 39 of licensing or registration or a bar from licensing or
 40 registration.

41 (b) The following are examples of, but are not the only, conduct
 42 by a person that may be considered a failure to cooperate:

C
O
P
Y



- 1 **(1) The failure to timely respond by way of appearance or**
- 2 **production of documents to a subpoena or order issued by the**
- 3 **division.**
- 4 **(2) The failure to answer any question pertinent to inquiry**
- 5 **unless the response to the question is subject to a bona fide**
- 6 **claim of privilege.**
- 7 **(3) The failure to grant the division personnel access to:**
- 8 **(A) the business premises of a dealer or a person required**
- 9 **to be licensed as a dealer; or**
- 10 **(B) the records and documents that the dealer or person**
- 11 **required to be licensed as a dealer is required, by statute or**
- 12 **rule, to make available for inspection.**
- 13 **(4) The failure to attend a scheduled proceeding at which the**
- 14 **appearance of the person is directed. If a person elects to**
- 15 **retain counsel for the purpose of representation in any such**
- 16 **proceeding, it is the responsibility of the person to do so in a**
- 17 **timely fashion. The failure of a person to retain counsel,**
- 18 **absent a showing of good cause, does not require an**
- 19 **adjournment of the proceeding.**
- 20 **(5) The failure to timely respond to or to provide information**
- 21 **requested under a demand under this chapter.**
- 22 **(6) Aiding or abetting the failure of another person to**
- 23 **cooperate.**
- 24 **Sec. 10. (a) The division may examine, without notice in a**
- 25 **manner reasonable under the circumstances, the records, within or**
- 26 **outside Indiana, of a licensed dealer in order to determine**
- 27 **compliance under this article. The dealer shall make the records**
- 28 **available to the division in a legible form.**
- 29 **(b) The division may copy records or require a dealer to copy**
- 30 **records and provide the copies to the division to the extent and in**
- 31 **the manner reasonable under the circumstances.**
- 32 **(c) The division may impose a reasonable fee for the expense of**
- 33 **making copies under subsection (b).**
- 34 **Sec. 11. (a) The secretary or a designee of the secretary may**
- 35 **refer the facts drawn from an investigation to the prosecuting**
- 36 **attorney of the county in which a crime is alleged to have been**
- 37 **committed.**
- 38 **(b) The secretary may assist the prosecuting attorney in**
- 39 **prosecuting an action brought subsequent to a referral made under**
- 40 **subsection (a), which may include a division attorney serving as a**
- 41 **special deputy prosecutor appointed by the prosecuting attorney.**
- 42 **(c) A prosecuting attorney to which facts concerning fraud are**

COPY



1 referred under subsection (a) may refer the matter to the attorney
2 general.

3 (d) If a matter has been referred to the attorney general under
4 subsection (c), the attorney general may:

5 (1) file an information in a court with jurisdiction over the
6 matter in a county in which the offense is alleged to have been
7 committed; and

8 (2) prosecute the alleged offense.

9 The secretary and the division shall assist the attorney general in
10 prosecuting an action referred under subsection (c), which may
11 include a division attorney serving as a special deputy attorney
12 general appointed by the attorney general.

13 Sec. 12. (a) All dealers operating as a:

14 (1) corporation;

15 (2) limited liability company;

16 (3) limited partnership; or

17 (4) limited liability partnership;

18 shall file and maintain all filings required to remain in good
19 standing with the secretary of state business services division.

20 (b) The dealer shall provide the secretary a federal tax
21 identification number and a registered retail merchant's certificate
22 number issued under IC 6-2.5-8.

23 (c) The dealer must, for the entire licensing period, have an
24 established place of business with a physical Indiana address. The
25 dealer may not have a mailing address that differs from the actual
26 location of the business.

27 (d) The applicant and all corporate officers, partners, and
28 owners must submit to a national criminal history background
29 check (as defined in IC 10-13-3-12) administered by the state police
30 at the expense of the applicant and the corporate officers, partners,
31 and owners. The secretary may deny an application based upon
32 felony or misdemeanor convictions related to dealing in motor
33 vehicles.

34 (e) The dealer and the corporation, company, or partnership
35 must be in good standing with the bureau, the department of state
36 revenue, and the state police department.

37 Sec. 13. It is a violation of this article for a person to:

38 (1) make or cause to be made, in a record that is used in an
39 action or proceeding or filed under this chapter, a statement
40 that, at the time and in the light of the circumstances under
41 which it is made, is false or misleading with respect to a
42 material fact; or

C
O
P
Y



1 (2) in connection with a statement, omit to state a material
2 fact necessary to make the statement made, in light of the
3 circumstances under which it was made, not false or
4 misleading.

5 Sec. 14. A witness and counsel for the witness, upon proper
6 identification and after giving reasonable prior notice, have the
7 right to inspect the official transcript of the testimony of the
8 witness at the office of the division during normal business hours.
9 Neither the witness, nor counsel for the witness, has the right to:

- 10 (1) remove;
- 11 (2) copy by any manner; or
- 12 (3) order a copy of the official transcript without
13 authorization by the director.

14 Sec. 15. All records of the division shall be available for public
15 inspection at the office of the division during reasonable hours,
16 except the following, which may not be made public:

- 17 (1) Records relating to the complaints made to the division
18 and records relating to investigations of the division.
- 19 (2) Information or documents obtained by the officers or
20 employees of the division in the course of an audit or
21 investigation, unless made a matter of public record, the
22 division considers confidential.

23 Officers and employees of the division shall not make confidential
24 information or documents available to anyone other than a
25 member, officer, or employee of the secretary's office, the division,
26 or any other regulatory or law enforcement agency, unless the
27 secretary or director authorizes the disclosure of such information
28 or the production of such documents as not being contrary to
29 public interest.

30 Sec. 16. (a) Except as otherwise provided in subsection (b),
31 records obtained or filed by the secretary under this article,
32 including a record contained in or filed with an application, are
33 available for inspecting and copying.

34 (b) The following records are confidential and are not available
35 for inspecting and copying under subsection (a):

- 36 (1) A record obtained by the secretary in connection with an
37 audit or inspection under section 7(c) of this chapter or an
38 investigation under section 15(2) of this chapter.
- 39 (2) A part of a record filed in connection with an application
40 that contains trade secrets or confidential information if the
41 person filing the registration statement or report has asserted
42 a claim of confidentiality or privilege that is authorized by law

C
o
p
y



1 and approved by the secretary.

2 (3) A record that is not required to be provided to the
3 secretary or filed under this article and is provided to the
4 secretary only on the condition that the record will not be
5 subject to public examination or disclosure.

6 (4) A:

7 (A) Social Security number;

8 (B) residential address unless used as a business address;
9 and

10 (C) residential telephone number unless used as a business
11 telephone number;
12 contained in a record that is filed.

13 (5) A record obtained by the secretary through a designee of
14 the secretary that a rule or order under this article has been:

15 (A) expunged from the records of the secretary by a
16 designee; or

17 (B) determined to be confidential by the designee if the
18 secretary finds the determination to be based on statutory
19 authority.

20 (c) If the disclosure is for the purpose of a civil, administrative,
21 or criminal investigation, action, or proceeding or to a person
22 specified in section 9 of this chapter, the secretary may disclose a
23 record obtained in connection with an audit or inspection under
24 section 7 of this chapter or a record obtained in connection with an
25 audit or inspection under section 2(c)(5) of this chapter.

26 Sec. 17. (a) If the secretary believes that a person has engaged,
27 is engaging, or is about to engage in an act, practice, or course of
28 business constituting a violation of this article or a rule adopted or
29 order issued under this article or that a person has engaged, is
30 engaged, or is about to engage in an act, practice, or course of
31 business that materially aids a violation of this article or a rule
32 adopted or order issued under this article, the director may
33 maintain an action in the circuit or superior court in the county
34 where the investigation or inquiry in question is being conducted
35 to enjoin the act, practice, or course of business and to enforce
36 compliance with this article or a rule adopted or order issued
37 under this article.

38 (b) In an action under this section and on a proper showing, a
39 court may:

40 (1) issue a permanent or temporary injunction, restraining
41 order, or declaratory judgment;

42 (2) order other appropriate or ancillary relief, which may

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

include:

(A) an asset freeze, accounting, writ of attachment, writ of general or specific execution, and appointment of a receiver or conservator;

(B) ordering a receiver or conservator appointed under clause (A) to:

(i) take charge and control of the property of the respondent, including investment accounts and accounts in a depository institution, rents, and profits;

(ii) collect debts; and

(iii) acquire and dispose of property;

(C) imposing a civil penalty of up to ten thousand dollars (\$10,000) per violation and an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this article or a rule adopted or order issued under this article; and

(D) ordering the payment of prejudgment and postjudgment interest; or

(3) order other relief that the court considers appropriate.

(c) The director may not be required to post a bond in an action or proceeding under this article.

(d) Penalties collected under this section shall be deposited in the dealer enforcement account established by IC 9-32-6-2.

Sec. 18. (a) The secretary may:

(1) conduct public or private investigations within or outside Indiana that the secretary considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this article or a rule adopted or order issued under this article, or aid in the enforcement of this article or in the adoption of rules and forms under this article;

(2) require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the secretary determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted; and

(3) publish a record concerning an action, proceeding, or investigation under, or a violation of, this article or a rule adopted or order issued under this article if the secretary determines it is necessary or appropriate and in the public interest and for the protection of dealers or consumers.

(b) For purposes of an investigation under this article, the

C
o
p
y



1 secretary or a designated employee of the secretary may
2 administer oaths and affirmations, subpoena witnesses, seek
3 compulsion of attendance, take attendance, take evidence, require
4 the filing of statements, and require the production of any records
5 that the secretary considers relevant or material to the
6 investigation. Upon order of the secretary or a hearing officer
7 appointed by the secretary in a hearing, depositions may be taken
8 in the manner prescribed by law for depositions in civil actions and
9 made returnable to the secretary or a hearing officer appointed by
10 the secretary.

11 (c) If a person does not appear or refuses to testify, file a
12 statement, or produce records, or otherwise does not obey a
13 subpoena as required by this article, the secretary or hearing
14 officer appointed by the secretary may apply to the circuit or
15 superior court in the county where the hearing, investigation, or
16 inquiry in question is being conducted to enforce compliance. The
17 court may:

- 18 (1) hold the person in contempt;
- 19 (2) order the person to appear before the secretary or hearing
20 officer appointed by the secretary;
- 21 (3) order the person to testify about the matter under
22 investigation or in question;
- 23 (4) order the production of records;
- 24 (5) grant injunctive relief, including restricting or prohibiting
25 the offer or sale of vehicles;
- 26 (6) impose a civil penalty of not more than twenty thousand
27 dollars (\$20,000) for each violation; and
- 28 (7) grant any other necessary or appropriate relief.

29 (d) This section does not preclude a person from applying to the
30 circuit or superior court in the county where the hearing,
31 investigation, or inquiry in question is being conducted for relief
32 from a request to appear, testify, file a statement, produce records,
33 or obey a subpoena.

34 (e) If a witness, in any hearing, inquiry, or investigation
35 conducted under this article, refuses to answer any question or
36 produce any item, the secretary may file a written petition with the
37 circuit or superior court in the county where the hearing,
38 investigation, or inquiry in question is being conducted requesting
39 a hearing on the refusal. The court shall hold a hearing to
40 determine if the witness may refuse to answer the question or
41 produce the item. If the court determines that the witness, based
42 upon the witness's privilege against self-incrimination, may

C
O
P
Y

1 properly refuse to answer or produce an item, the secretary may
 2 make a written request that the court grant use immunity to the
 3 witness. Upon written request of the secretary, the court shall
 4 grant use immunity to a witness. The court shall instruct the
 5 witness, by written order or in open court, that:

6 (1) any evidence the witness gives, or evidence derived from
 7 that evidence, may not be used in any criminal proceedings
 8 against that witness, unless the evidence is volunteered by the
 9 witness or is not responsive to a question; and

10 (2) the witness must answer the questions asked and produce
 11 the items requested.

12 A grant of use immunity does not prohibit the use of evidence that
 13 the witness gives in a hearing, investigation, or inquiry from being
 14 used in a prosecution for perjury under IC 35-44-2-1. If a witness
 15 refuses to give the evidence after the witness has been granted use
 16 immunity, the court may find the witness in contempt.

17 (f) In any prosecution, action, suit, or proceeding based upon or
 18 arising out of or under this article, a certificate signed by the
 19 secretary showing compliance or noncompliance with this article
 20 by the dealer constitutes prima facie evidence of compliance with
 21 this article and is admissible in evidence in any action at law or in
 22 equity to enforce this article.

23 (g) Each witness who appears before the secretary or a hearing
 24 officer appointed by the secretary by order is entitled to receive for
 25 the witness's attendance the fees and mileage provided for
 26 witnesses in civil cases, which must be audited and paid by the state
 27 in the same manner as other expenses of the division are audited
 28 and paid upon the presentation of proper vouchers sworn to by the
 29 witnesses and approved by the secretary. However, a witness
 30 subpoenaed at the instance of parties other than the secretary or
 31 a hearing officer appointed by the secretary is not entitled to any
 32 fee or compensation from the state.

33 Chapter 16. Penalties and Disciplinary Action

34 Sec. 1. Except as provided in section 8 of this chapter, a person
 35 who violates this article, a rule established under this article, or an
 36 order issued by the secretary is subject to a civil penalty of up to
 37 ten thousand dollars (\$10,000) for each act of violation. Civil
 38 penalties recovered under this section shall be paid to the state and
 39 deposited into the dealer enforcement account established by
 40 IC 9-32-6-2.

41 Sec. 2. (a) Except as provided in subsections (b) and (c), a person
 42 who violates IC 9-32-3 commits a Class C infraction.



C
O
P
Y

1 (b) A person who knowingly or intentionally violates
 2 IC 9-32-3-1(a)(1), IC 9-32-3-1(a)(2), IC 9-32-3-1(a)(4),
 3 IC 9-32-3-1(a)(5), or IC 9-32-3-1(d) commits a Class B
 4 misdemeanor.

5 (c) A person who knowingly or intentionally violates
 6 IC 9-32-3-1(a)(3) commits a:

- 7 (1) Class A misdemeanor for the first violation; and
 8 (2) Class D felony for a second or subsequent unrelated
 9 violation.

10 Sec. 3. (a) Except as provided in subsection (b), a person who
 11 knowingly or intentionally violates any of the following commits a
 12 Class A misdemeanor:

- 13 (1) IC 9-32-5-7.
 14 (2) IC 9-32-5-10.
 15 (3) IC 9-32-5-11(d).
 16 (4) IC 9-32-5-12.

17 (b) A person who knowingly or intentionally violates
 18 IC 9-32-5-13 commits a Class C misdemeanor.

19 Sec. 4. A person who knowingly or intentionally violates any of
 20 the following commits a Class B misdemeanor:

- 21 (1) IC 9-32-8-1.
 22 (2) IC 9-32-8-2.
 23 (3) IC 9-32-8-10.

24 Sec. 5. A person who knowingly or intentionally violates:

- 25 (1) IC 9-32-10-1; or
 26 (2) IC 9-32-10-12;

27 commits a Class A misdemeanor.

28 Sec. 6. (a) Except as provided in subsection (b), a person who
 29 knowingly or intentionally violates IC 9-32-12 commits a Class B
 30 misdemeanor.

31 (b) A person who knowingly or intentionally violates:

- 32 (1) IC 9-32-12-25; or
 33 (2) IC 9-32-12-26;

34 commits a Class A misdemeanor.

35 Sec. 7. A person who knowingly or intentionally violates
 36 IC 9-32-15-13 commits a Class D felony.

37 Sec. 8. A dealer who fails to deliver a certificate of origin or title
 38 under IC 9-32-4-2 or IC 9-32-4-8 or fails to deliver timely a
 39 certificate of title under IC 9-32-3-1(c) is subject to the following
 40 civil penalties:

- 41 (1) One hundred dollars (\$100) for the first violation in a
 42 calendar year.



C
O
P
Y

- 1 **(2) Two hundred fifty dollars (\$250) for the second violation**
- 2 **in a calendar year.**
- 3 **(3) Five hundred dollars (\$500) for all subsequent violations**
- 4 **in a calendar year.**

5 **Payment shall be made to the secretary and deposited in the dealer**
 6 **enforcement account established under IC 9-32-6-2.**

7 **Sec. 9. A retail lessor who fails to comply with IC 9-32-11, as set**
 8 **forth in IC 9-32-11-4, is liable to the retail lessee for:**

- 9 **(1) actual damages sustained;**
- 10 **(2) a civil penalty of not more than one thousand dollars**
- 11 **(\$1,000) per lease transaction; and**
- 12 **(3) reasonable attorney's fees and costs.**

13 **Sec. 10. In addition to all other remedies, the secretary may seek**
 14 **the following remedies against a person that violates, attempts to**
 15 **violate, or assists in a violation of or an attempt to violate**
 16 **IC 9-32-15:**

- 17 **(1) An injunction.**
- 18 **(2) Appointment of a receiver or conservator.**
- 19 **(3) A civil penalty not to exceed ten thousand dollars (\$10,000)**
- 20 **per violation.**
- 21 **(4) An action to enforce a civil penalty assessed under**
- 22 **subdivision (3).**

23 **Civil penalties recovered under this section shall be paid to the**
 24 **state and deposited into the dealer enforcement account established**
 25 **by IC 9-32-6-2.**

26 SECTION 78. IC 23-19-6-1, AS AMENDED BY P.L.114-2010,
 27 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2012]: Sec. 1. (a) This article shall be administered by a
 29 division of the office of the secretary of state. The secretary of state
 30 shall appoint a securities commissioner who shall be responsible for
 31 the direction and supervision of the division and the administration of
 32 this article under the direction and control of the secretary of state. The
 33 salary of the securities commissioner shall be paid out of the funds
 34 appropriated for the administration of this article. The commissioner
 35 shall serve at the will of the secretary of state.

- 36 (b) The secretary of state:
- 37 (1) shall employ a chief deputy, attorneys, a senior investigator,
- 38 a senior accountant, and other deputies, investigators,
- 39 accountants, clerks, stenographers, and other employees necessary
- 40 for the administration of this article; and
- 41 (2) shall fix their compensation with the approval of the budget
- 42 agency.

C
o
p
y



1 (c) It is unlawful for the commissioner or an officer, employee, or
2 designee of the commissioner to use for personal benefit or the benefit
3 of others records or other information obtained by or filed with the
4 commissioner that are not public under section 7(b) of this chapter.
5 This article does not authorize the commissioner or an officer,
6 employee, or designee of the commissioner to disclose the record or
7 information, except in accordance with section 2, 7(c), or 8 of this
8 chapter.

9 (d) This article does not create or diminish a privilege or exemption
10 that exists at common law, by statute or rule, or otherwise.

11 (e) Subject to IC 4-2-6-15, the commissioner may develop and
12 implement investor education initiatives to inform the public about
13 investing in securities, with particular emphasis on the prevention and
14 detection of securities fraud. In developing and implementing these
15 initiatives, the commissioner may collaborate with public and nonprofit
16 organizations with an interest in investor education. The commissioner
17 may accept a grant or donation from a person that is not affiliated with
18 the securities industry or from a nonprofit organization, regardless of
19 whether the organization is affiliated with the securities industry, to
20 develop and implement investor education initiatives. This subsection
21 does not authorize the commissioner to require participation or
22 monetary contributions of a registrant in an investor education
23 program.

24 (f) Fees and funds of whatever character accruing from the
25 administration of this article shall be accounted for by the secretary of
26 state and shall be deposited with the treasurer of state to be deposited
27 by the treasurer of the state in either the state general fund or the
28 enforcement account referenced below. Subject to IC 4-2-6-15,
29 expenses incurred in the administration of this article shall be paid
30 from the state general fund upon appropriation being made for the
31 expenses in the manner provided by law for the making of those
32 appropriations. However, grants and donations received under
33 subsection (e), costs of investigations recovered under section 4(e) of
34 this chapter, and civil penalties recovered under sections 3(b) and 4(d)
35 of this chapter shall be deposited by the treasurer of state in a separate
36 account to be known as the securities division enforcement account.
37 Notwithstanding ~~IC 9-23-6-4~~, IC 23-2-2.5-34, IC 23-2-2.5-43,
38 IC 23-2-5-7, IC 23-19-4-12, IC 25-11-1-15, and this chapter, five
39 percent (5%) of funds received ~~after June 30, 2010~~, for deposit in the
40 enforcement account shall instead be deposited in the securities
41 restitution fund established under ~~IC 23-20-1-26~~. **IC 23-20-1-25.**
42 Subject to IC 4-2-6-15, the funds deposited in the enforcement account

C
o
p
y



1 shall be available, with the approval of the budget agency:
 2 (1) to augment and supplement the funds appropriated for the
 3 administration of this article; and
 4 (2) for grants and awards to nonprofit entities for programs and
 5 activities that will further investor education and financial literacy
 6 in the state.

7 The funds in the enforcement account do not revert to the state general
 8 fund at the end of any state fiscal year.

9 (g) In connection with the administration and enforcement of this
 10 article, the attorney general shall render all necessary assistance to the
 11 commissioner upon the commissioner's request, and to that end, the
 12 attorney general shall employ legal and other professional services as
 13 are necessary to adequately and fully perform the service under the
 14 direction of the commissioner as the demands of the securities division
 15 shall require. Expenses incurred by the attorney general for the
 16 purposes stated in this subsection shall be chargeable against and paid
 17 out of funds appropriated to the attorney general for the administration
 18 of the attorney general's office. The attorney general may authorize the
 19 commissioner and the commissioner's designee to represent the
 20 commissioner and the securities division in any proceeding involving
 21 enforcement or defense of this article.

22 (h) Neither the secretary of state, the commissioner, nor an
 23 employee of the securities division shall be liable in their individual
 24 capacity, except to the state, for an act done or omitted in connection
 25 with the performance of their respective duties under this article.

26 (i) The commissioner shall take, prescribe, and file the oath of office
 27 prescribed by law. The commissioner, chief deputy commissioner, and
 28 each attorney or investigator designated by the commissioner are police
 29 officers of the state and shall have all the powers and duties of police
 30 officers in making arrests for violations of this article, or in serving any
 31 process, notice, or order connected with the enforcement of this article
 32 by whatever officer, authority, or court issued and shall comprise the
 33 enforcement department of the division and are considered a criminal
 34 justice agency for purposes of IC 5-2-4 and IC 10-13-3.

35 (j) The provisions of this article delegating and granting power to
 36 the secretary of state, the securities division, and the commissioner
 37 shall be liberally construed to the end that:

38 (1) the practice or commission of fraud may be prohibited and
 39 prevented;
 40 (2) disclosure of sufficient and reliable information in order to
 41 afford reasonable opportunity for the exercise of independent
 42 judgment of the persons involved may be assured; and

C
o
p
y



1 (3) the qualifications may be prescribed to assure availability of
2 reliable broker-dealers, investment advisers, and agents engaged
3 in and in connection with the issuance, barter, sale, purchase,
4 transfer, or disposition of securities in this state.

5 It is the intent and purpose of this article to delegate and grant to and
6 vest in the secretary of state, the securities division, and the
7 commissioner full and complete power to carry into effect and
8 accomplish the purpose of this article and to charge them with full and
9 complete responsibility for its effective administration.

10 (k) Copies of any statement and documents filed in the office of the
11 secretary of state and of any records of the secretary of state certified
12 by the commissioner shall be admissible in any prosecution, action,
13 suit, or proceeding based upon, arising out of, or under this article to
14 the same effect as the original of such statement, document, or record
15 would be if actually produced.

16 (l) IC 4-21.5 is not applicable to any of the proceedings under this
17 article.

18 SECTION 79. IC 24-4-6-1, AS AMENDED BY P.L.156-2006,
19 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2012]: Sec. 1. (a) This section does not apply to a person that
21 holds a special event permit issued under ~~IC 9-23-2-16~~. **IC 9-32-10-16.**

22 (b) A person who engages in the business of buying, selling, or
23 trading motor vehicles on Sunday commits a Class B misdemeanor.

24 SECTION 80. IC 24-5-13-15 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) A reasonable
26 number of attempts is considered to have been undertaken to correct a
27 nonconformity if:

28 (1) the nonconformity has been subject to repair at least four (4)
29 times by the manufacturer or its agents or authorized dealers, but
30 the nonconformity continues to exist; or

31 (2) the vehicle is out of service by reason of repair of any
32 nonconformity for a cumulative total of at least thirty (30)
33 business days, and the nonconformity continues to exist.

34 (b) The thirty (30) business day period in subsection (a)(2) shall be
35 extended by any period of time during which repair services are not
36 available as a direct result of a strike, **civil unrest, a fire, a natural
37 disaster, a terrorist attack, an act of God, or an act of war.** The
38 manufacturer, its agent, or **an** authorized dealer shall provide or make
39 provision for the free use of a vehicle to any buyer whose vehicle is out
40 of service by reason of repair during a strike, **a period of civil unrest,
41 a fire, a natural disaster, a terrorist attack, an act of God, or an act
42 of war.**

C
o
p
y



1 (c) The burden is on the manufacturer to show that the reason for an
 2 extension under subsection (b) was the direct cause for the failure of
 3 the manufacturer, its agent, or authorized dealer to cure any
 4 nonconformity during the time of the event.

5 SECTION 81. IC 35-51-9-1, AS ADDED BY P.L.70-2011,
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 9:

8 IC 9-14-3.5-15 (Concerning bureau of motor vehicles).

9 IC 9-14-5-9 (Concerning parking placards for persons with
 10 physical disabilities).

11 IC 9-17-2-15 (Concerning certificates of title).

12 IC 9-17-2-16 (Concerning certificates of title).

13 IC 9-17-3-3.2 (Concerning certificates of title).

14 IC 9-17-3-7 (Concerning certificates of title).

15 IC 9-17-4-6 (Concerning certificates of title).

16 IC 9-18-2-42 (Concerning motor vehicle registration and license
 17 plates).

18 IC 9-18-2-44 (Concerning motor vehicle registration and license
 19 plates).

20 IC 9-18-2-45 (Concerning motor vehicle registration and license
 21 plates).

22 IC 9-18-4-8 (Concerning motor vehicle registration and license
 23 plates).

24 IC 9-18-8-11 (Concerning motor vehicle registration and license
 25 plates).

26 IC 9-18-8-12 (Concerning motor vehicle registration and license
 27 plates).

28 IC 9-18-8-13 (Concerning motor vehicle registration and license
 29 plates).

30 IC 9-18-8-14 (Concerning motor vehicle registration and license
 31 plates).

32 IC 9-18-8-15 (Concerning motor vehicle registration and license
 33 plates).

34 IC 9-18-13-9 (Concerning motor vehicle registration and license
 35 plates).

36 IC 9-18-22-6 (Concerning motor vehicle registration and license
 37 plates).

38 ~~IC 9-18-26-11 (Concerning motor vehicle registration and license~~
 39 ~~plates).~~

40 ~~IC 9-18-26-13 (Concerning motor vehicle registration and license~~
 41 ~~plates).~~

42 IC 9-18-27-9 (Concerning motor vehicle registration and license

C
o
p
y



- 1 plates).
- 2 IC 9-19-9-5 (Concerning motor vehicle equipment).
- 3 IC 9-19-10.5-4 (Concerning motor vehicle equipment).
- 4 IC 9-19-10.5-5 (Concerning motor vehicle equipment).
- 5 IC 9-20-18-4 (Concerning motor vehicle size and weight
- 6 regulation).
- 7 IC 9-21-5-13 (Concerning traffic regulation).
- 8 IC 9-21-6-3 (Concerning traffic regulation).
- 9 IC 9-21-8-50 (Concerning traffic regulation).
- 10 IC 9-21-8-52 (Concerning traffic regulation).
- 11 IC 9-21-8-55 (Concerning traffic regulation).
- 12 IC 9-21-8-56 (Concerning traffic regulation).
- 13 IC 9-21-8-58 (Concerning traffic regulation).
- 14 IC 9-21-12-9 (Concerning traffic regulation).
- 15 IC 9-21-12-11 (Concerning traffic regulation).
- 16 IC 9-22-3-31 (Concerning abandoned, salvaged, and scrap
- 17 vehicles).
- 18 IC 9-22-3-32 (Concerning abandoned, salvaged, and scrap
- 19 vehicles).
- 20 IC 9-22-3-33 (Concerning abandoned, salvaged, and scrap
- 21 vehicles).
- 22 IC 9-22-5-17 (Concerning abandoned, salvaged, and scrap
- 23 vehicles).
- 24 **IC 9-22-5-18 (Concerning buying a motor vehicle without a**
- 25 **certificate of title).**
- 26 ~~IC 9-23-6-1 (Concerning vehicle manufacturers, distributors, and~~
- 27 ~~dealers).~~
- 28 IC 9-24-1-8 (Concerning driver's licenses).
- 29 IC 9-24-6-16 (Concerning driver's licenses).
- 30 IC 9-24-6-17 (Concerning driver's licenses).
- 31 IC 9-24-11-8 (Concerning driver's licenses).
- 32 IC 9-24-15-11 (Concerning driver's licenses).
- 33 IC 9-24-16-12 (Concerning driver's licenses).
- 34 IC 9-24-16-13 (Concerning driver's licenses).
- 35 IC 9-24-18-1 (Concerning driver's licenses).
- 36 IC 9-24-18-2 (Concerning driver's licenses).
- 37 IC 9-24-18-7 (Concerning driver's licenses).
- 38 IC 9-24-19-2 (Concerning driver's licenses).
- 39 IC 9-24-19-3 (Concerning driver's licenses).
- 40 IC 9-24-19-4 (Concerning driver's licenses).
- 41 IC 9-25-6-18 (Concerning financial responsibility).
- 42 IC 9-25-8-2 (Concerning financial responsibility).

C
o
p
y



- 1 IC 9-26-1-8 (Concerning accidents and accident reports).
 2 IC 9-26-1-9 (Concerning accidents and accident reports).
 3 IC 9-26-6-4 (Concerning accidents and accident reports).
 4 IC 9-30-4-7 (Concerning licenses and registrations).
 5 IC 9-30-4-8 (Concerning licenses and registrations).
 6 IC 9-30-4-13 (Concerning licenses and registrations).
 7 IC 9-30-5-1 (Concerning operating a vehicle while intoxicated).
 8 IC 9-30-5-2 (Concerning operating a vehicle while intoxicated).
 9 IC 9-30-5-3 (Concerning operating a vehicle while intoxicated).
 10 IC 9-30-5-4 (Concerning operating a vehicle while intoxicated).
 11 IC 9-30-5-5 (Concerning operating a vehicle while intoxicated).
 12 IC 9-30-5-7 (Concerning operating a vehicle while intoxicated).
 13 IC 9-30-5-8 (Concerning operating a vehicle while intoxicated).
 14 IC 9-30-6-8.7 (Concerning implied consent).
 15 IC 9-30-9-7.5 (Concerning alcohol abuse deterrent programs).
 16 IC 9-30-10-16 (Concerning habitual violator of traffic laws).
 17 IC 9-30-10-17 (Concerning habitual violator of traffic laws).
 18 IC 9-30-10-17.5 (Concerning habitual violator of traffic laws).
 19 IC 9-31-2-26 (Concerning watercraft titling and registration).
 20 IC 9-31-2-27 (Concerning watercraft titling and registration).
 21 IC 9-31-2-28 (Concerning watercraft titling and registration).
 22 **IC 9-32-16-2 (Concerning certificates of title).**
 23 **IC 9-32-16-3 (Concerning dealer license plates).**
 24 **IC 9-32-16-4 (Concerning licensing of vehicle salvaging).**
 25 **IC 9-32-16-5 (Concerning regulation of vehicle**
 26 **merchandising).**
 27 **IC 9-32-16-6 (Concerning unfair practices by dealers).**
 28 **IC 9-32-16-7 (Concerning administration and judicial review**
 29 **by the dealer services division of the secretary of state).**
 30 SECTION 82. [EFFECTIVE JULY 1, 2012] **(a) The legislative**
 31 **services agency shall prepare legislation for introduction in the**
 32 **2013 regular session of the general assembly to organize and**
 33 **correct statutes affected by this act, if necessary.**
 34 **(b) This SECTION expires December 31, 2013.**
 35 SECTION 83. [EFFECTIVE JULY 1, 2012] **(a) As used in this**
 36 **SECTION, "board" refers to the motor vehicle sales advisory**
 37 **board established by IC 9-32-10-1.**
 38 **(b) As used in this SECTION, "secretary" refers to the**
 39 **secretary of state holding office as set forth in IC 4-5-1-1.**
 40 **(c) The board shall study the feasibility of creating**
 41 **administrative adjudication processes for the purposes of**
 42 **addressing issues related to persons licensed under IC 9-32-11.**

C
o
p
y

- 1 **(d) In conducting the study required by this SECTION, the**
- 2 **board may consider:**
- 3 **(1) the criteria contained in IC 9-32-10-8(2)(B),**
- 4 **IC 9-32-10-8(2)(C), and IC 9-32-10-8(2)(D);**
- 5 **(2) deceptive franchise practices under IC 23-2-2.7; and**
- 6 **(3) other criteria that the board considers necessary.**
- 7 **(e) In conducting the study required by this SECTION, the**
- 8 **board shall consider, as a basis for its deliberation, House Bill 1340**
- 9 **(2012) as introduced.**
- 10 **(f) The board shall report the results of the study required by**
- 11 **this SECTION to the legislative council and to the secretary by**
- 12 **electronic format under IC 5-14-6 on or before November 1, 2012.**
- 13 **(g) This SECTION expires December 31, 2012.**

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1222, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, delete lines 36 through 37.

Page 8, delete lines 26 through 42, begin a new paragraph and insert:

"SECTION 18. IC 9-13-2-66.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 66.5. "Flood damaged vehicle", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-13.**

SECTION 19. IC 9-13-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 67. "Franchise", means an oral or a written agreement for a definite or an indefinite period in which a manufacturer or distributor grants to a dealer a right to use a trade name, trade or service mark, or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or related services at retail or otherwise: **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-14.**

SECTION 20. IC 9-13-2-68 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 68. "Franchisee", means a dealer to whom a franchise is granted: **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-15.**

SECTION 21. IC 9-13-2-69 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 69. "Franchisor", means a manufacturer or distributor who grants a franchise to a dealer: **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-16.**

SECTION 22. IC 9-13-2-90 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 90. "Labor rate", means the hourly labor rate charged by a franchisee for service, filed periodically with the bureau as the bureau may require, and posted prominently in the franchisee's service department: **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-17.**

SECTION 23. IC 9-13-2-92.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 92.5. "Lease agreement", for purposes of ~~IC 9-23-2.5~~; **IC 9-32**, has the meaning set forth in ~~IC 9-23-2.5-4~~; **IC 9-32-1-18.**

SECTION 24. IC 9-13-2-92.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 92.7. "Lease transaction", for purposes of ~~IC 9-23-2.5~~; **IC 9-32**, has the meaning set

C
o
p
y



forth in ~~IC 9-23-2.5-5~~; **IC 9-32-1-19**.

SECTION 25. IC 9-13-2-98.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 98.5. "Material fact", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-20.**

SECTION 26. IC 9-13-2-105, AS AMENDED BY P.L.9-2010, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

- (1) a vehicle except a motorized bicycle that is self-propelled; or
- (2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

(e) "Motor vehicle", for purposes of ~~IC 9-23-2~~ and ~~IC 9-23-3~~, **IC 9-32-13**, includes a semitrailer.

(f) "Motor vehicle", for purposes of IC 9-24-6, has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.

SECTION 27. IC 9-13-2-114.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 114.5. "Offer to sell" means every attempt or offer to dispose of, or solicitation of an offer to purchase, a motor vehicle or interest in a motor vehicle for hire.**

SECTION 28. IC 9-13-2-149.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 149.5. (a) "Record", for purposes of IC 9-14-3.5, has the meaning set forth in IC 9-14-3.5-6.

(b) **"Record", for purposes of IC 9-32-5-14, has the meaning set forth in IC 9-32-1-21.**

SECTION 29. IC 9-13-2-151.5, AS AMENDED BY P.L.37-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 151.5. "Relevant market area", for purposes of ~~IC 9-23-3~~, means the following:

- (1) With respect to a new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000), the area

C
o
p
y



within a radius of six (6) miles of the intended site of the relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the relocated new motor vehicle dealer's place of business.

(2) With respect to a:

(A) proposed new motor vehicle dealer; or

(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population that is not more than one hundred thousand (100,000);

the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer. The ten (10) mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

IC 9-32, has the meaning set forth in IC 9-32-1-22.

SECTION 30. IC 9-13-2-154.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 154.5. "Retail lessee", for purposes of IC 9-23-2.5; **IC 9-32, has the meaning set forth in IC 9-23-2.5-6. IC 9-32-1-23.**

SECTION 31. IC 9-13-2-154.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 154.6. "Retail lessor", for purposes of IC 9-23-2.5; **IC 9-32, has the meaning set forth in IC 9-23-2.5-7. IC 9-32-1-24.**

SECTION 32. IC 9-13-2-159.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 159.5. "Sale", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-25.**

SECTION 33. IC 9-13-2-162 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 162. "Scrap metal processor" means a private, commercial, or governmental enterprise **having that engages in the acquisition of motor vehicles, motorcycles, semitrailers, or recreational vehicles or the remains of these vehicles and that has** facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron, scrap steel, or nonferrous scrap for sale for remelting purposes. ~~A scrap metal processor is not a disposal facility or a used parts dealer.~~

SECTION 34. IC 9-13-2-162.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

HB 1222—LS 6886/DI 96+



C
O
P
Y

[EFFECTIVE JULY 1, 2012]: **Sec. 162.5. "Secretary", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-26.**

SECTION 35. IC 9-13-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 185. "Transfer dealer", means a person other than a dealer, manufacturer, or wholesale dealer who has the necessity of transferring a minimum of twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function: **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-27.**

SECTION 36. IC 9-13-2-191.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 191.5. "Uniform time standards manual", for purposes of ~~IC 9-23-3~~, **IC 9-32**, has the meaning set forth in ~~IC 9-23-3-0.5~~: **IC 9-32-1-28.**

SECTION 37. IC 9-13-2-195 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 195. "Used parts dealer", means a person who primarily buys, sells, barter, exchanges, or deals in used major component parts: ~~The term does not include a scrap metal processor.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-29.**

SECTION 38. IC 9-13-2-199 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 199. "Wholesale dealer", means a person who is engaged in the business of buying or selling motor vehicles for resale to other dealers; wholesale dealers; transfer dealers; or persons other than the general public: **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-30."**

Delete pages 9 through 11.

Page 12, delete lines 1 through 22.

Page 12, line 32, delete "IC 9-32-11." and insert "**IC 9-32-10**".

Page 12, line 34, delete "IC 9-32-11" and insert "**IC 9-32-10**".

Page 12, line 35, strike "standards adopted by the".

Page 12, line 36, strike "commission under IC 9-15-2-1(7) and the".

Page 13, delete lines 6 through 42.

Delete page 14.

Page 15, delete lines 1 through 10.

Page 18, delete lines 39 through 42.

Page 19, delete lines 1 through 7.

Page 20, delete lines 7 through 8, begin a new paragraph and insert:

"SECTION 48. IC 9-22-3-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 18.5. (a) This section does not apply to a person who sells, exchanges, or transfers golf carts.**

(b) A seller that is:



C
o
p
y

- (1) a dealer; or
- (2) another person who sells, exchanges, or transfers at least five (5) vehicles each year;

may not sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle.

SECTION 49. IC 9-22-3-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 33. (a) A person who violates section 4, 5, 6, 7, 8, or 9 of this chapter commits a Class D felony.

(b) A person who violates section 18.5 of this chapter commits a Class A misdemeanor."

Page 20, delete lines 11 through 14, begin a new paragraph and insert:

SECTION 51. IC 9-22-5-16 IS REPEALED [EFFECTIVE JULY 1, 2012]. Sec. 16. (a) This section does not apply to a person who sells, exchanges, or transfers golf carts.

(b) A seller that is:

- (1) a dealer; or
- (2) another person who sells, exchanges, or transfers at least five (5) vehicles each year;

may not sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle.

SECTION 52. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. (a) A disposal facility, a scrap metal processor, or an agent of a disposal facility or scrap metal processor may purchase a motor vehicle without a certificate of title for the motor vehicle if:

- (1) the motor vehicle is at least fifteen (15) model years old;
- (2) the purchase is solely for the purpose of dismantling or wrecking the motor vehicle for the recovery of scrap metal or the sale of parts; and
- (3) the disposal facility or scrap metal processor records all purchase transactions of vehicles as required in subsection (b).

(b) A disposal facility or scrap metal processor shall maintain

C
O
P
Y



the following information with respect to each motor vehicle purchase transaction to which the disposal facility or scrap metal processor is a party for at least two (2) years following the date of the purchase transaction:

- (1) The name and address of any secondary metals recycler or salvage yard.
- (2) The name, initials, or other identifying symbol of the person entering the information.
- (3) The date of the purchase transaction.
- (4) A description of the motor vehicle that was the subject of the purchase transaction, including the make and model of the motor vehicle, if practicable.
- (5) The vehicle identification number of the motor vehicle.
- (6) The amount of consideration given for the motor vehicle.
- (7) A written statement signed by the seller or the seller's agent certifying that the seller or the seller's agent has the lawful right to sell and dispose of the motor vehicle.
- (8) The name and address of the person from whom the motor vehicle is being purchased.
- (9) A photocopy or electronic scan of one (1) of the following forms of identification issued to the seller or the seller's agent:
 - (A) A current and valid driver's license.
 - (B) An identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government.
 - (C) A government issued document bearing an image of the seller or seller's agent, as applicable.

For purposes of complying with this subdivision, a disposal facility or scrap metal processor is not required to make a separate copy of the seller's or seller's agent's identification for each purchase transaction involving the seller or seller's agent but may instead refer to a copy maintained in reference to a particular purchase transaction.

(c) A disposal facility or scrap metal processor may not complete a purchase transaction in the absence of the information required under subsection (b)(9).

(d) A disposal facility, a scrap metal processor, or an agent of a disposal facility or scrap metal processor that knowingly, intentionally, or recklessly buys a motor vehicle that is less than fifteen (15) model years old without a certificate of title for the motor vehicle commits a Class D felony."

Page 20, delete lines 30 through 42.



C
O
P
Y

Page 21, delete lines 1 through 5.

Page 21, delete lines 41 through 42.

Page 22, delete lines 1 through 17.

Page 22, delete lines 31 through 35, begin a new paragraph and insert:

"SECTION 80. IC 9-29-7-7, AS AMENDED BY P.L.110-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The revenues from the

(1) certificate of salvage titles collected under IC 9-22-3 and

(2) license fees collected under IC 9-22-4;

shall be deposited in the motor vehicle highway account."

Page 24, delete lines 6 through 21.

Page 24, line 22, delete "9." and insert "7."

Page 24, line 22, delete "IC 9-32-9" and insert "IC 9-32-8".

Page 24, line 24, delete "IC 9-32-9" and insert "IC 9-32-8".

Page 24, line 26, delete "IC 9-32-9" and insert "IC 9-32-8".

Page 24, line 29, delete "IC 9-32-9" and insert "IC 9-32-8".

Page 24, line 31, delete "10." and insert "8."

Page 24, line 32, delete "IC 9-32-11-1" and insert "IC 9-32-10-1".

Page 24, line 35, delete "11." and insert "9."

Page 24, line 36, delete "IC 9-32-11-1" and insert "IC 9-32-10-1".

Page 24, line 41, delete "12." and insert "10."

Page 25, line 2, delete "IC 9-32-11-1" and insert "IC 9-32-10-1".

Page 25, line 13, delete "13." and insert "11."

Page 25, line 14, delete "IC 9-32-11-4" and insert "IC 9-32-10-4".

Page 25, line 15, delete "14." and insert "12."

Page 25, line 16, delete "IC 9-32-11-9" and insert "IC 9-32-10-9".

Page 25, line 17, delete "15." and insert "13."

Page 25, line 18, delete "IC 9-32-11-16" and insert "IC 9-32-10-16".

Page 25, line 19, delete "16." and insert "14."

Page 25, line 21, delete "sections 8 through 9" and insert "section 7".

Page 25, delete lines 37 through 40, begin a new paragraph and insert:

"Sec. 15. The revenue from the license fees collected under IC 9-32-8 shall be deposited in the motor vehicle highway account."

Page 25, line 41, delete "18." and insert "16."

Page 25, line 41, delete "13" and insert "11".

Page 25, line 41, delete "15" and insert "13".

Page 26, between lines 29 and 30, begin a new paragraph and insert:

"Chapter 0.5. Application



C
O
P
Y

Sec. 1. Nothing in this article shall be construed to limit the authority of the bureau to administer this title."

Page 26, line 39, delete "IC 9-32-10-1." and insert "**IC 9-32-9-1.**"

Page 28, delete lines 30 through 42 and insert:

"Sec. 13. (a) "Flood damaged vehicle" means a passenger motor vehicle that satisfies either of the following:

(1) The vehicle has been acquired by an insurance company as part of a damage settlement due to water damage.

(2) The vehicle has been submerged in water to the point that rising water has reached over the door sill, has entered the passenger or trunk compartment, and has exposed any electrical, computerized, or mechanical component to water.

(b) The term does not include a passenger motor vehicle that an inspection conducted by an insurance adjuster or estimator, a motor vehicle repairer, or a motor vehicle dealer determines:

(1) has no electrical, computerized, or mechanical components that were damaged by water; or

(2) has one (1) or more electrical, computerized, or mechanical components that were damaged by water, and all such damaged components have been repaired or replaced.

Sec. 14. "Franchise" means an oral or a written agreement for a definite or an indefinite period in which a manufacturer or distributor grants to a dealer a right to use a trade name, trade or service mark, or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or related services at retail or otherwise.

Sec. 15. "Franchisee" means a dealer to whom a franchise is granted.

Sec. 16. "Franchisor" means a manufacturer or distributor who grants a franchise to a dealer.

Sec. 17. "Labor rate" means the hourly labor rate charged by a franchisee for service, filed periodically with the division as the division may require, and posted prominently in the franchisee's service department.

Sec. 18. "Lease agreement" means a written agreement entered into in Indiana for the transfer from a retail lessor to a retail lessee of the right to possess and use a motor vehicle in exchange for consideration for a scheduled term exceeding four (4) months, whether or not the retail lessee has the option to purchase or otherwise become the owner of the motor vehicle upon expiration of the agreement. The term does not include an agreement that covers an absolute sale, a sale pending approval, or a retail

C
O
P
Y



installment sale.

Sec. 19. "Lease transaction" means a presentation made to a retail lessee concerning a motor vehicle, including a sales presentation or a document presented to the retail lessee, resulting in the execution of a lease agreement.

Sec. 20. "Material fact" includes, but is not limited to:

- (1) the misinformation or omission of any information to the division; or**
- (2) any misinformation or omission of any information to a consumer in the course of an offer of sale.**

Sec. 21. "Record" includes, but is not limited to, the following:

- (1) Bills of sale.**
- (2) Finance agreements.**
- (3) Titles.**
- (4) Inventory records.**
- (5) Sales receipts from auctions.**
- (6) Form ST-108 (department of state revenue certificate of gross retail or use tax paid on the purchase of a motor vehicle or watercraft).**
- (7) Interim plate log.**

Sec. 22. "Relevant market area" means the following:

- (1) With respect to a new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000), the area within a radius of six (6) miles of the intended site of the relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the relocated new motor vehicle dealer's place of business.**
- (2) With respect to a:**
 - (A) proposed new motor vehicle dealer; or**
 - (B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population that is not more than one hundred thousand (100,000);****the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer. The ten (10) mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.**

C
O
P
Y



Sec. 23. "Retail lessee" means an individual who executes a lease agreement for a motor vehicle from a retail lessor primarily for personal, family, or household purposes.

Sec. 24. "Retail lessor" means a person who regularly engages in the business of selling or leasing motor vehicles and who offers or arranges a lease agreement for a motor vehicle. The term includes an agent or affiliate who acts on behalf of the retail lessor and excludes any assignee of the lease agreement.

Sec. 25. "Sale" includes every contract of sale, contract to sell, or disposition of a motor vehicle or interest in a motor vehicle for value.

Sec. 26. "Secretary" refers to the secretary of state holding office as set forth in IC 4-5-1-1.

Sec. 27. "Transfer dealer" means a person other than a dealer, manufacturer, or wholesale dealer who has the necessity of transferring at least twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.

Sec. 28. "Uniform time standards manual" means a schedule established by a manufacturer or distributor setting forth the time allowances for the diagnosis and performance of warranty work and service.

Sec. 29. "Used parts dealer" means a person who primarily buys, sells, barter, exchanges, or deals in used major component parts. The term does not include a scrap metal processor.

Sec. 30. "Wholesale dealer" means a person who is engaged in the business of buying or selling motor vehicles for resale to other dealers, wholesale dealers, transfer dealers, or persons other than the general public."

Delete pages 29 through 30.

Page 31, delete lines 1 through 19.

Page 31, delete lines 39 through 42.

Page 32, delete lines 1 through 35.

Page 32, line 36, delete "2." and insert "1."

Page 33, line 37, delete "violation." and insert "**violation in a calendar year.**"

Page 33, line 38, delete "violation." and insert "**violation in a calendar year.**"

Page 33, line 39, delete "violations." and insert "**violations in a calendar year.**"

Page 34, line 42, delete "five (5)" and insert "**ten (10)**".

Page 35, line 2, delete "3." and insert "2."

Page 37, line 37, delete "IC 9-32-11" and insert "**IC 9-32-10**".

C
O
P
Y



Page 41, line 15, delete "IC 9-32-11" and insert "**IC 9-32-10**".

Page 41, line 29, delete "IC 9-29-17-16(b);" and insert "**IC 9-29-17-14(b);**".

Page 41, line 30, delete "IC 9-29-17-16(c);" and insert "**IC 9-29-17-14(c);**".

Page 41, line 31, delete "IC 9-29-17-18;" and insert "**IC 9-29-17-16;**".

Page 42, line 3, delete "IC 9-32-3-2(c);" and insert "**IC 9-32-3-1(c);**".

Page 42, line 4, delete "IC 9-32-16-1(f);" and insert "**IC 9-32-15-1(f);**".

Page 42, line 5, delete "IC 9-32-16-17 (d);" and insert "**IC 9-32-15-17(d);**".

Page 42, line 6, delete "IC 9-32-17-9;" and insert "**IC 9-32-16-8;**".

Page 42, line 7, delete "IC 9-32-17-11." and insert "**IC 9-32-16-10.**".

Page 42, line 25, delete "IC 9-29-17-10" and insert "**IC 9-29-17-8**".

Page 42, line 25, delete "IC 9-29-17-12" and insert "**IC 9-29-17-10**".

Page 43, delete line 42.

Delete pages 44 through 51.

Page 52, delete lines 1 through 34.

Page 52, line 35, delete "9." and insert "**8.**".

Page 53, line 18, delete "IC 9-29-17-9." and insert "**IC 9-29-17-7.**".

Page 54, line 14, delete "IC 9-32-16." and insert "**IC 9-32-15.**".

Page 55, line 6, delete "10." and insert "**9.**".

Page 56, line 28, delete "11." and insert "**10.**".

Page 63, line 10, delete "IC 9-29-17-15." and insert "**IC 9-29-17-13.**".

Page 63, line 14, delete "12." and insert "**11.**".

Page 64, line 16, delete "13." and insert "**12.**".

Page 65, line 17, delete "(a)".

Page 65, delete lines 29 through 30.

Page 74, line 9, delete "14." and insert "**13.**".

Page 74, line 41, delete "15." and insert "**14.**".

Page 76, line 21, delete "16." and insert "**15.**".

Page 89, line 42, delete "17." and insert "**16.**".

Page 90, line 1, delete "Except as provided in section 9 of this chapter, a person" and insert "**Except as provided in section 8 of this chapter, a person who violates this article, a rule established under this article, or an order issued by the secretary is subject to a civil penalty of up to ten thousand dollars (\$10,000) for each act of violation. Civil penalties recovered under this section shall be paid to the state and deposited into the dealer enforcement account**".

C
o
p
y



established by IC 9-32-6-2.

Sec. 2. (a) Except as provided in subsections (b) and (c), a person who violates IC 9-32-3 commits a Class C infraction.

(b) A person who knowingly or intentionally violates IC 9-32-3-1(a)(1), IC 9-32-3-1(a)(2), IC 9-32-3-1(a)(4), IC 9-32-3-1(a)(5), or IC 9-32-3-1(d) commits a Class B misdemeanor.

(c) A person who knowingly or intentionally violates IC 9-32-3-1(a)(3) commits a:

- (1) Class A misdemeanor for the first violation; and
- (2) Class D felony for a second or subsequent unrelated violation.

Sec. 3. (a) Except as provided in subsection (b), a person who knowingly or intentionally violates any of the following commits a Class A misdemeanor:

- (1) IC 9-32-5-7.
- (2) IC 9-32-5-10.
- (3) IC 9-32-5-11(d).
- (4) IC 9-32-5-12.

(b) A person who knowingly or intentionally violates IC 9-32-5-13 commits a Class C misdemeanor.

Sec. 4. A person who knowingly or intentionally violates any of the following commits a Class B misdemeanor:

- (1) IC 9-32-8-1.
- (2) IC 9-32-8-2.
- (3) IC 9-32-8-10.

Sec. 5. A person who knowingly or intentionally violates:

- (1) IC 9-32-10-1; or
- (2) IC 9-32-10-12;

commits a Class A misdemeanor.

Sec. 6. (a) Except as provided in subsection (b), a person who knowingly or intentionally violates IC 9-32-12 commits a Class B misdemeanor.

(b) A person who knowingly or intentionally violates:

- (1) IC 9-32-12-25; or
- (2) IC 9-32-12-26;

commits a Class A misdemeanor.

Sec. 7. A person who knowingly or intentionally violates IC 9-32-15-13 commits a Class D felony.

Sec. 8. A dealer who fails to deliver a certificate of origin or title under IC 9-32-4-2 or IC 9-32-4-8 or fails to deliver timely a certificate of title under IC 9-32-3-1(c) is subject to the following

C
O
P
Y



civil penalties:

- (1) One hundred dollars (\$100) for the first violation in a calendar year.**
- (2) Two hundred fifty dollars (\$250) for the second violation in a calendar year.**
- (3) Five hundred dollars (\$500) for all subsequent violations in a calendar year.**

Payment shall be made to the secretary and deposited in the dealer enforcement account established under IC 9-32-6-2.

Sec. 9. A retail lessor who fails to comply with IC 9-32-11, as set forth in IC 9-32-11-4, is liable to the retail lessee for:

- (1) actual damages sustained;**
- (2) a civil penalty of not more than one thousand dollars (\$1,000) per lease transaction; and**
- (3) reasonable attorney's fees and costs.**

Sec. 10. In addition to all other remedies, the secretary may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate IC 9-32-15:

- (1) An injunction.**
- (2) Appointment of a receiver or conservator.**
- (3) A civil penalty not to exceed ten thousand dollars (\$10,000) per violation.**
- (4) An action to enforce a civil penalty assessed under subdivision (3).**

Civil penalties recovered under this section shall be paid to the state and deposited into the dealer enforcement account established by IC 9-32-6-2."

Page 90, delete lines 2 through 42.

Page 91, delete lines 1 through 41.

Page 94, line 37, delete "IC 9-32-11-16." and insert "**IC 9-32-10-16.**"

Page 94, delete lines 40 through 42, begin a new paragraph and insert:

"SECTION 95. IC 24-5-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) A reasonable number of attempts is considered to have been undertaken to correct a nonconformity if:

- (1) the nonconformity has been subject to repair at least four (4) times by the manufacturer or its agents or authorized dealers, but the nonconformity continues to exist; or**
- (2) the vehicle is out of service by reason of repair of any**



COPY

nonconformity for a cumulative total of at least thirty (30) business days, and the nonconformity continues to exist.

(b) The thirty (30) business day period in subsection (a)(2) shall be extended by any period of time during which repair services are not available as a direct result of a strike, **civil unrest, a fire, a natural disaster, a terrorist attack, an act of God, or an act of war**. The manufacturer, its agent, or an authorized dealer shall provide or make provision for the free use of a vehicle to any buyer whose vehicle is out of service by reason of repair during a strike, **a period of civil unrest, a fire, a natural disaster, a terrorist attack, an act of God, or an act of war**.

(c) The burden is on the manufacturer to show that the reason for an extension under subsection (b) was the direct cause for the failure of the manufacturer, its agent, or authorized dealer to cure any nonconformity during the time of the event."

Page 95, delete lines 1 through 2.

Page 96, reset in roman lines 14 through 19.

Page 96, between lines 21 and 22, begin a new line block indented and insert:

"IC 9-22-5-18 (Concerning buying a motor vehicle without a certificate of title)."

Page 97, line 18, delete "IC 9-32-17-2" and insert "**IC 9-32-16-2**".

Page 97, line 19, delete "IC 9-32-17-3" and insert "**IC 9-32-16-3**".

Page 97, delete line 20.

Page 97, line 21, delete "IC 9-32-17-5" and insert "**IC 9-32-16-4**".

Page 97, line 22, delete "IC 9-32-17-6" and insert "**IC 9-32-16-5**".

Page 97, line 24, delete "IC 9-32-17-7" and insert "**IC 9-32-16-6**".

Page 97, line 25, delete "IC 9-32-17-8" and insert "**IC 9-32-16-7**".

Page 97, after line 31, begin a new paragraph and insert:

"SECTION 91. [EFFECTIVE JULY 1, 2012] (a) As used in this SECTION, "board" refers to the motor vehicle sales advisory board established by IC 9-32-10-1.

(b) As used in this SECTION, "secretary" refers to the secretary of state holding office as set forth in IC 4-5-1-1.

(c) The board shall study the feasibility of creating administrative adjudication processes for the purposes of addressing issues related to persons licensed under IC 9-32-11.

(d) In conducting the study required by this SECTION, the board may consider:

(1) the criteria contained in IC 9-32-10-8(2)(B), IC 9-32-10-8(2)(C), and IC 9-32-10-8(2)(D);

(2) deceptive franchise practices under IC 23-2-2.7; and



C
O
P
Y

(3) other criteria that the board considers necessary.

(e) In conducting the study required by this SECTION, the board shall consider, as a basis for its deliberation, House Bill 1340 (2012) as introduced.

(f) The board shall report the results of the study required by this SECTION to the legislative council and to the secretary by electronic format under IC 5-14-6 on or before November 1, 2012.

(g) This SECTION expires December 31, 2012."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1222 as introduced.)

SOLIDAY, Chair

Committee Vote: yeas 11, nays 0.

C
o
p
y

