

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.

HOUSE ENROLLED ACT No. 1171

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-23-3-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 24. (a) This section does not apply to the:

(1) relocation of a new motor vehicle dealer to a location that is not more than two (2) miles from its established place of business;

or

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

(b) **This section does not apply to a new motor vehicle dealer located in a county having a population of more than one hundred thousand (100,000) if:**

(1) **the new motor vehicle dealer relocates to a site that is located at a distance greater than the existing distance of another new motor vehicle dealer of the same line make before the relocation; and**

(2) **the site of the relocation is outside an area that is within a radius of four (4) miles from another new motor vehicle dealer of the same line make.**

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

(d) Not later than thirty (30) days after:

(1) receiving the notice provided for in subsection (c); or

(2) the end of any appeal procedure provided by the franchisor;

a new motor vehicle dealer may bring a declaratory judgment action **in before the dealer services division of the secretary of state the circuit court for the county in which the new motor vehicle dealer is located** to determine whether good cause exists for the establishing or relocating of a proposed new motor vehicle dealer. If an action is filed, the franchisor may not establish or relocate the proposed new motor vehicle dealer until the **circuit court dealer services division of the secretary of state** has rendered a decision on the matter. An action brought under this section shall be given precedence over all other ~~civil~~ matters ~~on the court's docket.~~ **pending before the dealer services division of the secretary of state.**

(e) In determining whether good cause exists for establishing or relocating an additional new motor vehicle dealer for the same line make, the ~~court~~ **dealer services division of the secretary of state** shall take into consideration the existing circumstances, including the following:

(1) Permanency of the investment.

(2) Effect on the retail new motor vehicle business and the consuming public in the relevant market area.

(3) Whether it is injurious or beneficial to the public welfare.

(4) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line make in the market area, including the adequacy of motor vehicle sales and qualified service personnel.

(5) Whether the establishment or relocation of the new motor vehicle dealer would promote competition.

(6) Growth or decline of the population and the number of new motor vehicle registrations in the relevant market area.

(7) The effect on the relocating dealer of a denial of its relocation into the relevant market area.

(f) Subsection (b) applies to:

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- (1) a new motor vehicle dealer that before the effective date of subsection (b) has been engaged in the process of relocating but has not physically relocated to the new intended site by the effective date of subsection (b); or**
- (2) a new motor vehicle dealer that begins engaging in the process of relocating on or after the effective date of subsection (b).**

SECTION 2. IC 9-23-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013]: Sec. 9. **(a) As used in this section, "division" refers to the dealer services division of the secretary of state.**

(b) A dealer who is injured by an unfair practice set forth in IC 9-23-3 may sue for relief in a court of competent jurisdiction and may recover damages or may receive injunctive relief, or both, and may recover the cost of the suit, including reasonable attorney's fees: file a complaint or petition with the division.

(c) A dealer may not file a complaint or petition with the division based on an alleged violation of IC 9-23-3 or IC 9-23-5 by a manufacturer or distributor unless the dealer serves a demand for mediation upon the manufacturer or distributor:

- (1) before; or**
- (2) at the same time as;**

filing the complaint or petition. A demand for mediation must be in writing and served upon the manufacturer or distributor by certified mail at an address designated for the manufacturer or distributor in the licensor's records. The demand for mediation must contain a brief statement of the dispute and the relief sought by the dealer serving the demand.

(d) Not later than twenty (20) days after the date the demand for mediation is served under subsection (c), the parties shall mutually select an independent mediator and meet with the mediator for the purpose of attempting to resolve the dispute. The meeting place must be within Indiana at a location selected by the mediator. The mediator may extend the period in which the meeting must occur for good cause shown by either party or upon stipulation of the parties.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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