

Adopted      Rejected

# COMMITTEE REPORT

YES:                    11  
NO:                     0

## 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:*

- 1            Page 7, delete lines 36 through 37.
- 2            Page 8, delete lines 26 through 42, begin a new paragraph and
- 3            insert:
- 4            "SECTION 18. IC 9-13-2-66.5 IS ADDED TO THE INDIANA
- 5            CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 6            [EFFECTIVE JULY 1, 2012]: **Sec. 66.5. "Flood damaged vehicle",**
- 7            **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-13.**
- 8            SECTION 19. IC 9-13-2-67 IS AMENDED TO READ AS
- 9            FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 67. "Franchise", ~~means~~
- 10           an oral or a written agreement for a definite or an indefinite period in
- 11           which a manufacturer or distributor grants to a dealer a right to use a
- 12           trade name; trade or service mark; or related characteristic; and in
- 13           which there is a community of interest in the marketing of motor
- 14           vehicles or related services at retail or otherwise. **for purposes of**
- 15           **IC 9-32, has the meaning set forth in IC 9-32-1-14.**
- 16           SECTION 20. IC 9-13-2-68 IS AMENDED TO READ AS

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

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

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

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

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

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

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

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

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

37 (c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25,  
 38 means a vehicle that is self-propelled upon a highway in Indiana. The

1 term does not include a farm tractor.

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

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

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

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

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

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

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

22 (1) With respect to a new motor vehicle dealer who plans to  
23 relocate the dealer's place of business in a county having a  
24 population of more than one hundred thousand (100,000); the area  
25 within a radius of six (6) miles of the intended site of the  
26 relocated dealer. The six (6) mile distance shall be determined by  
27 measuring the distance between the nearest surveyed boundary of  
28 the existing new motor vehicle dealer's principal place of business  
29 and the nearest surveyed boundary line of the relocated new  
30 motor vehicle dealer's place of business.

31 (2) With respect to a:

32 (A) proposed new motor vehicle dealer; or

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

36 the area within a radius of ten (10) miles of the intended site of  
37 the proposed or relocated dealer. The ten (10) mile distance shall  
38 be determined by measuring the distance between the nearest

1 surveyed boundary line of the existing new motor vehicle dealer's  
 2 principal place of business and the nearest surveyed boundary line  
 3 of the proposed or relocated new motor vehicle dealer's principal  
 4 place of business.

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

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

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

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

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

27 SECTION 34. IC 9-13-2-162.5 IS ADDED TO THE INDIANA  
 28 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 29 [EFFECTIVE JULY 1, 2012]: **Sec. 162.5. "Secretary", for purposes**  
 30 **of IC 9-32, has the meaning set forth in IC 9-32-1-26.**

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

38 SECTION 36. IC 9-13-2-191.5 IS AMENDED TO READ AS

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

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

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

16 Delete pages 9 through 11.

17 Page 12, delete lines 1 through 22.

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

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

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

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

22 Page 13, delete lines 6 through 42.

23 Delete page 14.

24 Page 15, delete lines 1 through 10.

25 Page 18, delete lines 39 through 42.

26 Page 19, delete lines 1 through 7.

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

28 "SECTION 48. IC 9-22-3-18.5 IS ADDED TO THE INDIANA  
29 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
30 [EFFECTIVE JULY 1, 2012]: **Sec. 18.5. (a) This section does not  
31 apply to a person who sells, 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  
35 five (5) vehicles each year;**

36 **may not sell, exchange, or transfer a rebuilt vehicle without  
37 disclosing in writing to the purchaser, customer, or transferee,  
38 before consummating the sale, exchange, or transfer, the fact that**

1 **the vehicle is a rebuilt vehicle if the dealer or other person knows**  
 2 **or should reasonably know the vehicle is a rebuilt vehicle.**

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

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

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

11 SECTION 51. IC 9-22-5-16 IS REPEALED [EFFECTIVE JULY 1,  
 12 2012]. Sec. 16. (a) This section does not apply to a person who sells;  
 13 exchanges; or transfers golf carts:

14 (b) A seller that is:

15 (1) a dealer; or

16 (2) another person who sells; exchanges; or transfers at least five

17 (5) vehicles each year;

18 may not sell; exchange; or transfer a rebuilt vehicle without disclosing  
 19 in writing to the purchaser; customer; or transferee; before  
 20 consummating the sale; exchange; or transfer; the fact that the vehicle  
 21 is a rebuilt vehicle if the dealer or other person knows or should  
 22 reasonably know the vehicle is a rebuilt vehicle:

23 SECTION 52. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE  
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 25 1, 2012]: Sec. 18. (a) A disposal facility, a scrap metal processor, or  
 26 an agent of a disposal facility or scrap metal processor may  
 27 purchase a motor vehicle without a certificate of title for the motor  
 28 vehicle if:

29 (1) the motor vehicle is at least fifteen (15) model years old;

30 (2) the purchase is solely for the purpose of dismantling or  
 31 wrecking the motor vehicle for the recovery of scrap metal or  
 32 the sale of parts; and

33 (3) the disposal facility or scrap metal processor records all  
 34 purchase transactions of vehicles as required in subsection

35 (b).

36 (b) A disposal facility or scrap metal processor shall maintain  
 37 the following information with respect to each motor vehicle  
 38 purchase transaction to which the disposal facility or scrap metal

1 processor is a party for at least two (2) years following the date of  
2 the purchase transaction:

3 (1) The name and address of any secondary metals recycler or  
4 salvage yard.

5 (2) The name, initials, or other identifying symbol of the  
6 person entering the information.

7 (3) The date of the purchase transaction.

8 (4) A description of the motor vehicle that was the subject of  
9 the purchase transaction, including the make and model of the  
10 motor vehicle, if practicable.

11 (5) The vehicle identification number of the motor vehicle.

12 (6) The amount of consideration given for the motor vehicle.

13 (7) A written statement signed by the seller or the seller's  
14 agent certifying that the seller or the seller's agent has the  
15 lawful right to sell and dispose of the motor vehicle.

16 (8) The name and address of the person from whom the motor  
17 vehicle is being purchased.

18 (9) A photocopy or electronic scan of one (1) of the following  
19 forms of identification issued to the seller or the seller's agent:

20 (A) A current and valid driver's license.

21 (B) An identification card issued under IC 9-24-16-1 or a  
22 similar card issued under the laws of another state or the  
23 federal government.

24 (C) A government issued document bearing an image of  
25 the seller or seller's agent, as applicable.

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

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

35 (d) A disposal facility, a scrap metal processor, or an agent of a  
36 disposal facility or scrap metal processor that knowingly,  
37 intentionally, or recklessly buys a motor vehicle that is less than  
38 fifteen (15) model years old without a certificate of title for the

- 1 **motor vehicle commits a Class D felony."**
- 2 Page 20, delete lines 30 through 42.
- 3 Page 21, delete lines 1 through 5.
- 4 Page 21, delete lines 41 through 42.
- 5 Page 22, delete lines 1 through 17.
- 6 Page 22, delete lines 31 through 35, begin a new paragraph and
- 7 insert:
- 8 "SECTION 80. IC 9-29-7-7, AS AMENDED BY P.L.110-2006,
- 9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2012]: Sec. 7. The revenues from the
- 11 (†) certificate of salvage titles collected under IC 9-22-3 **and**
- 12 (2) license fees collected under ~~IC 9-22-4;~~
- 13 shall be deposited in the motor vehicle highway account."
- 14 Page 24, delete lines 6 through 21.
- 15 Page 24, line 22, delete "9." and insert "7."
- 16 Page 24, line 22, delete "IC 9-32-9" and insert "**IC 9-32-8**".
- 17 Page 24, line 24, delete "IC 9-32-9" and insert "**IC 9-32-8**".
- 18 Page 24, line 26, delete "IC 9-32-9" and insert "**IC 9-32-8**".
- 19 Page 24, line 29, delete "IC 9-32-9" and insert "**IC 9-32-8**".
- 20 Page 24, line 31, delete "10." and insert "8."
- 21 Page 24, line 32, delete "IC 9-32-11-1" and insert "**IC 9-32-10-1**".
- 22 Page 24, line 35, delete "11." and insert "9."
- 23 Page 24, line 36, delete "IC 9-32-11-1" and insert "**IC 9-32-10-1**".
- 24 Page 24, line 41, delete "12." and insert "10."
- 25 Page 25, line 2, delete "IC 9-32-11-1" and insert "**IC 9-32-10-1**".
- 26 Page 25, line 13, delete "13." and insert "11."
- 27 Page 25, line 14, delete "IC 9-32-11-4" and insert "**IC 9-32-10-4**".
- 28 Page 25, line 15, delete "14." and insert "12."
- 29 Page 25, line 16, delete "IC 9-32-11-9" and insert "**IC 9-32-10-9**".
- 30 Page 25, line 17, delete "15." and insert "13."
- 31 Page 25, line 18, delete "IC 9-32-11-16" and insert "**IC 9-32-10-16**".
- 32 Page 25, line 19, delete "16." and insert "14."
- 33 Page 25, line 21, delete "sections 8 through 9" and insert "**section**
- 34 **7**".
- 35 Page 25, delete lines 37 through 40, begin a new paragraph and
- 36 insert:
- 37 "**Sec. 15. The revenue from the license fees collected under**

1 **IC 9-32-8 shall be deposited in the motor vehicle highway**  
2 **account."**

3 Page 25, line 41, delete "18." and insert "16."

4 Page 25, line 41, delete "13" and insert "11".

5 Page 25, line 41, delete "15" and insert "13".

6 Page 26, between lines 29 and 30, begin a new paragraph and insert:

7 **"Chapter 0.5. Application**

8 **Sec. 1. Nothing in this article shall be construed to limit the**  
9 **authority of the bureau to administer this title."**

10 Page 26, line 39, delete "IC 9-32-10-1." and insert "IC 9-32-9-1."

11 Page 28, delete lines 30 through 42 and insert:

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

14 **(1) The vehicle has been acquired by an insurance company**  
15 **as part of a damage settlement due to water damage.**

16 **(2) The vehicle has been submerged in water to the point that**  
17 **rising water has reached over the door sill, has entered the**  
18 **passenger or trunk compartment, and has exposed any**  
19 **electrical, computerized, or mechanical component to water.**

20 **(b) The term does not include a passenger motor vehicle that an**  
21 **inspection conducted by an insurance adjuster or estimator, a**  
22 **motor vehicle repairer, or a motor vehicle dealer determines:**

23 **(1) has no electrical, computerized, or mechanical components**  
24 **that were damaged by water; or**

25 **(2) has one (1) or more electrical, computerized, or**  
26 **mechanical components that were damaged by water, and all**  
27 **such damaged components have been repaired or replaced.**

28 **Sec. 14. "Franchise" means an oral or a written agreement for**  
29 **a definite or an indefinite period in which a manufacturer or**  
30 **distributor grants to a dealer a right to use a trade name, trade or**  
31 **service mark, or related characteristic, and in which there is a**  
32 **community of interest in the marketing of motor vehicles or related**  
33 **services at retail or otherwise.**

34 **Sec. 15. "Franchisee" means a dealer to whom a franchise is**  
35 **granted.**

36 **Sec. 16. "Franchisor" means a manufacturer or distributor who**  
37 **grants a franchise to a dealer.**

38 **Sec. 17. "Labor rate" means the hourly labor rate charged by**

1 a franchisee for service, filed periodically with the division as the  
2 division may require, and posted prominently in the franchisee's  
3 service department.

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

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

17 Sec. 20. "Material fact" includes, but is not limited to:  
18 (1) the misinformation or omission of any information to the  
19 division; or  
20 (2) any misinformation or omission of any information to a  
21 consumer in the course of an offer of sale.

22 Sec. 21. "Record" includes, but is not limited to, the following:  
23 (1) Bills of sale.  
24 (2) Finance agreements.  
25 (3) Titles.  
26 (4) Inventory records.  
27 (5) Sales receipts from auctions.  
28 (6) Form ST-108 (department of state revenue certificate of  
29 gross retail or use tax paid on the purchase of a motor vehicle  
30 or watercraft).  
31 (7) Interim plate log.

32 Sec. 22. "Relevant market area" means the following:  
33 (1) With respect to a new motor vehicle dealer who plans to  
34 relocate the dealer's place of business in a county having a  
35 population of more than one hundred thousand (100,000), the  
36 area within a radius of six (6) miles of the intended site of the  
37 relocated dealer. The six (6) mile distance shall be determined  
38 by measuring the distance between the nearest surveyed

1 boundary of the existing new motor vehicle dealer's principal  
2 place of business and the nearest surveyed boundary line of  
3 the relocated new motor vehicle dealer's place of business.

4 (2) With respect to a:

- 5 (A) proposed new motor vehicle dealer; or
- 6 (B) new motor vehicle dealer who plans to relocate the  
7 dealer's place of business in a county having a population  
8 that is not more than one hundred thousand (100,000);  
9 the area within a radius of ten (10) miles of the intended site  
10 of the proposed or relocated dealer. The ten (10) mile distance  
11 shall be determined by measuring the distance between the  
12 nearest surveyed boundary line of the existing new motor  
13 vehicle dealer's principal place of business and the nearest  
14 surveyed boundary line of the proposed or relocated new  
15 motor vehicle dealer's principal place of business.

16 Sec. 23. "Retail lessee" means an individual who executes a lease  
17 agreement for a motor vehicle from a retail lessor primarily for  
18 personal, family, or household purposes.

19 Sec. 24. "Retail lessor" means a person who regularly engages  
20 in the business of selling or leasing motor vehicles and who offers  
21 or arranges a lease agreement for a motor vehicle. The term  
22 includes an agent or affiliate who acts on behalf of the retail lessor  
23 and excludes any assignee of the lease agreement.

24 Sec. 25. "Sale" includes every contract of sale, contract to sell,  
25 or disposition of a motor vehicle or interest in a motor vehicle for  
26 value.

27 Sec. 26. "Secretary" refers to the secretary of state holding  
28 office as set forth in IC 4-5-1-1.

29 Sec. 27. "Transfer dealer" means a person other than a dealer,  
30 manufacturer, or wholesale dealer who has the necessity of  
31 transferring at least twelve (12) motor vehicles during a license  
32 year as part of the transfer dealer's primary business function.

33 Sec. 28. "Uniform time standards manual" means a schedule  
34 established by a manufacturer or distributor setting forth the time  
35 allowances for the diagnosis and performance of warranty work  
36 and service.

37 Sec. 29. "Used parts dealer" means a person who primarily  
38 buys, sells, barter, exchanges, or deals in used major component

- 1       **parts. The term does not include a scrap metal processor.**
- 2       **Sec. 30. "Wholesale dealer" means a person who is engaged in**
- 3       **the business of buying or selling motor vehicles for resale to other**
- 4       **dealers, wholesale dealers, transfer dealers, or persons other than**
- 5       **the general public."**
- 6       Delete pages 29 through 30.
- 7       Page 31, delete lines 1 through 19.
- 8       Page 31, delete lines 39 through 42.
- 9       Page 32, delete lines 1 through 35.
- 10      Page 32, line 36, delete "2." and insert "1."
- 11      Page 33, line 37, delete "violation." and insert "**violation in a**
- 12      **calendar year."**
- 13      Page 33, line 38, delete "violation." and insert "**violation in a**
- 14      **calendar year."**
- 15      Page 33, line 39, delete "violations." and insert "**violations in a**
- 16      **calendar year."**
- 17      Page 34, line 42, delete "five (5)" and insert "**ten (10)**".
- 18      Page 35, line 2, delete "3." and insert "2."
- 19      Page 37, line 37, delete "IC 9-32-11" and insert "**IC 9-32-10**".
- 20      Page 41, line 15, delete "IC 9-32-11" and insert "**IC 9-32-10**".
- 21      Page 41, line 29, delete "IC 9-29-17-16(b);" and insert "**IC**
- 22      **9-29-17-14(b);"**
- 23      Page 41, line 30, delete "IC 9-29-17-16(c);" and insert "**IC**
- 24      **9-29-17-14(c);"**
- 25      Page 41, line 31, delete "IC 9-29-17-18;" and insert "**IC**
- 26      **9-29-17-16;"**
- 27      Page 42, line 3, delete "IC 9-32-3-2(c);" and insert "**IC**
- 28      **9-32-3-1(c);"**
- 29      Page 42, line 4, delete "IC 9-32-16-1(f);" and insert "**IC**
- 30      **9-32-15-1(f);"**
- 31      Page 42, line 5, delete "IC 9-32-16-17 (d);" and insert "**IC**
- 32      **9-32-15-17(d);"**
- 33      Page 42, line 6, delete "IC 9-32-17-9;" and insert "**IC 9-32-16-8;"**
- 34      Page 42, line 7, delete "IC 9-32-17-11." and insert "**IC 9-32-16-10.**"
- 35      Page 42, line 25, delete "IC 9-29-17-10" and insert "**IC 9-29-17-8**".
- 36      Page 42, line 25, delete "IC 9-29-17-12" and insert "**IC 9-29-17-10**".
- 37      Page 43, delete line 42.

- 1 Delete pages 44 through 51.
- 2 Page 52, delete lines 1 through 34.
- 3 Page 52, line 35, delete "9." and insert "8."
- 4 Page 53, line 18, delete "IC 9-29-17-9." and insert "IC 9-29-17-7."
- 5 Page 54, line 14, delete "IC 9-32-16." and insert "IC 9-32-15."
- 6 Page 55, line 6, delete "10." and insert "9."
- 7 Page 56, line 28, delete "11." and insert "10."
- 8 Page 63, line 10, delete "IC 9-29-17-15." and insert "IC
- 9 **9-29-17-13."**
- 10 Page 63, line 14, delete "12." and insert "11."
- 11 Page 64, line 16, delete "13." and insert "12."
- 12 Page 65, line 17, delete "(a)".
- 13 Page 65, delete lines 29 through 30.
- 14 Page 74, line 9, delete "14." and insert "13."
- 15 Page 74, line 41, delete "15." and insert "14."
- 16 Page 76, line 21, delete "16." and insert "15."
- 17 Page 89, line 42, delete "17." and insert "16."
- 18 Page 90, line 1, delete "Except as provided in section 9 of this
- 19 chapter, a person" and insert "**Except as provided in section 8 of this**
- 20 **chapter, a person who violates this article, a rule established under**
- 21 **this article, or an order issued by the secretary is subject to a civil**
- 22 **penalty of up to ten thousand dollars (\$10,000) for each act of**
- 23 **violation. Civil penalties recovered under this section shall be paid**
- 24 **to the state and deposited into the dealer enforcement account**
- 25 **established by IC 9-32-6-2.**
- 26 **Sec. 2. (a) Except as provided in subsections (b) and (c), a person**
- 27 **who violates IC 9-32-3 commits a Class C infraction.**
- 28 **(b) A person who knowingly or intentionally violates**
- 29 **IC 9-32-3-1(a)(1), IC 9-32-3-1(a)(2), IC 9-32-3-1(a)(4),**
- 30 **IC 9-32-3-1(a)(5), or IC 9-32-3-1(d) commits a Class B**
- 31 **misdemeanor.**
- 32 **(c) A person who knowingly or intentionally violates**
- 33 **IC 9-32-3-1(a)(3) commits a:**
- 34 **(1) Class A misdemeanor for the first violation; and**
- 35 **(2) Class D felony for a second or subsequent unrelated**
- 36 **violation.**
- 37 **Sec. 3. (a) Except as provided in subsection (b), a person who**
- 38 **knowingly or intentionally violates any of the following commits a**

- 1       **Class A misdemeanor:**
- 2           (1) IC 9-32-5-7.
- 3           (2) IC 9-32-5-10.
- 4           (3) IC 9-32-5-11(d).
- 5           (4) IC 9-32-5-12.
- 6       (b) A person who knowingly or intentionally violates
- 7       IC 9-32-5-13 commits a Class C misdemeanor.
- 8       **Sec. 4. A person who knowingly or intentionally violates any of**
- 9       **the following commits a Class B misdemeanor:**
- 10           (1) IC 9-32-8-1.
- 11           (2) IC 9-32-8-2.
- 12           (3) IC 9-32-8-10.
- 13       **Sec. 5. A person who knowingly or intentionally violates:**
- 14           (1) IC 9-32-10-1; or
- 15           (2) IC 9-32-10-12;
- 16       **commits a Class A misdemeanor.**
- 17       **Sec. 6. (a) Except as provided in subsection (b), a person who**
- 18       **knowingly or intentionally violates IC 9-32-12 commits a Class B**
- 19       **misdemeanor.**
- 20       (b) A person who knowingly or intentionally violates:
- 21           (1) IC 9-32-12-25; or
- 22           (2) IC 9-32-12-26;
- 23       **commits a Class A misdemeanor.**
- 24       **Sec. 7. A person who knowingly or intentionally violates**
- 25       **IC 9-32-15-13 commits a Class D felony.**
- 26       **Sec. 8. A dealer who fails to deliver a certificate of origin or title**
- 27       **under IC 9-32-4-2 or IC 9-32-4-8 or fails to deliver timely a**
- 28       **certificate of title under IC 9-32-3-1(c) is subject to the following**
- 29       **civil penalties:**
- 30           (1) One hundred dollars (\$100) for the first violation in a
- 31           calendar year.
- 32           (2) Two hundred fifty dollars (\$250) for the second violation
- 33           in a calendar year.
- 34           (3) Five hundred dollars (\$500) for all subsequent violations
- 35           in a calendar year.
- 36       **Payment shall be made to the secretary and deposited in the dealer**
- 37       **enforcement account established under IC 9-32-6-2.**
- 38       **Sec. 9. A retail lessor who fails to comply with IC 9-32-11, as set**

1       **forth in IC 9-32-11-4, is liable to the retail lessee for:**

- 2               **(1) actual damages sustained;**
- 3               **(2) a civil penalty of not more than one thousand dollars**
- 4               **(\$1,000) per lease transaction; and**
- 5               **(3) reasonable attorney's fees and costs.**

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

- 10              **(1) An injunction.**
- 11              **(2) Appointment of a receiver or conservator.**
- 12              **(3) A civil penalty not to exceed ten thousand dollars (\$10,000)**
- 13              **per violation.**
- 14              **(4) An action to enforce a civil penalty assessed under**
- 15              **subdivision (3).**

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

19       Page 90, delete lines 2 through 42.

20       Page 91, delete lines 1 through 41.

21       Page 94, line 37, delete "IC 9-32-11-16." and insert "**IC**  
22 **9-32-10-16."**

23       Page 94, delete lines 40 through 42, begin a new paragraph and  
24 insert:

25       "SECTION 95. IC 24-5-13-15 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) A reasonable  
27 number of attempts is considered to have been undertaken to correct a  
28 nonconformity if:

- 29              (1) the nonconformity has been subject to repair at least four (4)
- 30              times by the manufacturer or its agents or authorized dealers, but
- 31              the nonconformity continues to exist; or
- 32              (2) the vehicle is out of service by reason of repair of any
- 33              nonconformity for a cumulative total of at least thirty (30)
- 34              business days, and the nonconformity continues to exist.

35       (b) The thirty (30) business day period in subsection (a)(2) shall be  
36 extended by any period of time during which repair services are not  
37 available as a direct result of a strike, **civil unrest, a fire, a natural**  
38 **disaster, a terrorist attack, an act of God, or an act of war.** The

1 manufacturer, its agent, or **an** authorized dealer shall provide or make  
2 provision for the free use of a vehicle to any buyer whose vehicle is out  
3 of service by reason of repair during a strike, **a period of civil unrest,**  
4 **a fire, a natural disaster, a terrorist attack, an act of God, or an act**  
5 **of war.**

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

10 Page 95, delete lines 1 through 2.

11 Page 96, reset in roman lines 14 through 19.

12 Page 96, between lines 21 and 22, begin a new line block indented  
13 and insert:

14 **"IC 9-22-5-18 (Concerning buying a motor vehicle without a**  
15 **certificate of title)."**

16 Page 97, line 18, delete "IC 9-32-17-2" and insert **"IC 9-32-16-2"**.

17 Page 97, line 19, delete "IC 9-32-17-3" and insert **"IC 9-32-16-3"**.

18 Page 97, delete line 20.

19 Page 97, line 21, delete "IC 9-32-17-5" and insert **"IC 9-32-16-4"**.

20 Page 97, line 22, delete "IC 9-32-17-6" and insert **"IC 9-32-16-5"**.

21 Page 97, line 24, delete "IC 9-32-17-7" and insert **"IC 9-32-16-6"**.

22 Page 97, line 25, delete "IC 9-32-17-8" and insert **"IC 9-32-16-7"**.

23 Page 97, after line 31, begin a new paragraph and insert:

24 **"SECTION 91. [EFFECTIVE JULY 1, 2012] (a) As used in this**  
25 **SECTION, "board" refers to the motor vehicle sales advisory**  
26 **board established by IC 9-32-10-1.**

27 **(b) As used in this SECTION, "secretary" refers to the**  
28 **secretary of state holding office as set forth in IC 4-5-1-1.**

29 **(c) The board shall study the feasibility of creating**  
30 **administrative adjudication processes for the purposes of**  
31 **addressing issues related to persons licensed under IC 9-32-11.**

32 **(d) In conducting the study required by this SECTION, the**  
33 **board may consider:**

34 **(1) the criteria contained in IC 9-32-10-8(2)(B),**  
35 **IC 9-32-10-8(2)(C), and IC 9-32-10-8(2)(D);**

36 **(2) deceptive franchise practices under IC 23-2-2.7; and**

37 **(3) other criteria that the board considers necessary.**

38 **(e) In conducting the study required by this SECTION, the**

1       **board shall consider, as a basis for its deliberation, House Bill 1340**  
2       **(2012) as introduced.**

3       **(f) The board shall report the results of the study required by**  
4       **this SECTION to the legislative council and to the secretary by**  
5       **electronic format under IC 5-14-6 on or before November 1, 2012.**

6       **(g) This SECTION expires December 31, 2012."**

7       Renumber all SECTIONS consecutively.  
      (Reference is to HB 1222 as introduced.)

**and when so amended that said bill do pass.**

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Representative Soliday