
HOUSE BILL No. 1222

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-5-1; IC 4-22-2-37.1; IC 9-13-2; IC 9-16-1-1; IC 9-17; IC 9-18; IC 9-22; IC 9-23; IC 9-29; IC 9-31; IC 9-32; IC 23-19-6-1; IC 24-4-6-1; IC 34-30-2-30; IC 35-51-9-1.

Synopsis: Dealer services division of the secretary of state. Establishes a dealer services division (division) within the office of the secretary of state, 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 of state 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. Specifies that a transfer dealer is not considered a dealer. Repeals and relocates language concerning vehicle 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.) Makes conforming amendments. Makes an appropriation.

Effective: July 1, 2012.

Yarde, Wolkins

January 9, 2012, read first time and referred to Committee on Roads and Transportation.

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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.

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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).**



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

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- 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):

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- 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.

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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

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- 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

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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 **(d) "Dealer", for purposes of IC 9-32-3, has the meaning set**
37 **forth in IC 9-32-3-1.**

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

42 SECTION 14. IC 9-13-2-44 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 44. (a) "Disposal
2 facility" means a person, firm, limited liability company, corporation,
3 or other legal entity that, in the course of business, engages in the
4 acquisition and dismantling or demolition of motor vehicles,
5 motorcycles, semitrailers, or recreational vehicles or their remains for
6 the benefit of reusable components and parts or recyclable materials.

7 (b) The term includes the following enterprises:

8 (1) An automotive salvage recycler.

9 (2) A hulk crusher.

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

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

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

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

26 SECTION 18. IC 9-13-2-53 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 53. "Fair market value",
28 for purposes of ~~IC 9-22-3~~, **IC 9-32**, has the meaning set forth in
29 ~~IC 9-22-3-2~~. **IC 9-32-1-13.**

30 SECTION 19. IC 9-13-2-66.5 IS ADDED TO THE INDIANA
31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2012]: **Sec. 66.5. "Flood damaged vehicle",**
33 **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-14.**

34 SECTION 20. IC 9-13-2-67 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 67. "Franchise", ~~means~~
36 ~~an oral or a written agreement for a definite or an indefinite period in~~
37 ~~which a manufacturer or distributor grants to a dealer a right to use a~~
38 ~~trade name, trade or service mark, or related characteristic, and in~~
39 ~~which there is a community of interest in the marketing of motor~~
40 ~~vehicles or related services at retail or otherwise.~~ **for purposes of**
41 **IC 9-32, has the meaning set forth in IC 9-32-1-15.**

42 SECTION 21. IC 9-13-2-68 IS AMENDED TO READ AS

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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 9-32-1-16.**

4 SECTION 22. 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 9-32-1-17.**

8 SECTION 23. 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 9-32-1-18.**

14 SECTION 24. 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 9-32-1-19.**

18 SECTION 25. 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 9-32-1-20.**

22 SECTION 26. 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 9-32-1-21.**

26 SECTION 27. 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
 39 term does not include a farm tractor.

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

42 (e) "Motor vehicle", for purposes of ~~IC 9-23-2~~ and ~~IC 9-23-3~~;

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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.

(g) "Motor vehicle", for purposes of IC 9-32-8, has the meaning set forth in IC 9-32-8-1.

SECTION 28. 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 29. IC 9-13-2-149 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 149. "Rebuilt vehicle" means a vehicle for which a certificate of title has been issued by the bureau under ~~IC 9-22-3~~ **IC 9-32-8** or for which a certificate of title has been issued by another state or jurisdiction under a similar procedure for the retitling of salvage motor vehicles.

SECTION 30. 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 9-32-1-22.

SECTION 31. 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 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

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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 9-32-1-23.**

6 SECTION 32. 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 9-32-1-24.**

10 SECTION 33. 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 9-32-1-25.**

14 SECTION 34. 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 9-32-1-26.**

18 SECTION 35. IC 9-13-2-160 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 160. "Salvage motor
20 vehicle" means any of the following:

21 (1) A motor vehicle, motorcycle, semitrailer, or recreational
22 vehicle that meets at least one (1) of the criteria set forth in
23 ~~IC 9-22-3-3~~. **IC 9-32-8-3.**

24 (2) A vehicle, ownership of which is evidenced by a salvage title
25 or by another ownership document of similar qualification and
26 limitation issued by a state or jurisdiction other than the state of
27 Indiana, and recognized by and acceptable to the bureau of motor
28 vehicles.

29 SECTION 36. IC 9-13-2-162 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 162. "Scrap metal
31 processor" means a private, commercial, or governmental enterprise
32 **having that engages in the acquisition of motor vehicles,**
33 **motorcycles, semitrailers, or recreational vehicles or the remains**
34 **of these vehicles and that has** facilities for processing iron, steel, or
35 nonferrous scrap and whose principal product is scrap iron, scrap steel,
36 or nonferrous scrap for sale for remelting purposes. ~~A scrap metal~~
37 ~~processor is not a disposal facility or a used parts dealer.~~

38 SECTION 37. IC 9-13-2-162.5 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2012]: **Sec. 162.5. "Secretary", for purposes**
41 **of IC 9-32, has the meaning set forth in IC 9-32-1-27.**

42 SECTION 38. IC 9-13-2-185 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 185. "Transfer dealer",
 2 means a person other than a dealer, manufacturer, or wholesale dealer
 3 who has the necessity of transferring a minimum of twelve (12) motor
 4 vehicles during a license year as part of the transfer dealer's primary
 5 business function: **for purposes of IC 9-32, has the meaning set forth**
 6 **in IC 9-32-1-28.**

7 SECTION 39. IC 9-13-2-191.5 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 191.5. "Uniform time
 9 standards manual", for purposes of ~~IC 9-23-3~~, **IC 9-32**, has the
 10 meaning set forth in ~~IC 9-23-3-0.5~~: **IC 9-32-1-29.**

11 SECTION 40. IC 9-13-2-195 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 195. "Used parts
 13 dealer", means a person who primarily buys, sells, barter, exchanges,
 14 or deals in used major component parts. The term does not include a
 15 scrap metal processor: **for purposes of IC 9-32, has the meaning set**
 16 **forth in IC 9-32-1-30.**

17 SECTION 41. IC 9-13-2-199 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 199. "Wholesale
 19 dealer", means a person who is engaged in the business of buying or
 20 selling motor vehicles for resale to other dealers, wholesale dealers,
 21 transfer dealers, or persons other than the general public: **for purposes**
 22 **of IC 9-32, has the meaning set forth in IC 9-32-1-31.**

23 SECTION 42. IC 9-16-1-1 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this
 25 chapter, "qualified person" means any of the following:

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

38 SECTION 43. IC 9-17-2-4 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. If a certificate of
 40 title:

- 41 (1) has been previously issued for a vehicle in Indiana, an
 42 application for a certificate of title must be accompanied by the

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

6 SECTION 44. IC 9-17-2-12 IS REPEALED [EFFECTIVE JULY 1,
 7 2012]. Sec. 12: (a) As used in this section, "dealer" refers to a dealer
 8 that has:

9 (1) been in business for not less than five (5) years; and
 10 (2) sold not less than one hundred fifty (150) motor vehicles
 11 during the preceding calendar year.

12 (b) This section does not apply to the following:

13 (1) A new motor vehicle or recreational vehicle sold by a dealer
 14 licensed by the state:

15 (2) A motor vehicle or recreational vehicle transferred or assigned
 16 on a certificate of title issued by the bureau:

17 (3) A motor vehicle that is registered under the International
 18 Registration Plan:

19 (4) A motor vehicle that is titled in the name of a financial
 20 institution, lending institution, or insurance company in Canada
 21 and imported by a registered importer, if:

22 (A) the registered importer complies with section 12.5(a) of
 23 this chapter; and

24 (B) section 12.5(d) of this chapter does not apply to the motor
 25 vehicle.

26 (5) A motor vehicle that is titled in another state and is in the
 27 lawful possession of a financial institution, a lending institution,
 28 or an insurance company, if:

29 (A) the financial institution, lending institution, or insurance
 30 company complies with section 12.5(b) of this chapter; and

31 (B) section 12.5(d) of this chapter does not apply to the motor
 32 vehicle.

33 (c) An application for a certificate of title for a motor vehicle or
 34 recreational vehicle may not be accepted by the bureau unless the
 35 motor vehicle or recreational vehicle has been inspected by one (1) of
 36 the following:

37 (1) An employee of a dealer designated by the secretary of state
 38 to perform an inspection:

39 (2) A military policeman assigned to a military post in Indiana:

40 (3) A police officer:

41 (4) A designated employee of the bureau:

42 (5) An employee of a qualified person operating under a contract

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1 with the commission under IC 9-16-1-4 for operation of a full
2 service license branch:

3 (6) An employee of a qualified person operating under a contract
4 with the commission under IC 9-16-1-4.5 for operation of a partial
5 service license branch:

6 (d) A person described in subsection (c) inspecting a motor vehicle;
7 semitrailer, or recreational vehicle shall do the following:

8 (1) Make a record of inspection upon the application form
9 prepared by the bureau:

10 (2) Verify the facts set out in the application:

11 SECTION 45. IC 9-17-2-12.5, AS ADDED BY P.L.131-2008,
12 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2012]: Sec. 12.5. (a) Except as provided in subsection (d), the
14 bureau may accept an application for a certificate of title for a motor
15 vehicle that is titled in the name of a financial institution, a lending
16 institution, or an insurance company in Canada and imported by a
17 registered importer without requiring an inspection under ~~section 12(c)~~
18 ~~of this chapter~~ **IC 9-32-3-1(c)** if the registered importer presents the
19 bureau with the following documentation relating to the motor vehicle:

20 (1) A copy of the registered importer's validation agreement
21 issued by the United States Customs and Border Protection
22 (CBP).

23 (2) A copy of the entry summary issued by the United States
24 Customs and Border Protection (CBP Form 7501).

25 (3) A vehicle history report issued by an independent provider of
26 vehicle history information that includes:

27 (A) the vehicle's title information;

28 (B) the vehicle's odometer readings; and

29 (C) the number of owners of the vehicle.

30 (b) Except as provided in subsection (d), the bureau may accept an
31 application for a certificate of title for a motor vehicle that is titled in
32 another state and is in the lawful possession of a financial institution,
33 a lending institution, or an insurance company if the financial
34 institution, lending institution, or insurance company presents to the
35 bureau a vehicle history report issued by an independent provider of
36 vehicle history information that includes:

37 (1) the motor vehicle's title information;

38 (2) the motor vehicle's odometer readings; and

39 (3) the number of owners of the motor vehicle.

40 (c) A:

41 (1) registered importer; or

42 (2) financial institution, a lending institution, or an insurance

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1 company;
2 must maintain a copy of all documentation required by this section for
3 at least ten (10) years.

4 (d) An inspection of a motor vehicle described in subsection (a) or
5 (b) is required under ~~section 12(c) of this chapter~~ **IC 9-32-3-1(c)** if:

- 6 (1) the registered importer; or
7 (2) the financial institution, lending institution, or insurance
8 company;

9 is unable to provide the bureau with the documentation required by this
10 section.

11 SECTION 46. IC 9-17-3-3 IS REPEALED [EFFECTIVE JULY 1,
12 2012]. ~~Sec. 3: (a) If a vehicle for which a certificate of title has been~~
13 ~~issued is sold or if the ownership of the vehicle is transferred in any~~
14 ~~manner other than by a transfer on death conveyance under section 9~~
15 ~~of this chapter; the person who holds the certificate of title must do the~~
16 ~~following:~~

17 (1) Endorse on the certificate of title an assignment of the
18 certificate of title with warranty of title; in a form printed on the
19 certificate of title; with a statement describing all liens or
20 encumbrances on the vehicle.

21 (2) Except as provided in subdivisions (4) and (5), deliver the
22 certificate of title to the purchaser or transferee at the time of the
23 sale or delivery to the purchaser or transferee of the vehicle; if the
24 purchaser or transferee has made all agreed upon initial payments
25 for the vehicle; including delivery of a trade-in vehicle without
26 hidden or undisclosed statutory liens.

27 (3) Unless the vehicle is being sold or transferred to a dealer
28 licensed under IC 9-23-2; complete all information concerning the
29 purchase on the certificate of title; including, but not limited to:

- 30 (A) the name and address of the purchaser; and
31 (B) the sale price of the vehicle.

32 (4) In the case of a sale or transfer between vehicle dealers
33 licensed by this state or another state; deliver the certificate of
34 title within twenty-one (21) days after the date of the sale or
35 transfer.

36 (5) Deliver the certificate of title to the purchaser or transferee
37 within twenty-one (21) days after the date of sale or transfer to the
38 purchaser or transferee of the vehicle; if all of the following
39 conditions exist:

- 40 (A) The seller or transferor is a vehicle dealer licensed by the
41 state under IC 9-23.
42 (B) The vehicle dealer is not able to deliver the certificate of

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1 title at the time of sale or transfer.
 2 (C) The vehicle dealer reasonably believes that it will be able
 3 to deliver the certificate of title, without a lien or an
 4 encumbrance on the certificate of title, within the twenty-one
 5 (21) day period.
 6 (D) The vehicle dealer provides the purchaser or transferee
 7 with an affidavit under section 3.1 of this chapter.
 8 (E) The purchaser or transferee has made all agreed upon
 9 initial payments for the vehicle, including delivery of a
 10 trade-in vehicle without hidden or undisclosed statutory liens.
 11 (b) A licensed dealer may offer for sale a vehicle for which the
 12 dealer does not possess a certificate of title, if the dealer can comply
 13 with subsection (a)(4) or (a)(5) at the time of the sale.
 14 (c) A vehicle dealer who fails to deliver a certificate of title within
 15 the time specified under this section is subject to the following civil
 16 penalties:
 17 (1) One hundred dollars (\$100) for the first violation.
 18 (2) Two hundred fifty dollars (\$250) for the second violation.
 19 (3) Five hundred dollars (\$500) for all subsequent violations.
 20 Payment shall be made to the secretary of state and deposited in the
 21 state general fund. In addition, if a purchaser or transferee does not
 22 receive a valid certificate of title within the time specified by this
 23 section, the purchaser or transferee shall have the right to return the
 24 vehicle to the vehicle dealer ten (10) days after giving the vehicle
 25 dealer written notice demanding delivery of a valid certificate of title
 26 and the dealer's failure to deliver a valid certificate of title within that
 27 ten (10) day period. Upon return of the vehicle to the dealer in the same
 28 or similar condition as delivered to the purchaser or transferee under
 29 this section, the vehicle dealer shall pay to the purchaser or transferee
 30 the purchase price plus sales taxes, finance expenses, insurance
 31 expenses, and any other amount paid to the dealer by the purchaser.
 32 (d) For purposes of this subsection, "timely deliver", with respect to
 33 a third party, means to deliver to the purchaser or transferee with a
 34 postmark dated or hand delivered not more than ten (10) business days
 35 after there is no obligation secured by the vehicle. If the dealer's
 36 inability to timely deliver a valid certificate of title results from the acts
 37 or omissions of a third party who has failed to timely deliver a valid
 38 certificate of title to the dealer, the dealer is entitled to claim against
 39 the third party one hundred dollars (\$100). If:
 40 (1) the dealer's inability to timely deliver a valid certificate of title
 41 results from the acts or omissions of a third party who has failed
 42 to timely deliver the certificate of title in the third party's

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1 possession to the dealer; and
 2 (2) the failure continues for ten (10) business days after the dealer
 3 gives the third party written notice of the failure;
 4 the dealer is entitled to claim against the third party all damages
 5 sustained by the dealer in rescinding the dealer's sale with the
 6 purchaser or transferee, including the dealer's reasonable attorney's
 7 fees.

8 (e) If a vehicle for which a certificate of title has been issued by
 9 another state is sold or delivered, the person selling or delivering the
 10 vehicle must deliver to the purchaser or receiver of the vehicle a proper
 11 certificate of title with an assignment of the certificate of title in a form
 12 prescribed by the bureau.

13 (f) The original certificate of title and all assignments and
 14 subsequent reissues of the certificate of title shall be retained by the
 15 bureau and appropriately classified and indexed in the most convenient
 16 manner to trace title to the vehicle described in the certificate of title.

17 (g) A dealer shall make payment to a third party to satisfy any
 18 obligation secured by the vehicle within five (5) days after the date of
 19 sale.

20 SECTION 47. IC 9-17-3-3.1 IS REPEALED [EFFECTIVE JULY
 21 1, 2012]. Sec. 3-1: The affidavit required by section 3(a)(5) of this
 22 chapter shall be printed in the following form:

23 STATE OF INDIANA)
 24) ss:
 25 COUNTY OF _____)

26 I affirm under the penalties for perjury that all of the following are
 27 true:

- 28 (1) That I am a dealer licensed under IC 9-23;
 29 (2) That I cannot deliver a valid certificate of title to the retail
 30 purchaser of the vehicle described in paragraph (3) at the time of
 31 sale of the vehicle to the retail purchaser. The identity of the
 32 previous seller or transferor is _____;
 33 Payoff of lien was made on (date) _____. I expect to deliver a
 34 valid and transferable certificate of title not later than
 35 (date) _____ from the (State of) _____ to the
 36 purchaser.
 37 (3) That I will undertake reasonable commercial efforts to
 38 produce the valid certificate of title. The vehicle identification
 39 number is _____.

40 Signed _____, Dealer
 41 By _____
 42 Dated _____, _____

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1 CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS
2 AFFIDAVIT:

3 _____
4 Customer Signature

5 NOTICE TO THE CUSTOMER

6 If you do not receive a valid certificate of title within the time
7 specified by this affidavit, you have the right to return the vehicle to the
8 vehicle dealer ten (10) days after giving the vehicle dealer written
9 notice demanding delivery of a valid certificate of title and after the
10 vehicle dealer's failure to deliver a valid certificate of title within that
11 ten (10) day period. Upon return of the vehicle to the vehicle dealer in
12 the same or similar condition as when it was delivered to you, the
13 vehicle dealer shall pay you the purchase price plus sales taxes, finance
14 expenses, insurance expenses, and any other amount that you paid to
15 the vehicle dealer.

16 If a lien is present on the previous owner's certificate of title, it is the
17 responsibility of the third party lienholder to timely deliver the
18 certificate of title in the third party's possession to the dealer not more
19 than ten (10) business days after there is no obligation secured by the
20 vehicle. If the dealer's inability to deliver a valid certificate of title to
21 you within the above-described ten (10) day period results from the
22 acts or omissions of a third party who has failed to timely deliver the
23 certificate of title in the third party's possession to the dealer, the dealer
24 may be entitled to claim against the third party the damages allowed by
25 law.

26 SECTION 48. IC 9-17-3-7, AS AMENDED BY P.L.131-2008,
27 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2012]: Sec. 7. (a) This section does not apply to section 5 of
29 this chapter.

30 (b) Except as provided in subsection (c), A person who violates this
31 chapter commits a Class C infraction.

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

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

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

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

37 (B) a Class D felony for the second violation or any
38 subsequent violation.

39 SECTION 49. IC 9-17-3-8 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. The bureau shall
41 adopt rules under IC 4-22-2 that:

42 (1) enable the owner of a motor vehicle titled in Indiana to

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- 1 determine:
- 2 (A) whether that motor vehicle has previously been titled in
- 3 Indiana; and
- 4 (B) if the motor vehicle has previously been titled in Indiana,
- 5 whether the title was issued under ~~IC 9-22-3~~; **IC 9-32-8-4**; and
- 6 (2) impose a service charge under IC 9-29-3-19 for services
- 7 performed by the bureau under this section.

8 SECTION 50. IC 9-17-6-4 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. If a certificate of
 10 title:

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

17 SECTION 51. IC 9-17-8 IS REPEALED [EFFECTIVE JULY 1,
 18 2012]. (Manufacturers, Converter Manufacturers, and Dealers;
 19 Manufacturers' Certificates of Origin).

20 SECTION 52. IC 9-18-2-26, AS AMENDED BY P.L.184-2011,
 21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2012]: Sec. 26. (a) License plates shall be displayed as
 23 follows:

- 24 (1) For a motorcycle, trailer, semitrailer, or recreational vehicle,
- 25 upon the rear of the vehicle, except as provided in subdivision (4).
- 26 (2) For a tractor or dump truck, upon the front of the vehicle.
- 27 (3) For every other vehicle, upon the rear of the vehicle, except as
- 28 provided in subdivision (4).
- 29 (4) For a truck with a rear mounted forklift or a mechanism to
- 30 carry a rear mounted forklift or implement, upon the front of the
- 31 vehicle.

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

- 34 (1) to prevent the license plate from swinging;
- 35 (2) at a height of at least twelve (12) inches from the ground,
- 36 measuring from the bottom of the license plate;
- 37 (3) in a place and position that are clearly visible;
- 38 (4) maintained free from foreign materials and in a condition to
- 39 be clearly legible; and
- 40 (5) not obstructed or obscured by tires, bumpers, accessories, or
- 41 other opaque objects.

42 **An interim license plate must be displayed in the manner required**

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1 **by IC 9-32-5-11(f).**
 2 (c) The bureau may adopt rules the bureau considers advisable to
 3 enforce the proper mounting and securing of license plates on vehicles
 4 consistent with this chapter.
 5 SECTION 53. IC 9-18-26 IS REPEALED [EFFECTIVE JULY 1,
 6 2012]. (Dealer License Plates).
 7 SECTION 54. IC 9-22-3 IS REPEALED [EFFECTIVE JULY 1,
 8 2012]. (Salvage Motor Vehicles).
 9 SECTION 55. IC 9-22-4 IS REPEALED [EFFECTIVE JULY 1,
 10 2012]. (Licensing of Vehicle Salvaging).
 11 SECTION 56. IC 9-22-5-17 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. A person who
 13 recklessly violates section 14, ~~or~~ 15, **or 16** of this chapter commits a
 14 Class A misdemeanor.
 15 SECTION 57. IC 9-23-0.7 IS REPEALED [EFFECTIVE JULY 1,
 16 2012]. (Delegation of the Rights, Duties, and Obligations of the
 17 Secretary of State).
 18 SECTION 58. IC 9-23-2 IS REPEALED [EFFECTIVE JULY 1,
 19 2012]. (Regulation of Vehicle Merchandising).
 20 SECTION 59. IC 9-23-2.5 IS REPEALED [EFFECTIVE JULY 1,
 21 2012]. (Disclosures Required in Motor Vehicle Leases).
 22 SECTION 60. IC 9-23-3 IS REPEALED [EFFECTIVE JULY 1,
 23 2012]. (Unfair Practices).
 24 SECTION 61. IC 9-23-4 IS REPEALED [EFFECTIVE JULY 1,
 25 2012]. (Damage to New Motor Vehicles).
 26 SECTION 62. IC 9-23-5 IS REPEALED [EFFECTIVE JULY 1,
 27 2012]. (Succession to Franchise by Designated Family Members).
 28 SECTION 63. IC 9-23-6 IS REPEALED [EFFECTIVE JULY 1,
 29 2012]. (Penalties and Remedies).
 30 SECTION 64. IC 9-29-4-2 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. A person described
 32 in subdivision (3) who makes an inspection under ~~IC 9-17-2-12~~
 33 **IC 9-32-3-1(c)** may charge a fee. A fee charged under this section is
 34 subject to the following:
 35 (1) The fee must be established by ordinance adopted by the unit
 36 (as defined in IC 36-1-2-23).
 37 (2) The fee may not exceed five dollars (\$5).
 38 (3) The revenue from the inspection fee shall be deposited in the
 39 following manner:
 40 (A) A special vehicle inspection fund if the person making the
 41 inspection is a member of the county sheriff's department. The
 42 fiscal body of the unit must appropriate the money from the

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1 inspection fund only for law enforcement purposes.

2 (B) A local law enforcement continuing education fund
3 established by IC 5-2-8-2 if the person making the inspection
4 is a member of a city or town police department, a town
5 marshal, or a town marshal deputy.

6 SECTION 65. IC 9-29-5-14 IS REPEALED [EFFECTIVE JULY 1,
7 2012]. Sec. 14: (a) The fee for the first two (2) sets of license plates for
8 a manufacturer or dealer is forty dollars (\$40):

9 (b) The fee for each additional set of license plates for a
10 manufacturer or dealer is fifteen dollars (\$15):

11 SECTION 66. IC 9-29-5-14.5 IS REPEALED [EFFECTIVE JULY
12 1, 2012]. Sec. 14.5: The fee for a research and development license
13 plate for a manufacturer of a vehicle subcomponent system under
14 IC 9-18-26-2.5(a) is twenty dollars (\$20). There is no fee in addition to
15 the regular registration fee for a research and development license plate
16 for a manufacturer of a vehicle subcomponent system.

17 SECTION 67. IC 9-29-5-15 IS REPEALED [EFFECTIVE JULY 1,
18 2012]. Sec. 15: (a) The fee for the first two (2) sets of license plates for
19 a manufacturer or dealer of motorcycles is fifteen dollars (\$15):

20 (b) The fee for each additional set of license plates for a motorcycle
21 manufacturer or dealer is seven dollars and fifty cents (\$7.50):

22 SECTION 68. IC 9-29-5-39 IS REPEALED [EFFECTIVE JULY 1,
23 2012]. Sec. 39: The fee for the issuance of an interim dealer license
24 plate under IC 9-18-26 is one dollar (\$1):

25 SECTION 69. IC 9-29-5-43 IS REPEALED [EFFECTIVE JULY 1,
26 2012]. Sec. 43: (a) Except as otherwise provided by this chapter,
27 subsection (b); subsection (c); and IC 9-29-1-2, registration fees
28 collected under this chapter shall be paid into the state general fund for
29 credit to the motor vehicle highway account:

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

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

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

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

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

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

41 SECTION 70. IC 9-29-7-2 IS REPEALED [EFFECTIVE JULY 1,
42 2012]. Sec. 2: The fee to obtain a copy of an affidavit filed under

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- 1 IC 9-22-3 is two dollars (\$2);
 2 SECTION 71. IC 9-29-7-2.3 IS REPEALED [EFFECTIVE JULY
 3 1, 2012]. Sec. 2-3: (a) The fee for a certificate of salvage title is four
 4 dollars (\$4).
 5 (b) The fee for a delinquent certificate of salvage title is ten dollars
 6 (\$10). The bureau shall collect this fee if:
 7 (1) a purchaser or transferee fails to apply for a certificate of
 8 salvage title or a transfer of title, by assignment, not later than
 9 thirty-one (31) days after the salvage motor vehicle is purchased
 10 or otherwise acquired; or
 11 (2) the owner of a salvage motor vehicle retains possession of the
 12 salvage motor vehicle and the owner fails to apply for a certificate
 13 of salvage title not later than thirty-one (31) days after the
 14 settlement of loss with the insurance company.
 15 SECTION 72. IC 9-29-7-2.5 IS REPEALED [EFFECTIVE JULY
 16 1, 2012]. Sec. 2-5: The fee for a duplicate certificate of salvage title is
 17 four dollars (\$4).
 18 SECTION 73. IC 9-29-7-3 IS REPEALED [EFFECTIVE JULY 1,
 19 2012]. Sec. 3: The fee for an original license under IC 9-22-4 is ten
 20 dollars (\$10).
 21 SECTION 74. IC 9-29-7-4 IS REPEALED [EFFECTIVE JULY 1,
 22 2012]. Sec. 4: The fee for a supplemental license under IC 9-22-4 is
 23 five dollars (\$5).
 24 SECTION 75. IC 9-29-7-5 IS REPEALED [EFFECTIVE JULY 1,
 25 2012]. Sec. 5: The fee for a renewal license under IC 9-22-4 is ten
 26 dollars (\$10).
 27 SECTION 76. IC 9-29-7-6 IS REPEALED [EFFECTIVE JULY 1,
 28 2012]. Sec. 6: A licensing fee that is submitted with an application
 29 under IC 9-22-4 shall be returned to the applicant if the application is
 30 rejected by the secretary of state.
 31 SECTION 77. IC 9-29-7-7 IS REPEALED [EFFECTIVE JULY 1,
 32 2012]. Sec. 7: The revenues from the:
 33 (1) certificate of salvage titles collected under IC 9-22-3; and
 34 (2) license fees collected under IC 9-22-4;
 35 shall be deposited in the motor vehicle highway account.
 36 SECTION 78. IC 9-29-8 IS REPEALED [EFFECTIVE JULY 1,
 37 2012]. (Fees Under IC 9-23).
 38 SECTION 79. IC 9-29-15-7 IS REPEALED [EFFECTIVE JULY 1,
 39 2012]. Sec. 7: (a) The fees under IC 9-31-4 for a boat dealer's license
 40 for each full year are as follows:
 41 (1) For a Class A dealer, thirty dollars (\$30) for the first place of
 42 business; plus ten dollars (\$10) for each additional location.

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1 (2) For a Class B dealer, twenty dollars (\$20).

2 (b) The secretary of state retains the fees collected under subsection
3 (a).

4 SECTION 80. IC 9-29-15-8 IS REPEALED [EFFECTIVE JULY 1,
5 2012]. Sec. 8: (a) The fee for a change of business name or location
6 under IC 9-31-4-4 is five dollars (\$5):

7 (b) The fee is retained by the secretary of state.

8 SECTION 81. IC 9-29-17 IS ADDED TO THE INDIANA CODE
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2012]:

11 **Chapter 17. Fees Under IC 9-32**

12 **Sec. 1. (a) The fee for the first two (2) sets of license plates under**
13 **IC 9-32-5-1 for a manufacturer or dealer is forty dollars (\$40).**

14 **(b) The fee for each additional set of license plates under**
15 **IC 9-32-5-5 for a manufacturer or dealer is fifteen dollars (\$15).**

16 **(c) The secretary of state retains the fees collected under**
17 **subsections (a) and (b).**

18 **Sec. 2. (a) The fee for a research and development license plate**
19 **for a manufacturer of a vehicle subcomponent system under**
20 **IC 9-32-5-3 is twenty dollars (\$20). There is no fee in addition to**
21 **the regular registration fee for a research and development license**
22 **plate for a manufacturer of a vehicle subcomponent system.**

23 **(b) The secretary of state retains the fees collected under**
24 **subsection (a).**

25 **Sec. 3. (a) The fee for the first two (2) sets of license plates under**
26 **IC 9-32-5-1 for a manufacturer or dealer of motorcycles is fifteen**
27 **dollars (\$15).**

28 **(b) The fee for each additional set of license plates under**
29 **IC 9-32-5-5 for a motorcycle manufacturer or dealer is seven**
30 **dollars and fifty cents (\$7.50).**

31 **(c) The secretary of state retains the fees collected under**
32 **subsections (a) and (b).**

33 **Sec. 4. (a) The fee for the issuance of an interim dealer license**
34 **plate under IC 9-32-5-11 is one dollar (\$1).**

35 **(b) The secretary of state retains the fees collected under**
36 **subsection (a).**

37 **Sec. 5. (a) The fees under IC 9-32-7-2 for a boat dealer's license**
38 **for each full year are as follows:**

39 **(1) For a Class A dealer, thirty dollars (\$30) for the first place**
40 **of business, plus ten dollars (\$10) for each additional location.**

41 **(2) For a Class B dealer, twenty dollars (\$20).**

42 **(b) The secretary of state retains the fees collected under**

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1 subsection (a).
 2 Sec. 6. (a) The fee for a change of business name or location
 3 under IC 9-32-7-4 is five dollars (\$5).
 4 (b) The secretary of state retains the fees collected under
 5 subsection (a).
 6 Sec. 7. The fee to obtain a copy of an affidavit filed under
 7 IC 9-32-8 is two dollars (\$2).
 8 Sec. 8. (a) The fee for a certificate of salvage title under
 9 IC 9-32-8 is four dollars (\$4).
 10 (b) The fee for a delinquent certificate of salvage title under
 11 IC 9-32-8 is ten dollars (\$10). The bureau shall collect this fee if:
 12 (1) a purchaser or transferee fails to apply for a certificate of
 13 salvage title or a transfer of title, by assignment, not later
 14 than thirty-one (31) days after the salvage motor vehicle is
 15 purchased or otherwise acquired; or
 16 (2) the owner of a salvage motor vehicle retains possession of
 17 the salvage motor vehicle and the owner fails to apply for a
 18 certificate of salvage title not later than thirty-one (31) days
 19 after the settlement of loss with the insurance company.
 20 (c) The fee for a duplicate certificate of salvage title under
 21 IC 9-32-8 is four dollars (\$4).
 22 Sec. 9. (a) The fee for an original license under IC 9-32-9 is ten
 23 dollars (\$10).
 24 (b) The fee for a supplemental license under IC 9-32-9 is five
 25 dollars (\$5).
 26 (c) The fee for a renewal license under IC 9-32-9 is ten dollars
 27 (\$10).
 28 (d) A licensing fee that is submitted with an application under
 29 IC 9-32-9 shall be returned to the applicant if the application is
 30 rejected by the secretary of state.
 31 Sec. 10. The fee for a license for a manufacturer or a distributor
 32 under IC 9-32-11-1 is thirty-five dollars (\$35), including a factory
 33 branch as set forth in IC 9-13-2-97(b)(1). The fees collected shall be
 34 deposited as set forth in IC 9-32-6-3.
 35 Sec. 11. The fee for a license for a dealer or an automobile
 36 auctioneer under IC 9-32-11-1 is:
 37 (1) thirty dollars (\$30) for the first place of business; and
 38 (2) an additional ten dollars (\$10) for each location not
 39 immediately adjacent to the first place of business.
 40 The fees collected shall be deposited as set forth in IC 9-32-6-3.
 41 Sec. 12. The fee for a factory representative, a distributor
 42 representative, a wholesale dealer, a transfer dealer, a converter

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1 manufacturer, or an automotive mobility dealer under
 2 IC 9-32-11-1 is twenty dollars (\$20). The fee for an automotive
 3 mobility dealer who:

4 (1) buys or sells vehicles, or both;

5 (2) sells, installs, or services, offers to sell, install, or service,
 6 or solicits or advertises the sale, installation, or servicing of
 7 equipment or modifications specifically designed to facilitate
 8 use or operation of a vehicle by an individual who is disabled
 9 or aged; or

10 (3) performs acts described in both subdivisions (1) and (2);
 11 is twenty dollars (\$20). The fees collected shall be deposited as set
 12 forth in IC 9-32-6-3.

13 Sec. 13. The fee for a business name or location change under
 14 IC 9-32-11-4 is five dollars (\$5).

15 Sec. 14. The license fee for each offsite license issued under
 16 IC 9-32-11-9 is twenty-five dollars (\$25).

17 Sec. 15. The permit fee for a special event permit issued under
 18 IC 9-32-11-16 is two hundred fifty dollars (\$250).

19 Sec. 16. (a) Except as otherwise provided in subsection (b),
 20 subsection (c), and IC 9-29-1-2, registration fees collected under
 21 IC 9-32 and fees collected under sections 8 through 9 of this
 22 chapter shall be paid into the state general fund for credit to the
 23 motor vehicle highway account.

24 (b) Fees collected under this chapter for license plates issued
 25 under IC 9-32-5 by the secretary of state shall be deposited as
 26 follows:

27 (1) Thirty percent (30%) to the dealer compliance account
 28 established by IC 9-32-6-1.

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

31 (c) Notwithstanding subsection (b), fees collected under this
 32 chapter for interim license plates issued under IC 9-32-5-11 by the
 33 secretary of state shall be deposited as follows:

34 (1) Ninety percent (90%) to the dealer compliance account
 35 established by IC 9-32-6-1.

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

38 Sec. 17. The revenue from the:

39 (1) certificate of salvage titles collected under IC 9-32-8; and

40 (2) license fees collected under IC 9-32-9;

41 shall be deposited in the motor vehicle highway account.

42 Sec. 18. The revenue from sections 13 through 15 of this chapter
 shall be deposited in the dealer compliance account established by

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IC 9-32-6-1.

SECTION 82. IC 9-31-3-5, AS AMENDED BY P.L.106-2008, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. A motorboat that has never been registered in Indiana and that is purchased from a dealer licensed by the secretary of state under ~~IC 9-31-4~~ **IC 9-32-7** may be operated on the waters of Indiana for a period of thirty-one (31) days from the date of purchase if the operator has in the operator's possession the following:

- (1) A bill of sale from the dealer giving the purchaser's name and address, the date of purchase, and the make and type of boat or the hull identification number.
- (2) A temporary permit displayed on the forward portion of the boat, as provided in section 6 of this chapter.

SECTION 83. IC 9-31-3-19, AS AMENDED BY P.L.106-2008, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. A dealer licensed by the secretary of state under ~~IC 9-31-4~~ **IC 9-32-7-2** may, upon application to the secretary of state, obtain a certificate of number for use in the testing or demonstrating of motorboats upon payment of the fee prescribed under IC 9-29-15-6 for each registration number. The secretary of state shall issue one (1) plate for each certificate of number assigned under this section. The plate must be displayed within a boat that is being tested or demonstrated while the boat is being tested or demonstrated.

SECTION 84. IC 9-31-4 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Boat Dealers).

SECTION 85. IC 9-32 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

ARTICLE 32. DEALER SERVICES**Chapter 1. Definitions**

Sec. 1. The definitions in this chapter apply throughout this article.

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

Sec. 3. "Advisory board" means the motor vehicle advisory board established by IC 9-32-10-1.

Sec. 4. "Automobile auctioneer" means a person who is engaged in providing a place of business or facilities for the purchase and sale of more than six (6) motor vehicles, on the basis of bids by

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1 persons acting for themselves or others, per calendar year. The
 2 term includes an auctioneer that as part of the business of the
 3 auctioneer participates in providing a place of business or facilities
 4 for the purchase and sale of motor vehicles on the basis of bids by
 5 persons acting for themselves or others. The term does not include
 6 a person acting only as an auctioneer under IC 25-6.1-1.

7 Sec. 5. "Automotive salvage rebuilder" means a person, firm,
 8 limited liability company, corporation, or other legal entity
 9 engaged in the business:

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

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

- 17 (1) a dealer or an employee of a dealer;
 18 (2) a distributor or an employee of a distributor; or
 19 (3) at any point in the transaction, the bona fide owner of the
 20 vehicle involved in the transaction.

21 Sec. 7. (a) "Capitalized cost" means the amount that, after
 22 deducting any capitalized cost reduction, serves as the basis for
 23 determining the base lease payment, which is the part of the
 24 periodic lease payment that is the sum of:

- 25 (1) the average periodic lease charge; and
 26 (2) the average periodic depreciation.

27 (b) For a single payment lease, the base lease payment is the sum
 28 of:

- 29 (1) the average periodic lease charge multiplied by the
 30 number of months in the term of the lease; and
 31 (2) the average periodic depreciation multiplied by the
 32 number of months in the term of the lease.

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

- 34 (1) Taxes.
 35 (2) Registration fees.
 36 (3) License fees.
 37 (4) Insurance charges.
 38 (5) Charges for guaranteed auto protection or GAP coverage.
 39 (6) Charges for service contracts and extended warranties.
 40 (7) Fees and charges for accessories and for installing
 41 accessories.
 42 (8) Charges for delivery, service, and repair.

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- 1 **(9) Administrative fees, acquisition fees, and all fees or**
- 2 **charges for providing services incidental to the lease**
- 3 **agreement.**
- 4 **(10) The unpaid balance of an amount financed under an**
- 5 **outstanding motor vehicle loan agreement or motor vehicle**
- 6 **retail installment contract with respect to a motor vehicle**
- 7 **used as a trade-in vehicle.**
- 8 **(11) The unpaid part of the early termination obligation**
- 9 **under an outstanding lease agreement.**
- 10 **(12) The first periodic payment due at the inception of the**
- 11 **lease agreement, if not otherwise paid by the retail lessee.**
- 12 **Sec. 8. "Capitalized cost reduction" means a payment made by**
- 13 **cash, check, credit card debit, net vehicle trade-in, rebate, or other**
- 14 **similar means in the nature of a down payment or credit, made by**
- 15 **a retail lessee at the inception of a lease agreement, for the purpose**
- 16 **of reducing the capitalized cost and does not include any periodic**
- 17 **payments received by the retail lessor at the inception of the lease**
- 18 **agreement.**
- 19 **Sec. 9. "Charge back" means a manufacturer induced return of**
- 20 **incentive payments to a manufacturer by a dealer. The term**
- 21 **includes a manufacturer drawing funds from an account of a**
- 22 **dealer.**
- 23 **Sec. 10. "Director" means the director of the dealer services**
- 24 **division within the office of the secretary of state appointed under**
- 25 **IC 4-5-1-12(b).**
- 26 **Sec. 11. "Division" means the dealer services division within the**
- 27 **office of the secretary of state established by IC 4-5-1-12(a).**
- 28 **Sec. 12. "Existing franchise" means the franchise in effect on the**
- 29 **date of a franchisee's death or incapacity.**
- 30 **Sec. 13. "Fair market value" means:**
- 31 **(1) the average trade-in value found in the National**
- 32 **Automobile Dealers Association (NADA) Official Used Car**
- 33 **Guide, vehicle valuations determined by CCC Information**
- 34 **Services, Inc. (CCC), or valuations determined by other**
- 35 **authorities approved by the bureau; or**
- 36 **(2) the fair market value determined by the bureau under**
- 37 **IC 9-32-8-3.**
- 38 **Sec. 14. (a) "Flood damaged vehicle" means a passenger motor**
- 39 **vehicle that satisfies either of the following:**
- 40 **(1) The vehicle has been acquired by an insurance company**
- 41 **as part of a damage settlement due to water damage.**
- 42 **(2) The vehicle has been submerged in water to the point that**

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1 rising water has reached over the door sill, has entered the
 2 passenger or trunk compartment, and has exposed any
 3 electrical, computerized, or mechanical component to water.
 4 (b) The term does not include a passenger motor vehicle that an
 5 inspection conducted by an insurance adjuster or estimator, a
 6 motor vehicle repairer, or a motor vehicle dealer determines:
 7 (1) has no electrical, computerized, or mechanical components
 8 that were damaged by water; or
 9 (2) has one (1) or more electrical, computerized, or
 10 mechanical components that were damaged by water, and all
 11 such damaged components have been repaired or replaced.
 12 Sec. 15. "Franchise" means an oral or a written agreement for
 13 a definite or an indefinite period in which a manufacturer or
 14 distributor grants to a dealer a right to use a trade name, trade or
 15 service mark, or related characteristic, and in which there is a
 16 community of interest in the marketing of motor vehicles or related
 17 services at retail or otherwise.
 18 Sec. 16. "Franchisee" means a dealer to whom a franchise is
 19 granted.
 20 Sec. 17. "Franchisor" means a manufacturer or distributor who
 21 grants a franchise to a dealer.
 22 Sec. 18. "Labor rate" means the hourly labor rate charged by
 23 a franchisee for service, filed periodically with the division as the
 24 division may require, and posted prominently in the franchisee's
 25 service department.
 26 Sec. 19. "Lease agreement" means a written agreement entered
 27 into in Indiana for the transfer from a retail lessor to a retail lessee
 28 of the right to possess and use a motor vehicle in exchange for
 29 consideration for a scheduled term exceeding four (4) months,
 30 whether or not the retail lessee has the option to purchase or
 31 otherwise become the owner of the motor vehicle upon expiration
 32 of the agreement. The term does not include an agreement that
 33 covers an absolute sale, a sale pending approval, or a retail
 34 installment sale.
 35 Sec. 20. "Lease transaction" means a presentation made to a
 36 retail lessee concerning a motor vehicle, including a sales
 37 presentation or a document presented to the retail lessee, resulting
 38 in the execution of a lease agreement.
 39 Sec. 21. "Material fact" includes, but is not limited to:
 40 (1) the misinformation or omission of any information to the
 41 division; or
 42 (2) any misinformation or omission of any information to a

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consumer in the course of an offer of sale.

Sec. 22. "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. 23. "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.

Sec. 24. "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. 25. "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. 26. "Sale" includes every contract of sale, contract to sell,

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1 or disposition of a motor vehicle or interest in a motor vehicle for
2 value.

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

5 Sec. 28. "Transfer dealer" means a person other than a dealer,
6 manufacturer, or wholesale dealer who has the necessity of
7 transferring at least twelve (12) motor vehicles during a license
8 year as part of the transfer dealer's primary business function.

9 Sec. 29. "Uniform time standards manual" means a schedule
10 established by a manufacturer or distributor setting forth the time
11 allowances for the diagnosis and performance of warranty work
12 and service.

13 Sec. 30. "Used parts dealer" means a person who primarily
14 buys, sells, barter, exchanges, or deals in used major component
15 parts. The term does not include a scrap metal processor.

16 Sec. 31. "Wholesale dealer" means a person who is engaged in
17 the business of buying or selling motor vehicles for resale to other
18 dealers, wholesale dealers, transfer dealers, or persons other than
19 the general public.

20 Chapter 2. Powers and Duties of the Division

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

- 23 (1) the director; or
- 24 (2) another designee under the supervision and control of the
25 secretary.

26 The individual delegated has the authority to adopt and enforce
27 rules under IC 4-22-2 as the secretary under IC 4-5-1-11. The
28 secretary may also adopt emergency rules under IC 4-22-2-37.1 to
29 carry out the secretary's duties under this article.

30 Sec. 2. The secretary shall do the following:

- 31 (1) Administer and enforce:
 - 32 (A) this article concerning the division; and
 - 33 (B) the policies and procedures of the division.
- 34 (2) Organize the division in the manner necessary to carry out
35 the duties of the division.
- 36 (3) Perform other duties as required by the division.

37 Chapter 3. Obtaining, Expiration, Replacement, and Transfer
38 of Certificate of Title

39 Sec. 1. (a) As used in this section, "dealer" refers to a dealer that
40 has:

- 41 (1) been in business for at least five (5) years; and
- 42 (2) sold at least one hundred fifty (150) motor vehicles during

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1 the preceding calendar year.

2 (b) This section does not apply to the following:

3 (1) A new motor vehicle or recreational vehicle sold by a
4 dealer licensed by the state.

5 (2) A motor vehicle or recreational vehicle transferred or
6 assigned on a certificate of title issued by the bureau.

7 (3) A motor vehicle that is registered under the International
8 Registration Plan.

9 (4) A motor vehicle that is titled in the name of a financial
10 institution, lending institution, or insurance company in
11 Canada and imported by a registered importer, if:

12 (A) the registered importer complies with
13 IC 9-17-2-12.5(a); and

14 (B) IC 9-17-2-12.5(d) does not apply to the motor vehicle.

15 (5) A motor vehicle that is titled in another state and is in the
16 lawful possession of a financial institution, a lending
17 institution, or an insurance company, if:

18 (A) the financial institution, lending institution, or
19 insurance company complies with IC 9-17-2-12.5(b); and

20 (B) IC 9-17-2-12.5(d) does not apply to the motor vehicle.

21 (c) An application for a certificate of title for a motor vehicle or
22 recreational vehicle may not be accepted by the bureau unless the
23 motor vehicle or recreational vehicle has been inspected by one (1)
24 of the following:

25 (1) An employee of a dealer designated by the secretary to
26 perform an inspection.

27 (2) A military police officer assigned to a military post in
28 Indiana.

29 (3) A police officer.

30 (4) A designated employee of the bureau.

31 (d) A person described in subsection (c) inspecting a motor
32 vehicle, semitrailer, or recreational vehicle shall do the following:

33 (1) Make a record of inspection upon the application form
34 prepared by the bureau.

35 (2) Verify the facts set out in the application.

36 Sec. 2. (a) If a vehicle for which a certificate of title has been
37 issued is sold or if the ownership of the vehicle is transferred in any
38 manner other than by a transfer on death conveyance under
39 IC 9-17-3-9, the person who holds the certificate of title must do
40 the following:

41 (1) Endorse on the certificate of title an assignment of the
42 certificate of title with warranty of title, in a form printed on

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1 the certificate of title, with a statement describing all liens or
2 encumbrances on the vehicle.

3 (2) Except as provided in subdivisions (4) and (5), deliver the
4 certificate of title to the purchaser or transferee at the time of
5 the sale or delivery to the purchaser or transferee of the
6 vehicle, if the purchaser or transferee has made all agreed
7 upon initial payments for the vehicle, including delivery of a
8 trade-in vehicle without hidden or undisclosed statutory liens.

9 (3) Complete all information concerning the purchase on the
10 certificate of title, including, but not limited to:

11 (A) the name and address of the purchaser; and

12 (B) the sale price of the vehicle.

13 (4) In the case of a sale or transfer between vehicle dealers
14 licensed by this state or another state, deliver the certificate
15 of title within twenty-one (21) days after the date of the sale or
16 transfer.

17 (5) Deliver the certificate of title to the purchaser or
18 transferee within twenty-one (21) days after the date of sale
19 or transfer to the purchaser or transferee of the vehicle, if all
20 of the following conditions exist:

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

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

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

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

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

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

37 (1) One hundred dollars (\$100) for the first violation.

38 (2) Two hundred fifty dollars (\$250) for the second violation.

39 (3) Five hundred dollars (\$500) for all subsequent violations.

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

42 (d) If a purchaser or transferee does not receive a valid

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1 certificate of title within the time specified by this section, the
 2 purchaser or transferee has the right to return the vehicle to the
 3 vehicle dealer ten (10) days after giving the vehicle dealer written
 4 notice demanding delivery of a valid certificate of title and the
 5 dealer's failure to deliver a valid certificate of title within that ten
 6 (10) day period. Upon return of the vehicle to the dealer in the
 7 same or similar condition as delivered to the purchaser or
 8 transferee under this section, the vehicle dealer shall pay to the
 9 purchaser or transferee the purchase price plus sales taxes, finance
 10 expenses, insurance expenses, and any other amount paid to the
 11 dealer by the purchaser.

12 (e) For purposes of this subsection, "timely deliver", with
 13 respect to a third party, means to deliver to the purchaser or
 14 transferee with a postmark dated or hand delivered not more than
 15 ten (10) business days after there is no obligation secured by the
 16 vehicle. If the dealer's inability to timely deliver a valid certificate
 17 of title results from the acts or omissions of a third party who has
 18 failed to timely deliver a valid certificate of title to the dealer, the
 19 dealer is entitled to claim against the third party one hundred
 20 dollars (\$100). If:

21 (1) the dealer's inability to timely deliver a valid certificate of
 22 title results from the acts or omissions of a third party who
 23 has failed to timely deliver the certificate of title in the third
 24 party's possession to the dealer; and

25 (2) the failure continues for ten (10) business days after the
 26 dealer gives the third party written notice of the failure;
 27 the dealer is entitled to claim against the third party all damages
 28 sustained by the dealer in rescinding the dealer's sale with the
 29 purchaser or transferee, including the dealer's reasonable
 30 attorney's fees.

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

36 (g) The original certificate of title and all assignments and
 37 subsequent reissues of the certificate of title shall be retained by
 38 the bureau and appropriately classified and indexed in the most
 39 convenient manner to trace the title to the vehicle described in the
 40 certificate of title.

41 (h) A dealer shall make payment to a third party to satisfy any
 42 obligation secured by the vehicle within five (5) days after the date

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of sale.

Sec. 3. The affidavit required by section 2(a)(5)(C) of this chapter shall be printed in the following form:

STATE OF INDIANA)
) ss:
COUNTY OF _____)

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

- (1) That I am a dealer licensed under IC 9-32.
- (2) That I cannot deliver a valid certificate of title to the retail purchaser of the vehicle described in paragraph (3) at the time of sale of the vehicle to the retail purchaser. The identity of the previous seller or transferor is _____. Payoff of lien was made on (date) _____. I expect to deliver a valid and transferable certificate of title not later than (date) _____ from the State of (state) _____ to the purchaser.
- (3) That I will undertake reasonable commercial efforts to produce the valid certificate of title. The vehicle identification number is _____.

Signed _____, Dealer
By _____

Dated _____, _____

CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AFFIDAVIT.

Customer Signature

NOTICE TO THE CUSTOMER

If you do not receive a valid certificate of title within twenty-one (21) days from the date of sale, you 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 after the vehicle dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the vehicle dealer in the same or similar condition as when it was delivered to you, the vehicle dealer shall pay you the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount that you paid to the vehicle dealer. If a lien is present on the previous owner's certificate of title, it is the responsibility of the third party lienholder to timely deliver the certificate of title in the third party's possession to the dealer not more than ten (10) business days after there is no obligation

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1 secured by the vehicle. If the dealer's inability to deliver a valid
 2 certificate of title to you within the ten (10) day period described
 3 above results from the acts or omissions of a third party who has
 4 failed to timely deliver the certificate of title in the third party's
 5 possession to the dealer, the dealer may be entitled to claim against
 6 the third party the damages allowed by law.

7 **Chapter 4. Manufacturers, Converter Manufacturers, and**
 8 **Dealers; Manufacturers' Certificates of Origin**

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

10 **Sec. 2. A manufacturer, a converter manufacturer, an**
 11 **automotive mobility dealer, a dealer, or other person may not sell**
 12 **or otherwise dispose of a new motor vehicle to another person, to**
 13 **be used by the other person for purposes of display or resale,**
 14 **without delivering to the other person a manufacturer's certificate**
 15 **of origin under this chapter that indicates the assignments of the**
 16 **certificate of origin necessary to show the ownership of the title to**
 17 **a person who purchases the motor vehicle.**

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

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

- 23 (1) prescribed by the bureau; or
 24 (2) approved by the bureau.

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

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

- 29 (1) a certificate of title;
 30 (2) an assigned certificate of title;
 31 (3) a manufacturer's certificate of origin;
 32 (4) an assigned manufacturer's certificate of origin; or
 33 (5) other proof of ownership or evidence of right of possession
 34 as determined by the secretary;

35 **for a motor vehicle, semitrailer, or recreational vehicle in the**
 36 **manufacturer's, converter manufacturer's, automotive mobility**
 37 **dealer's, or dealer's possession.**

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

- 39 (1) motor vehicle;
 40 (2) semitrailer; or
 41 (3) recreational vehicle;

42 **in a state that does not have a certificate of title law, the dealer**

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1 shall apply for an Indiana certificate of title for the motor vehicle,
2 semitrailer, or recreational vehicle not more than thirty-one (31)
3 days from the date of purchase or the date ownership of the motor
4 vehicle, semitrailer, or recreational vehicle was acquired.

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

9 Sec. 7. The bureau shall provide forms on which applications for
10 certificates of title and assignments of certificates of title must be
11 made under this chapter.

12 Sec. 8. A manufacturer, a converter manufacturer, an
13 automotive mobility dealer, or a dealer shall deliver an assigned
14 certificate of title or certificate of origin to a person entitled to the
15 certificate of title or certificate of origin.

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

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

25 (2) motor vehicles, semitrailers, or recreational vehicles that
26 are held for resale by the manufacturer, converter
27 manufacturer, automotive mobility dealer, or dealer;
28 in the manufacturer's, converter manufacturer's, automotive
29 mobility dealer's, or dealer's place of business during reasonable
30 business hours.

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

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

35 (2) may not be removed from Indiana.

36 Chapter 5. Dealer License Plates

37 Sec. 1. A person licensed under IC 9-32-11 may apply for a
38 dealer license plate. The application must include any information
39 the secretary reasonably requires. Upon application, a distinctive
40 registration number shall be assigned to each applicant. Two (2)
41 certificates of registration and two (2) metal license plates bearing
42 the registration number of the applicant shall then be issued to the

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- 1 applicant.
- 2 **Sec. 2. (a) The secretary shall issue dealer license plates under**
 3 **this chapter according to the following classifications:**
- 4 (1) Dealer-new.
 5 (2) Dealer-used.
 6 (3) Manufacturer.
- 7 (b) The secretary may adopt rules under IC 4-22-2 to establish
 8 additional classifications of dealer license plates and may prescribe
 9 the general conditions for usage of an additional classification. The
 10 secretary shall establish the classification of antique car museum
 11 dealer license plates.
- 12 **Sec. 3. (a) The secretary shall:**
- 13 (1) issue a research and development license plate under this
 14 chapter to a manufacturer of a vehicle subcomponent system;
 15 and
 16 (2) adopt rules under IC 4-22-2 to prescribe the general
 17 conditions for the:
 18 (A) application;
 19 (B) issuance; and
 20 (C) use;
- 21 of research and development license plates for manufacturers of
 22 vehicle component systems.
- 23 (b) The fee for a research and development license plate for a
 24 manufacturer of a vehicle subcomponent system is the fee under
 25 IC 9-29-17-2.
- 26 (c) A research and development license plate for a manufacturer
 27 of a vehicle subcomponent system shall be displayed in accordance
 28 with section 2(b) of this chapter.
- 29 **Sec. 4. The secretary shall determine the color, dimension, and**
 30 **style of the letters and the information required on a dealer license**
 31 **plate issued under this chapter.**
- 32 **Sec. 5. Upon payment of the fee under IC 9-29-17-1(b), an**
 33 **applicant may obtain additional dealer license plates of the same**
 34 **category. The applicant must demonstrate the applicant's need for**
 35 **additional plates by stating the applicant's number of employees,**
 36 **annual sales, and other supporting factors. The secretary shall**
 37 **determine whether the applicant is entitled to additional plates.**
- 38 **Sec. 6. Dealer license plates issued to licensed dealers under this**
 39 **chapter expire as follows:**
- 40 (1) A person whose business name begins with the letters A
 41 through B, inclusive, March 1 of each year.
 42 (2) A person whose business name begins with the letters C

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- 1 through D, inclusive, April 1 of each year.
- 2 (3) A person whose business name begins with the letters E
- 3 through G, inclusive, May 1 of each year.
- 4 (4) A person whose business name begins with the letters H
- 5 through I, inclusive, June 1 of each year.
- 6 (5) A person whose business name begins with the letters J
- 7 through L, inclusive, July 1 of each year.
- 8 (6) A person whose business name begins with the letters M
- 9 through O, inclusive, August 1 of each year.
- 10 (7) A person whose business name begins with the letters P
- 11 through R, inclusive, September 1 of each year.
- 12 (8) A person whose business name begins with the letters S
- 13 through T, inclusive, October 1 of each year.
- 14 (9) A person whose business name begins with the letters U
- 15 through Z, inclusive, November 1 of each year.

16 Dealer license plates issued to a sole proprietor expire based upon
17 the name of the sole proprietorship.

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

- 21 (1) dealer's inventory being held for sale;
- 22 (2) usual operation of that manufacturer's or dealer's
- 23 business;
- 24 (3) movement of that manufacturer's or dealer's inventory; or
- 25 (4) inventory of a manufacturer or dealer that is unattended
- 26 by that manufacturer or dealer or the dealer's agent for a
- 27 maximum of ten (10) days by a prospective buyer or a service
- 28 customer.

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

32 Sec. 8. Dealer-new, dealer-used, manufacturer, and wholesale
33 license plates may be used without restriction by a manufacturer,
34 a dealer, or an employee of a manufacturer or a dealer in
35 compliance with rules adopted by the secretary to prohibit use of
36 the plates solely to avoid payment of applicable taxes.

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

- 41 (1) The dealer or manufacturer is to be assessed and pay the
- 42 motor vehicle excise tax under IC 6-6-5 attributable to that

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1 part of the total year that the designee operates the motor
2 vehicle.
3 (2) The dealer or manufacturer shall report to the secretary
4 the date of assignment to a designee, the designee's name and
5 address, and the date of termination of the assignment within
6 ten (10) days of the assignment or termination.
7 (3) The tax calculated in subdivision (1) shall be paid within
8 thirty (30) days of the termination of the assignment to the
9 designee or at the time the dealer or manufacturer purchases
10 license plates under this chapter.
11 **Sec. 10. Dealer-new, dealer-used, manufacturer, and wholesale**
12 **license plates may not be used on a vehicle that:**
13 (1) is required to be registered; and
14 (2) has a fee charged by dealers to others for the use of the
15 vehicle.
16 **Sec. 11. (a) The secretary may issue an interim license plate to**
17 **a dealer or manufacturer who is licensed and has been issued a**
18 **license plate under section 2 of this chapter.**
19 (b) The secretary shall prescribe the form of an interim license
20 plate issued under this section. However, a plate must bear the
21 assigned registration number and provide sufficient space for the
22 expiration date as provided in subsection (c).
23 (c) Whenever a dealer or manufacturer sells or leases a motor
24 vehicle, the dealer or manufacturer may provide the buyer or
25 lessee with an interim license plate. The dealer shall, in the manner
26 provided by the secretary, affix on the plate in numerals and letters
27 at least three (3) inches high the date on which the interim license
28 plate expires.
29 (d) An interim license plate authorizes a motor vehicle owner or
30 lessor to operate the vehicle for a maximum period of thirty-one
31 (31) days from the date of sale or lease of the vehicle to the
32 vehicle's owner or until a regular license plate is issued, whichever
33 occurs first.
34 (e) A motor vehicle that is required by law to display license
35 plates on the front and rear of the vehicle is required to display
36 only a single interim plate.
37 (f) An interim plate shall be displayed:
38 (1) in the same manner required in IC 9-18-2-26; or
39 (2) in a location on the left side of a window facing the rear of
40 the motor vehicle that is clearly visible and unobstructed. The
41 plate must be affixed to the window of the motor vehicle.
42 (g) The dealer must provide an ownership document to the

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1 purchaser at the time of issuance of the interim plate that must be
2 kept in the motor vehicle during the period an interim plate is used.

3 (h) All interim plates not issued by the dealer must be retained
4 in the possession of the dealer at all times.

5 Sec. 12. A dealer may not knowingly or intentionally issue a
6 altered interim license plate or an interim license plate with false
7 or fictitious information.

8 Sec. 13. A person may not knowingly or intentionally operate a
9 vehicle displaying an altered interim license plate issued under
10 section 11 of this chapter.

11 Sec. 14. A record directly related to the use of interim plates by
12 a dealer must be made available to an investigating employee of the
13 secretary upon demand at the place of business of the dealer.

14 **Chapter 6. Accounts and Distribution of License and Permit**
15 **Fees Under IC 9-32-11**

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

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

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

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

28 (1) Money deposited under:

29 (A) IC 9-29-17-16(b);

30 (B) IC 9-29-17-16(c);

31 (C) IC 9-29-17-18; and

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

33 (2) Appropriations to the account from other sources.

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

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

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

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

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

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

- 3 **(1) IC 9-32-3-2(c);**
 4 **(2) IC 9-32-16-1(f);**
 5 **(3) IC 9-32-16-17 (d);**
 6 **(4) IC 9-32-17-9; and**
 7 **(5) IC 9-32-17-11.**

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

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

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

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

20 **Sec. 3. All money collected by the secretary from**
 21 **manufacturers, factory branches, distributors, dealers, automobile**
 22 **auctioneers, factory representatives, distributor representatives,**
 23 **wholesale dealers, transfer dealers, converter manufacturers, or**
 24 **automotive mobility dealers for licenses and permit fees under**
 25 **IC 9-29-17-10 through IC 9-29-17-12 shall be deposited as follows:**

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

34 **Chapter 7. Boat Dealers**

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

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

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

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

3 **(1) Be accompanied by the fee under IC 9-29-17-5.**

4 **(2) Be on a form prescribed by the secretary.**

5 **(3) Contain any information that the secretary reasonably**
 6 **needs to enable the secretary to determine fully the:**

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

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

11 **(C) ability of the applicant to conduct properly the**
 12 **business for which the application is submitted.**

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

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

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

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

30 **(1) One hundred thousand dollars (\$100,000) for bodily injury**
 31 **to one (1) person.**

32 **(2) Three hundred thousand dollars (\$300,000) per accident.**

33 **(3) Fifty thousand dollars (\$50,000) for property damage.**

34 **(b) The minimum amounts must be maintained during the time**
 35 **the license is valid.**

36 **Sec. 7. The secretary shall use all revenues accruing to the**
 37 **secretary under this chapter to enforce this chapter and Indiana**
 38 **boat registration laws. All necessary expenses incurred and all**
 39 **compensation paid by the secretary for administering this chapter**
 40 **shall be paid out of the revenue received under this chapter and**
 41 **from any supplemental appropriations.**

42 **Chapter 8. Salvage Motor Vehicles**

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1 **Sec. 1. For purposes of this chapter, "motor vehicle" does not**
 2 **include:**

- 3 **(1) an off-road vehicle; or**
 4 **(2) a golf cart.**

5 **Sec. 2. (a) Except as provided in subsection (b) and section 12 of**
 6 **this chapter, this chapter applies each year to a motor vehicle,**
 7 **semitrailer, or recreational vehicle manufactured within the last**
 8 **seven (7) model years, including the current model year. The**
 9 **bureau shall establish guidelines for determining the applicability**
 10 **of the model year effective dates for each year.**

11 **(b) The bureau may extend the model years to be covered each**
 12 **year by this chapter up to a maximum of fifteen (15) model years,**
 13 **which includes the current model year, after doing the following:**

- 14 **(1) Conducting a public hearing.**
 15 **(2) Giving reasonable notice to known businesses affected by**
 16 **this chapter.**

17 **Sec. 3. (a) A certificate of salvage title is required for a motor**
 18 **vehicle, motorcycle, semitrailer, or recreational vehicle that meets**
 19 **any of the following criteria:**

- 20 **(1) An insurance company has determined that it is**
 21 **economically impractical to repair the wrecked or damaged**
 22 **motor vehicle, motorcycle, semitrailer, or recreational vehicle**
 23 **and has made an agreed settlement with the insured or**
 24 **claimant.**
 25 **(2) If the owner of the vehicle is a business that insures its own**
 26 **vehicles, the cost of repairing the wrecked or damaged motor**
 27 **vehicle, motorcycle, semitrailer, or recreational vehicle**
 28 **exceeds seventy percent (70%) of the fair market value**
 29 **immediately before the motor vehicle, motorcycle, semitrailer,**
 30 **or recreational vehicle was wrecked or damaged.**
 31 **(3) The motor vehicle is a flood damaged vehicle.**

32 **(b) For the purposes of this section, the bureau shall, upon**
 33 **request, determine the fair market value of a wrecked or damaged**
 34 **motor vehicle, motorcycle, semitrailer, or recreational vehicle if**
 35 **the fair market value cannot be determined from a source referred**
 36 **to in National Automobile Dealers Association (NADA) Official**
 37 **Used Car Guide, vehicle valuations determined by CCC**
 38 **Information Services, Inc. (CCC), or valuations determined by**
 39 **other authorities approved by the bureau.**

40 **(c) Except as described in section 11(c) of this chapter, an**
 41 **insurance company shall apply for a salvage title for a vehicle that**
 42 **the insurance company has determined is economically impractical**

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to repair.

(d) An owner described in subsection (a)(2) shall apply for a salvage title for any vehicle that has sustained damages of seventy percent (70%) or more of the fair market value immediately before the motor vehicle, motorcycle, semitrailer, or recreational vehicle was wrecked or damaged if the vehicle meets the criteria specified in subsection (a)(2).

Sec. 4. The bureau shall issue a certificate of salvage title as proof of ownership for a salvage motor vehicle when the acquiring insurance company, disposal facility, or person does the following:

- (1) Applies for the certificate of salvage title.
- (2) Pays the appropriate fee under IC 9-29-17.
- (3) Surrenders the motor vehicle's original certificate of title. The certificate of title must be properly notarized or include the affidavit of the last person who owned the vehicle, the person's legal representative, or legal successor in interest of the vehicle, or other acceptable proof of ownership as determined by the bureau.

Sec. 5. A certificate of salvage title issued under section 4 of this chapter must contain the following information:

- (1) The same vehicle information as a certificate of title issued by the bureau.
- (2) The notation "SALVAGE TITLE" prominently recorded on the front and back of the title.
- (3) If the motor vehicle is a flood damaged vehicle, the notation "FLOOD DAMAGED" prominently recorded on the front and back of the title.

Sec. 6. A certificate of salvage title issued under section 4 of this chapter may be assigned by the person who owns the salvage vehicle to another buyer.

Sec. 7. A business that is registered with the secretary as a dealer under IC 9-32-11 may reassign a certificate of salvage title one (1) time without applying to the bureau for the issuance of a new certificate of salvage title.

Sec. 8. (a) A dealer licensed as a dealer under IC 9-32-11 on the date of receiving a title by sale or transfer shall secure an affidavit from the person who holds the certificate of title. The affidavit must state whether the vehicle is a flood damaged vehicle.

(b) The dealer shall file the affidavit secured under subsection (a) with the bureau upon receiving the affidavit and shall retain a copy of the affidavit with the records of the dealer.

(c) The bureau shall retain an affidavit regarding flood damage

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1 to the vehicle submitted to the bureau by a dealer under this
2 section.

3 (d) Submission of a fraudulent affidavit under subsection (a)
4 will subject the affiant to civil liability for all damages incurred by
5 a dealer, subsequent purchaser, or transferee of the title, including
6 reasonable attorney's fees and court costs, including fees.

7 Sec. 9. If a salvage motor vehicle has been flood damaged,
8 extensively burned, vandalized, or severely wrecked so that one (1)
9 or more component parts are required to restore the motor vehicle
10 to an operable condition, the person or business that restored the
11 motor vehicle must furnish, on an affidavit of restoration for a
12 salvage motor vehicle form, the name, identification number, and
13 source of all component parts that were included in the restoration
14 of the vehicle. The affidavit must be attached to the certificate of
15 salvage title and be submitted to the bureau upon application by a
16 person for a certificate of title for the vehicle.

17 Sec. 10. If a dealer purchases a salvage motor vehicle subject to
18 section 9 of this chapter and applies for a certificate of dealer title,
19 the affidavit attached to the certificate of salvage title must also be
20 attached to the certificate of dealer title. The bureau must retain
21 the affidavit or a microfilm copy of the form for ten (10) years.

22 Sec. 11. (a) Subsections (b) and (c) apply to the following
23 persons:

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

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

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

33 (B) meets at least one (1) of the criteria set forth in section
34 9 of this chapter.

35 (b) A person who owns or holds a lien upon a vehicle described
36 in subsection (a) shall assign the certificate of title to the insurance
37 company described in subsection (a). The insurance company shall
38 apply to the bureau within thirty-one (31) days after receipt of the
39 certificate of title for a certificate of salvage title for each salvage
40 or stolen vehicle subject to this chapter. The insurance company
41 shall surrender the certificate of title to the bureau and pay the fee
42 prescribed under IC 9-29-17 for a certificate of salvage title.

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1 (c) When the owner of a vehicle described in subsection (a)
2 retains possession of the vehicle:

3 (1) the person who possesses the certificate of title shall
4 surrender the certificate of title to the insurance company
5 described in subdivision (2);

6 (2) the insurance company that completes an agreed
7 settlement for the vehicle shall:

8 (A) obtain the certificate of title; and

9 (B) submit to the bureau:

10 (i) the certificate of title;

11 (ii) the appropriate fee; and

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

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

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

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

30 Sec. 12. (a) A scrap metal processor or other appropriate facility
31 that purchases or acquires a salvage motor vehicle that has been
32 totally demolished or destroyed as a result of normal processing
33 performed by a disposal facility is not required to apply for and
34 receive a certificate of salvage title for the vehicle.

35 (b) The disposal facility shall maintain the records prescribed
36 by the secretary for a totally demolished or destroyed vehicle.

37 Sec. 13. (a) This section applies to all salvage motor vehicles.

38 (b) Whenever a salvage motor vehicle is totally demolished or
39 destroyed by a disposal facility, scrap metal processor, or other
40 appropriate facility, the facility or processor shall surrender the
41 certificate of title and certificate of salvage title to the bureau.

42 Sec. 14. If a salvage motor vehicle is rebuilt for operation upon

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1 the highways and ownership is evidenced by an Indiana salvage
 2 title or a title from another state that designates the vehicle as
 3 salvage, the person who owns the vehicle shall apply to the bureau
 4 for a certificate of title. The bureau shall issue a certificate of title
 5 that lists each person who holds a lien on the vehicle to the person
 6 who owns the vehicle when the following are completed:

7 (1) A general inspection and the verification of the vehicle
 8 identification number of the vehicle by a state police officer
 9 or:

10 (A) the sheriff of;

11 (B) a deputy of the sheriff of; or

12 (C) a police officer who serves a town or city located
 13 within;

14 the county where the vehicle has been rebuilt. This police
 15 inspection does not indicate the worthiness of a vehicle for
 16 highway operation.

17 (2) Documentation including an Indiana salvage title or a title
 18 from another state that designates the vehicle as salvage and
 19 verification of proof of ownership of major component parts
 20 used and the source of the major component parts.

21 (3) Documentation identifying at least one (1) of the criteria
 22 set forth in section 3 of this chapter that requires a salvage
 23 title.

24 (4) The surrender of the certificate of salvage title properly
 25 executed with an affidavit concerning the major component
 26 parts on a form prescribed by the bureau.

27 (5) The payment of the fee required under IC 9-32-6.

28 **Sec. 15. (a)** Except as provided in subsection (b), a certificate of
 29 title issued under section 9, 10, or 14 of this chapter and a
 30 certificate of title subsequently issued must conspicuously bear the
 31 designation:

32 (1) "REBUILT VEHICLE--MILEAGE UNKNOWN" if the
 33 motor vehicle is not a flood damaged vehicle; or

34 (2) "REBUILT FLOOD DAMAGED VEHICLE" if the motor
 35 vehicle is a flood damaged vehicle.

36 (b) An insurance company authorized to do business in Indiana
 37 may obtain a certificate of title that does not bear the designation
 38 if the company submits to the bureau, in the form and manner the
 39 bureau requires, satisfactory evidence that the damage to a
 40 recovered stolen motor vehicle did not meet the criteria set forth
 41 in section 3 of this chapter.

42 (c) An affidavit submitted under section 9 or 10 of this chapter

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1 must conspicuously bear the designation:

- 2 (1) "REBUILT VEHICLE--MILEAGE UNKNOWN" if the
3 motor vehicle is not a flood damaged vehicle; or
4 (2) "REBUILT FLOOD DAMAGED VEHICLE" if the motor
5 vehicle is a flood damaged vehicle.

6 Sec. 16. (a) Except as provided in subsection (b), whenever a
7 certificate of title is issued for a motor vehicle that was previously
8 titled in another state or jurisdiction and the certificate of title
9 from the other state or jurisdiction contains a "REBUILT",
10 "RECONSTRUCTED", "RECONDITIONED", "DISTRESSED
11 VEHICLE", or similar designation, a new and subsequent
12 certificate of title must conspicuously bear the designation
13 "REBUILT VEHICLE".

14 (b) Whenever a certificate of title is issued for a motor vehicle
15 described in subsection (a) that was previously titled in another
16 state or jurisdiction and the certificate of title from the other state
17 or jurisdiction contains a designation that indicates that the motor
18 vehicle is a flood damaged vehicle, a new and subsequent certificate
19 of title must conspicuously bear the designation "REBUILT
20 FLOOD DAMAGED VEHICLE".

21 Sec. 17. A vehicle that has been designated "JUNK" in another
22 state or jurisdiction may not be titled in Indiana.

23 Sec. 18. (a) The secretary shall prescribe record keeping forms
24 to be used by:

- 25 (1) a disposal facility;
26 (2) an automotive salvage rebuilder; and
27 (3) a used parts dealer licensed under IC 9-32-9;

28 to preserve information about salvage vehicles or major
29 component parts acquired or sold by the business.

30 (b) The record keeping forms required under subsection (a)
31 must contain the following information:

- 32 (1) For each new or used vehicle acquired or disposed of or
33 for the major component parts of a new or used vehicle, the
34 following:

35 (A) A description of the vehicle or major component part,
36 including numbers or other marks identifying the vehicle
37 or major component part.

38 (B) The date the vehicle or major component part was
39 acquired and disposed of.

40 (C) The name and address of the person from whom the
41 vehicle or major component part was acquired.

42 (D) Verification of the purchaser of the vehicle or major

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- 1 component part by driver's license, state identification
 2 card, or other reliable means.
- 3 (E) The name and address and, if applicable, the dealer
 4 number of the disposal facility, salvage rebuilder, hulk
 5 crusher, or scrap metal processor who acquires the motor
 6 vehicle or major component part.
- 7 (2) For motor vehicles acquired or disposed of, in addition to
 8 the information required by subdivision (1), the following:
- 9 (A) The vehicle's trade name.
 10 (B) The vehicle's manufacturer.
 11 (C) The vehicle's type.
 12 (D) The model year and vehicle identification number.
 13 (E) A statement of whether any number has been defaced,
 14 destroyed, or changed.
- 15 (3) For wrecked, dismantled, or rebuilt vehicles, the date the
 16 vehicle was wrecked, dismantled, or rebuilt.
- 17 (c) Separate records for each vehicle or major component part
 18 must be maintained.
- 19 (d) The record keeping requirements of this section do not apply
 20 to hulk crushers or to scrap metal processors when purchasing
 21 scrap from a person who is licensed under IC 9-32-9 and who is
 22 required to keep records under this section.
- 23 Sec. 19. Unless otherwise specified or required, the records
 24 required under section 18 of this chapter shall be retained for a
 25 period of five (5) years from the date the vehicle or major
 26 component part was acquired, in the form prescribed by the
 27 secretary.
- 28 Sec. 20. The records required under section 18 of this chapter
 29 must be available to and produced at the request of a police officer
 30 (as defined in IC 9-13-2-127(a)(1) through IC 9-13-2-127(a)(4)) or
 31 an authorized agent of the secretary.
- 32 Sec. 21. (a) This section applies to vehicles and their component
 33 parts that are in either their current model year or in the
 34 immediately preceding ten (10) model years when purchased by a
 35 disposal facility or automotive salvage rebuilder.
- 36 (b) A disposal facility and automotive salvage rebuilder licensed
 37 under IC 9-32-9 must complete the record keeping forms
 38 developed under section 18 of this chapter for the purchase of a
 39 salvage motor vehicle or major component part.
- 40 Sec. 22. A record required to be maintained under this chapter
 41 is subject to inspection by a police officer (as defined in
 42 IC 9-13-2-127(a)(1) through IC 9-13-2-127(a)(4)) or agent of the

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1 secretary during normal business hours. In addition to the
 2 inspections authorized under section 23 of this chapter, an
 3 inspection under this section may include an examination of the
 4 premises of the licensee's established place of business for the
 5 purpose of determining the accuracy of the required records.

6 **Sec. 23.** The secretary, a police officer (as defined in
 7 IC 9-13-2-127(a)(1) through IC 9-13-2-127(a)(4)) or an agent of the
 8 secretary or a police officer may enter upon the premises of a
 9 disposal facility, insurance company, or other business dealing in
 10 salvage vehicles during normal business hours to inspect a motor
 11 vehicle, semitrailer, recreational vehicle, major component part,
 12 records, certificate of title, and other ownership documents to
 13 determine compliance with this chapter.

14 **Sec. 24.** In the absence of fraud or bad faith, a person who
 15 releases or provides evidence or information under this chapter to
 16 any of the following is immune from civil or criminal liability for
 17 providing that evidence or information:

- 18 (1) The superintendent of the state police or the
 19 superintendent's designee.
- 20 (2) The attorney general or the attorney general's designee.
- 21 (3) The city police chief or the city police chief's designee.
- 22 (4) The county sheriff or the county sheriff's designee.
- 23 (5) The prosecuting attorney or the prosecuting attorney's
 24 designee responsible for prosecutions in the county that has
 25 jurisdiction of the auto theft.
- 26 (6) The secretary or an agent of the secretary.

27 **Sec. 25. (a)** A court may issue a warrant to search the premises
 28 of an automotive salvage rebuilder, an automotive salvage recycler,
 29 a disposal facility, or a used parts dealer for any major component
 30 parts being possessed, kept, sold, bartered, given away, used, or
 31 transported in violation of this chapter.

32 (b) A warrant issued under subsection (a) shall be directed to a
 33 police officer who has the power of criminal process. The person to
 34 whom the warrant was issued shall serve the warrant and make the
 35 return within twenty (20) days after the date of issue.

36 (c) The police officer who serves a warrant issued under
 37 subsection (a) shall seize any article described in the warrant and
 38 any other article the police officer finds during the search that is
 39 held in violation of this chapter. The police officer shall hold the
 40 articles pending the disposition ordered by the court in which a
 41 prosecution may be instituted for a violation of this chapter.

42 (d) A major component part seized under subsection (c) and any

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1 other article found on the searched premises and taken under a
 2 warrant issued under subsection (a) may not be taken from the
 3 custody of the person who served the warrant by a writ of replevin
 4 or other process while proceedings are pending.

5 **Sec. 26. A seller that is:**

6 (1) a dealer; or

7 (2) any other person who sells, exchanges, or transfers at least
 8 five (5) vehicles each year;

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

14 **Sec. 27. A person may not knowingly possess, buy, sell,**
 15 **exchange, give away, or offer to buy, sell, exchange, or give away**
 16 **a manufacturer's identification plate or serial plate that has been**
 17 **removed from a motor vehicle, motorcycle, semitrailer, or**
 18 **recreational vehicle that is a total loss or salvage.**

19 **Sec. 28. The prosecution of a disposal facility, automotive**
 20 **salvage rebuilder, insurance company, or individual suspected of**
 21 **having violated this section may be instituted by the filing of an**
 22 **information or indictment in the same manner as other criminal**
 23 **cases are commenced.**

24 **Sec. 29. A person aggrieved by a violation of this chapter may**
 25 **recover the actual damages sustained, together with costs and**
 26 **reasonable attorney's fees. In the court's discretion the court may**
 27 **increase the award of damages to:**

28 (1) an amount not to exceed three (3) times the actual
 29 damages sustained; or

30 (2) two thousand five hundred dollars (\$2,500).

31 **Sec. 30. In addition to any applicable criminal penalty, a person**
 32 **who violates this chapter commits a deceptive act that is actionable**
 33 **by the attorney general and is subject to the remedies and penalties**
 34 **under IC 24-5-0.5.**

35 **Chapter 9. Licensing of Vehicle Salvaging**

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

40 (1) Sell a used major component part of a vehicle.

41 (2) Wreck or dismantle a vehicle for resale of the major
 42 component parts of the vehicle.

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1 (3) Rebuild a wrecked or dismantled vehicle.

2 (4) Possess more than two (2) inoperable vehicles subject to
3 registration for more than thirty (30) days unless the facility,
4 dealer, or rebuilder holds a mechanic's lien on each vehicle
5 over the quantity of two (2).

6 (5) Engage in the business of storing, disposing, salvaging, or
7 recycling of vehicles, vehicle hulks, or the parts of vehicles.

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

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

16 (1) A completed application, which must be verified by the
17 secretary.

18 (2) The licensing fee under IC 9-29-17-9.

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

22 (1) The applicant's name.

23 (2) The applicant's type of business organization and the
24 following as appropriate:

25 (A) If the applicant is a corporation, the name and address
26 of each officer and director of the corporation.

27 (B) If the applicant is a sole proprietorship, the name and
28 address of the sole proprietor.

29 (C) If the applicant is a partnership, the name and address
30 of each partner.

31 (D) If the applicant is an unincorporated association or
32 similar form of business organization, the name and
33 address of each member, trustee, or manager.

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

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

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

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1 **Sec. 6. Within a reasonable time, the secretary shall do the**
 2 **following:**

3 **(1) Review all license applications submitted under this**
 4 **chapter.**

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

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

8 **(B) The applicant has made a material fact**
 9 **misrepresentation on the application.**

10 **(C) The applicant has been convicted of committing a**
 11 **fraudulent act in connection with one (1) of the activities**
 12 **specified in section 1 of this chapter.**

13 **Sec. 7. A person denied a license under section 6 of this chapter**
 14 **is entitled to a hearing under IC 9-32-16.**

15 **Sec. 8. If the secretary approves a license application under this**
 16 **chapter, the secretary shall grant the applicant:**

17 **(1) an original license for the applicant's principal place of**
 18 **business; and**

19 **(2) a supplemental license for each other place of business**
 20 **listed on the application.**

21 **Sec. 9. The secretary shall prescribe the form of the licenses**
 22 **granted under section 8 of this chapter. A license granted under**
 23 **section 8 of this chapter must include the following information:**

24 **(1) The licensee's name.**

25 **(2) The licensee's type of business organization and the**
 26 **following as appropriate:**

27 **(A) If a corporation, the name and address of each officer.**

28 **(B) If a sole proprietorship, the name and address of the**
 29 **proprietor.**

30 **(C) If a partnership, the name and address of each**
 31 **managing partner.**

32 **(D) If an unincorporated association or similar form of**
 33 **business organization, the name and address of the**
 34 **manager or other chief administrative official.**

35 **(3) The licensee's principal place of business.**

36 **(4) A listing of the types of business activities specified in**
 37 **section 1 of this chapter that the licensee may conduct.**

38 **(5) The date the license expires.**

39 **Sec. 10. A licensee shall post a license granted to the licensee**
 40 **under this chapter in a conspicuous place at the licensed place of**
 41 **business.**

42 **Sec. 11. If the secretary receives a written complaint from a**

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1 local zoning body that a disposal facility or automotive salvage
 2 rebuilder, subject to this chapter, is operating in violation of a local
 3 zoning ordinance, the secretary shall delay the issuance or renewal
 4 of the facility's or rebuilder's license under this chapter until the
 5 local zoning complaints have been satisfied.

6 **Chapter 10. Motor Vehicle Sales Advisory Board**

7 **Sec. 1. The motor vehicle sales advisory board is established to**
 8 **advise the secretary in the administration of this article.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **Sec. 5. The secretary shall serve as chairman of the advisory**
 5 **board. The advisory board shall elect a vice chairman and**
 6 **secretary from the appointed members during the first month of**
 7 **each year. The vice chairman and secretary serve until their**
 8 **successors are appointed and qualified and may be removed for**
 9 **good cause.**

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

14 **Sec. 7. Six (6) members of the advisory board constitute a**
 15 **quorum for doing business. The majority vote of the members of**
 16 **the quorum, present and voting, is required for the passage of a**
 17 **matter put to a vote of the advisory board.**

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

19 **(1) To consult with and advise the secretary.**

20 **(2) To suggest rules, including the following:**

21 **(A) The contents of forms.**

22 **(B) Methods and procedures for the investigation and**
 23 **evaluation of the qualifications of applicants for licenses.**

24 **(C) The criteria upon which to issue, deny, suspend, and**
 25 **revoke licenses.**

26 **(D) Procedures for the investigation into and conduct of**
 27 **hearings on unfair practices.**

28 **Chapter 11. Regulation of Vehicle Merchandising**

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

32 **(1) An automobile auctioneer.**

33 **(2) A converter manufacturer.**

34 **(3) A dealer.**

35 **(4) A distributor.**

36 **(5) A distributor representative.**

37 **(6) A factory branch.**

38 **(7) A factory representative.**

39 **(8) A manufacturer.**

40 **(9) A transfer dealer.**

41 **(10) A wholesale dealer.**

42 **(11) An automotive mobility dealer.**

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1 **(b) An automotive mobility dealer who engages in the business**
 2 **of:**

- 3 **(1) selling, installing, or servicing;**
 4 **(2) offering to sell, install, or service; or**
 5 **(3) soliciting or advertising the sale, installation, or servicing**
 6 **of;**

7 **equipment or modifications specifically designed to facilitate use**
 8 **or operation of a vehicle by an individual who is disabled or aged**
 9 **must be licensed under this article.**

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

- 11 **(1) be accompanied by the fee required under IC 9-29-17;**
 12 **(2) be on a form prescribed by the secretary;**
 13 **(3) contain the information the secretary considers necessary**
 14 **to enable the secretary to determine fully:**

15 **(A) the qualifications and eligibility of the applicant to**
 16 **receive the license;**

17 **(B) the location of each of the applicant's places of business**
 18 **in Indiana; and**

19 **(C) the ability of the applicant to conduct properly the**
 20 **business for which the application is submitted; and**

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

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

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

33 **(d) The application must include an affidavit from:**

- 34 **(1) the person charged with enforcing a zoning ordinance**
 35 **described in this subsection; or**

- 36 **(2) the zoning enforcement officer under IC 36-7-4, if one**
 37 **exists;**

38 **who has jurisdiction over the real property where the applicant**
 39 **wants to operate as a dealer. The affidavit must state that the**
 40 **proposed location is zoned for the operation of a dealer's**
 41 **establishment. The applicant may file the affidavit at any time after**
 42 **the filing of the application. However, the secretary may not issue**

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1 a license until the applicant files the affidavit.

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

5 (1) be in favor of the state; and

6 (2) secure payment of fines, penalties, costs, and fees assessed
7 by the secretary after notice, opportunity for a hearing, and
8 opportunity for judicial review, in addition to securing the
9 payment of damages to a person aggrieved by a violation of
10 this chapter by the licensee after a judgment has been issued.

11 (f) Service under this chapter shall be made in accordance with
12 the Indiana Rules of Trial Procedure.

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

17 **Sec. 3.** A manufacturer, distributor, factory branch, or dealer
18 proposing to sell new motor vehicles shall file and maintain with
19 the secretary:

20 (1) a current copy of each franchise to which the person is a
21 party; or

22 (2) if the person is a party to multiple franchises that are
23 identical except for stated items, a copy of the form franchise
24 with supplemental schedules of variations from the form.

25 **Sec. 4. (a)** The license issued to a factory branch, an automobile
26 auctioneer, a transfer dealer, or a dealer under this chapter:

27 (1) must specify the location of each place of business; and

28 (2) shall be conspicuously displayed at each business location.

29 (b) If a licensee's business name or location is changed, the
30 licensee shall notify the secretary not later than ten (10) days after
31 the change and remit the fee required under IC 9-29-17. The
32 secretary shall endorse the change on the license if the secretary
33 determines that the change is not subject to other provisions of this
34 article.

35 (c) A dealer who uses the Internet or another computer network
36 to facilitate the sale of motor vehicles as set forth in section 2(c) of
37 this chapter shall notify the secretary not later than ten (10) days
38 after any change in a name, address, or telephone number
39 documented in business records located outside Indiana that have
40 been created in transactions made in Indiana by the dealer. A
41 report made under this subsection is not subject to the fee required
42 under IC 9-29-17.

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1 (d) A dealer who wants to change a location must submit to the
 2 secretary an application for approval of the change. The
 3 application must be accompanied by an affidavit from:

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

8 who has jurisdiction over the real property where the applicant
 9 wants to operate as a dealer. The affidavit must state that the
 10 proposed location is zoned for the operation of a dealer's
 11 establishment. The secretary may not approve a change of location
 12 or endorse a change of location on the dealer's license until the
 13 dealer provides the affidavit.

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

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

30 Sec. 6. The secretary shall, by rule adopted under IC 4-22-2,
 31 establish requirements for an initial application for and renewal of
 32 an automotive mobility dealer's license. The rules must include a
 33 requirement that each initial or renewal application for an
 34 automotive mobility dealer's license include proof that the
 35 applicant is accredited through the Quality Assurance Program of
 36 the National Mobility Equipment Dealers Association.

37 Sec. 7. An automotive mobility dealer licensed under this
 38 chapter is entitled to:

- 39 (1) display;
 40 (2) inventory;
 41 (3) advertise;
 42 (4) offer for sale; or

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1 (5) do any combination of subdivisions (1) through (4)
2 concerning;
3 any adapted vehicle.

4 Sec. 8. This section does not apply to sales made at a motor
5 vehicle industry sponsored trade show. A dealer may not sell or
6 offer to sell a vehicle at a location away from the dealer's
7 established place of business without obtaining an offsite sales
8 license under section 9 of this chapter.

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

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

18 (c) This subsection does not apply to:
19 (1) new manufactured housing dealers;
20 (2) recreational vehicle dealers;
21 (3) a rental company that is a dealer conducting a sale at a site
22 within twenty (20) miles of any of its company owned
23 affiliates; or
24 (4) off-road vehicle dealers.

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

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

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

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

40 (1) If the offsite sale would be located within the corporate
41 boundaries of a city or town, the executive of the city or town.
42 (2) If the offsite sale would be located outside the corporate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 12. (a) A person licensed under this article shall furnish

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1 evidence that the person has liability insurance or garage liability
 2 insurance covering the person's place of business. The policy must
 3 have limits of not less than the following:

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

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

8 (3) Fifty thousand dollars (\$50,000) for property damage.

9 (b) The minimum amounts required by subsection (a) must be
 10 maintained during the time the license is valid.

11 Sec. 13. (a) A person who ceases a business activity for which a
 12 license was issued under this chapter shall do the following:

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

15 (2) Deliver to the secretary all permanent dealer license plates
 16 and interim license plates issued to the person not later than
 17 ten (10) days before the date the business activity will cease.

18 (b) A dealer may not transfer or sell the:

19 (1) dealer's license; or

20 (2) use of the dealer's license.

21 (c) A dealer that changes its form of organization or state of
 22 incorporation may continue the dealer's licensure by filing an
 23 amendment to the registration if the change does not involve a
 24 material fact in the financial condition or management of the
 25 dealer. The amendment becomes effective when filed or on the date
 26 designated by the registrant in its filing. The new organization is a
 27 successor to the original registrant for the purposes of this article.

28 (d) If there is a change in the dealer's ownership, the successive
 29 owner shall file a new application for a license under this chapter.

30 Sec. 14. Except as provided in IC 9-29-17, all revenues accruing
 31 to the secretary under this chapter shall be deposited in the motor
 32 vehicle highway account.

33 Sec. 15. A dealer who sells a motor vehicle through the use of
 34 the Internet or another computer network shall deliver the motor
 35 vehicle to the customer at the place of business of the dealer in
 36 Indiana.

37 Sec. 16. (a) A person licensed under this article shall be issued
 38 a special event permit from the secretary for a special event that
 39 meets the following conditions:

40 (1) The event is a vehicle auction conducted by auctioneers
 41 licensed under IC 25-6.1-3.

42 (2) The vehicles to be auctioned are:

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- 1 (A) at least fifteen (15) years old; or
- 2 (B) classified as classic, collector, or antique vehicles under
- 3 rules adopted by the secretary.
- 4 (3) At least one hundred (100) vehicles will be auctioned
- 5 during the special event.
- 6 (4) The licensee submits to the secretary an application for a
- 7 special event permit not later than thirty (30) days before the
- 8 beginning date of the special event.
- 9 (5) The application under subdivision (4) is accompanied by
- 10 the permit fee required under IC 9-29-17-15.
- 11 (b) Not more than two (2) special event permits may be issued
- 12 by the secretary to the same applicant within a twelve (12) month
- 13 period.

Chapter 12. Disclosures Required in Motor Vehicle Leases

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

- 16 (1) Comply with the requirements of Regulation M (12 CFR
- 17 213) for disclosure of gross capitalized cost, capitalized cost
- 18 reduction, and adjusted capitalized cost adopted under the
- 19 federal Truth in Lending Act (15 U.S.C. 1601 et seq.).
- 20 (2) Disclose to a retail lessee in a separate blocked section in
- 21 a lease agreement, in capital letters in at least 10 point bold
- 22 type the following:
- 23 **THIS IS A LEASE AGREEMENT.**
- 24 **THIS IS NOT A PURCHASE AGREEMENT.**
- 25 **PLEASE REVIEW THESE MATTERS CAREFULLY AND**
- 26 **SEEK INDEPENDENT PROFESSIONAL ADVICE IF YOU**
- 27 **HAVE ANY QUESTIONS CONCERNING THIS**
- 28 **TRANSACTION. YOU ARE ENTITLED TO AN EXACT**
- 29 **COPY OF THE AGREEMENT YOU SIGN.**
- 30 (3) Provide the retail lessee with a copy of each document
- 31 signed by the retail lessee during the course of the lease
- 32 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:

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1 (1) actual damages sustained;
 2 (2) a civil penalty of not more than one thousand dollars
 3 (\$1,000) per lease transaction; and
 4 (3) reasonable attorney's fees and costs.
 5 (b) In addition to any other remedies provided by law, a retail
 6 lessee may bring an action in circuit court to recover the damages,
 7 penalties, and fees described in subsection (a).
 8 (c) The total recovery of damages, penalties, and fees in a class
 9 action civil suit brought under this section may not exceed one
 10 hundred thousand dollars (\$100,000).
 11 Sec. 5. A civil suit described under section 4 of this chapter may
 12 be brought on behalf of a consumer by the attorney general.
 13 Sec. 6. An action authorized by sections 4 and 5 of this chapter
 14 must be brought not later than three (3) years after the date the
 15 lease agreement is signed.
 16 Chapter 13. Unfair Practices
 17 Sec. 1. It is an unfair practice for a dealer to require a
 18 purchaser of a motor vehicle, as a condition of sale and delivery of
 19 the motor vehicle, to purchase any equipment, part, or accessory
 20 not ordered by the purchaser unless the equipment, part, or
 21 accessory is:
 22 (1) already installed on the motor vehicle when the motor
 23 vehicle is received by or offered for sale by the dealer; or
 24 (2) required by law.
 25 Sec. 2. It is an unfair practice for a dealer to willingly fail to
 26 perform the obligations imposed on the dealer in connection with
 27 the delivery and preparation of a new motor vehicle for retail sale
 28 as provided in the preparation and delivery agreement of the
 29 manufacturer or distributor applicable to the motor vehicle.
 30 Sec. 3. It is an unfair practice for a dealer to willingly fail to
 31 perform the obligations imposed on the dealer in connection with
 32 the warranty agreement of the manufacturer or distributor
 33 applicable to any motor vehicle sold by the dealer.
 34 Sec. 4. It is an unfair practice for a dealer to sell a new motor
 35 vehicle having a trade name, trade or service mark, or related
 36 characteristic for which the dealer does not have a franchise in
 37 effect at the time of the sale. However, a vehicle having more than
 38 one (1) trade name, trade or service mark, or related characteristic
 39 as a result of modification or further manufacture by a
 40 manufacturer, converter manufacturer, or an automotive mobility
 41 dealer licensed under this article may be sold by a franchisee
 42 appointed by that manufacturer, converter manufacturer, or

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1 automotive mobility dealer.

2 **Sec. 5. It is an unfair practice for a dealer to willingly fail to**
 3 **perform the fiduciary duty imposed on the dealer by IC 6-2.5-2-1**
 4 **with regard to the collection and remittance of the state gross retail**
 5 **tax. Willful violation of the fiduciary duty includes written or oral**
 6 **agreements between a dealer and a prospective purchaser that**
 7 **would give the appearance that a bona fide trade-in has taken**
 8 **place, when in fact the purpose of the agreement is to reduce the**
 9 **prospective purchaser's state gross retail tax and thereby deprive**
 10 **the state of revenue.**

11 **Sec. 6. It is an unfair practice for a dealer to sell, exchange, or**
 12 **transfer a rebuilt vehicle without disclosing in writing to the**
 13 **purchaser, customer, or transferee the fact that the vehicle is a**
 14 **rebuilt vehicle if the dealer knows or should reasonably know**
 15 **before consummating the sale, exchange, or transfer that the**
 16 **vehicle is a rebuilt vehicle.**

17 **Sec. 7. (a) It is an unfair practice for a dealer to require a**
 18 **purchaser of a motor vehicle as a condition of the sale and delivery**
 19 **of the motor vehicle to pay a document preparation fee, unless the**
 20 **fee:**

- 21 (1) reflects expenses actually incurred for the preparation of
- 22 documents;
- 23 (2) was affirmatively disclosed by the dealer;
- 24 (3) was negotiated by the dealer and the purchaser;
- 25 (4) is not for the preparation, handling, or service of
- 26 documents that are incidental to the extension of credit; and
- 27 (5) is set forth on a buyer's order or similar agreement by a
- 28 means other than preprinting.

29 **(b) The maximum allowable charge for a document preparation**
 30 **fee is one hundred fifty dollars (\$150).**

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

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

- 36 (1) this chapter; or
- 37 (2) IC 23-2-2.7.

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

40 **Sec. 9. It is an unfair practice for a manufacturer or distributor**
 41 **to coerce a dealer to order parts, accessories, equipment,**
 42 **machinery, tools, appliances, or any other commodity from a**

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1 person.
2 **Sec. 10.** It is an unfair practice for a manufacturer or
3 distributor to prevent or require, or attempt to prevent or require,
4 by contract or otherwise, a change in the capital structure of a
5 dealer or the means by or through which the dealer finances the
6 dealer's operation, if the dealer at all times meets reasonable
7 capital standards agreed to by the dealer and the manufacturer or
8 distributor. A change in capital structure does not cause a change
9 in the principal management or have the effect of a sale of the
10 franchise without the consent of the manufacturer or distributor.
11 **Sec. 11.** It is an unfair practice for a manufacturer or
12 distributor to prevent or require, or attempt to prevent or require,
13 a dealer to change the dealer's executive management, other than
14 the principal dealer operator or operators, if the franchise was
15 granted in reliance upon the personal qualifications of the
16 principal dealer operator or operators.
17 **Sec. 12.** It is an unfair practice for a manufacturer or
18 distributor to prevent or require, or attempt to prevent or require,
19 by contract or otherwise, a dealer or an officer, a partner, or a
20 stockholder of a dealer to sell or transfer a part of the interest of
21 the officer, partner, or stockholder to any other person. A dealer,
22 an officer, a partner, or a stockholder may not sell, transfer, or
23 assign the franchise or a right under the franchise without the
24 consent of the manufacturer or distributor. This consent may not
25 be withheld unreasonably.
26 **Sec. 13.** It is an unfair practice for a manufacturer or
27 distributor to prevent or attempt to prevent a dealer from
28 receiving fair and reasonable compensation for the value of the
29 franchised business as a going concern. The dealer may not
30 transfer or assign the dealer's franchise without the consent of the
31 manufacturer or distributor, and the manufacturer or distributor
32 may not unreasonably withhold consent.
33 **Sec. 14.** It is an unfair practice for a manufacturer or
34 distributor to employ a person as a representative who has not
35 been licensed under this article.
36 **Sec. 15. (a)** It is an unfair practice for a manufacturer or
37 distributor to fail to compensate to a dealer the posted labor rate
38 for the work and services the dealer is required to perform in
39 connection with the dealer's delivery and preparation obligations
40 under any franchise or fail to compensate to a dealer the posted
41 hourly labor rate for labor and other expenses incurred by the
42 dealer under the manufacturer's warranty agreements as long as

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1 the posted rate is reasonable. Judgment of the reasonableness
 2 includes consideration of charges for similar repairs by
 3 comparable repair facilities in the local area as well as mechanic's
 4 wages and fringe benefits.

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

8 Sec. 16. (a) A manufacturer or distributor and at least thirty
 9 percent (30%) of its franchisees in Indiana of the same line make
 10 may agree in an express written contract citing this section to a
 11 uniform warranty reimbursement policy to be used by franchisees
 12 for the performance of warranty repairs. The contract must
 13 include reimbursement for parts used in warranty repairs or the
 14 use of a uniform time standards manual, or both. The allowance
 15 for diagnosis within the uniform time standards manual must be
 16 reasonable and adequate for the work and service to be performed.

17 The manufacturer or distributor:

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

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

23 (b) A contract described in subsection (a) must meet the
 24 following criteria:

25 (1) Establish a uniform parts reimbursement rate that must
 26 be greater than the manufacturer's or distributor's nationally
 27 established parts reimbursement rate in effect at the time the
 28 contract becomes effective. A subsequent contract must
 29 include a uniform reimbursement rate that is equal to or
 30 greater than the rate in the immediately prior contract.

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

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

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

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

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

41 (5) Allow any party to the uniform warranty reimbursement
 42 policy to terminate the policy with thirty (30) days prior

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

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1 (2) charge back to a dealer any amounts paid on a false or
 2 unsubstantiated claim;
 3 for up to two (2) years after the date on which the claim is paid.
 4 However, the limitations of this subsection do not apply if the
 5 manufacturer or distributor can prove fraud on a claim. A
 6 manufacturer or distributor shall not discriminate among dealers
 7 with regard to auditing or charging back claims.

8 Sec. 18. It is an unfair practice for a manufacturer or
 9 distributor to sell a motor vehicle for resale to a person not
 10 licensed under this article.

11 Sec. 19. It is an unfair practice for a manufacturer or
 12 distributor to refuse or fail to indemnify and hold harmless a
 13 dealer, upon written notification from the dealer, from all losses,
 14 costs, and expenses that result or arise from or are related to a
 15 complaint, claim, defense, or suit against the dealer that concerns
 16 defects in a motor vehicle or other goods or services that are the
 17 responsibility of the manufacturer.

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

22 Sec. 21. It is an unfair practice for an employee, an agent, an
 23 officer, a partner, or a representative of a licensee to engage in a
 24 practice prohibited by this chapter.

25 Sec. 22. (a) It is an unfair practice for a manufacturer to
 26 terminate a franchise in violation of IC 23-2-2.7-3. A dealer may
 27 not transfer, assign, or sell the business and assets of a dealership
 28 or an interest in the dealership to another person under an
 29 agreement that contemplates or is conditioned on a continuation of
 30 the franchise relationship with the manufacturer or distributor
 31 unless the dealer first:

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

35 (2) obtains the approval of the manufacturer or distributor.

36 The dealer must provide the manufacturer or distributor with
 37 completed application forms and related information generally
 38 used by the manufacturer or distributor to conduct a review of
 39 such a proposal and a copy of all agreements regarding the
 40 proposed transfer, assignment, or sale.

41 (b) The manufacturer or distributor shall send a letter by
 42 certified mail to the dealer not later than sixty (60) days after the

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1 manufacturer or distributor receives the information specified in
 2 subsection (a). The letter must indicate any disapproval of the
 3 transfer, assignment, or sale and must set forth the material
 4 reasons for the disapproval. If the manufacturer or distributor
 5 does not respond by letter not later than sixty (60) days after the
 6 manufacturer or distributor receives the information under
 7 subsection (a), the manufacturer's or distributor's consent to the
 8 proposed transfer, assignment, or sale is considered to have been
 9 granted. A manufacturer or distributor may not unreasonably
 10 withhold approval of a transfer, assignment, or sale under this
 11 section.

12 (c) A manufacturer or distributor has a right of first refusal as
 13 specified in the franchise agreement to acquire the new vehicle
 14 dealer's assets or ownership if there is a proposed change of more
 15 than fifty percent (50%) of the dealer's ownership or proposed
 16 transfer of more than fifty percent (50%) of the new vehicle
 17 dealer's assets and all the following are met:

18 (1) The manufacturer or distributor notifies the dealer in
 19 writing of the intent of the manufacturer or distributor to
 20 exercise the right of first refusal within the sixty (60) day
 21 notice period under subsection (b).

22 (2) The exercise of the right of first refusal will result in the
 23 dealer and the dealer's owners receiving consideration, terms,
 24 and conditions that are either the same as or better than those
 25 they have contracted to receive under the proposed change of
 26 more than fifty percent (50%) of the dealer's ownership or
 27 transfer of more than fifty percent (50%) of the new vehicle
 28 dealer's assets.

29 (3) The proposed change of the dealership's ownership or
 30 transfer of the new vehicle dealer's assets does not involve the
 31 transfer of assets or the transfer or issuance of stock by the
 32 dealer or one (1) or more of the dealer's owners to any of the
 33 following:

34 (A) A designated family member or members, including
 35 any of the following members of one (1) or more dealer
 36 owners:

37 (i) The spouse.

38 (ii) A child.

39 (iii) A grandchild.

40 (iv) The spouse of a child or a grandchild.

41 (v) A sibling.

42 (vi) A parent.

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- 1 **(B) A manager:**
 2 (i) employed by the dealer in the dealership during the
 3 previous four (4) years; and
 4 (ii) who is otherwise qualified as a dealer operator.
 5 **(C) A partnership or corporation controlled by any of the**
 6 family members described in clause (A).
 7 **(D) A trust arrangement established or to be established:**
 8 (i) for the purpose of allowing the new vehicle dealer to
 9 continue to qualify as such under the manufacturer's or
 10 distributor's standards; or
 11 (ii) to provide for the succession of the franchise
 12 agreement to designated family members or qualified
 13 management in the event of the death or incapacity of
 14 the dealer or the principal owner or owners.
 15 **(4) Except as otherwise provided in this subsection, the**
 16 manufacturer or distributor agrees to pay the reasonable
 17 expenses, including reasonable attorney's fees, that do not
 18 exceed the usual, customary, and reasonable fees charged for
 19 similar work done for other clients, and that are incurred by
 20 the proposed owner or transferee before the manufacturer's
 21 or distributor's exercise of the right of first refusal in
 22 negotiating and implementing the contract for the proposed
 23 change of the dealer ownership or the transfer of the new
 24 vehicle dealer's assets. Payment of expenses and attorney's
 25 fees is not required if the dealer has failed to submit an
 26 accounting of those expenses not later than twenty (20) days
 27 after the dealer receives the manufacturer's or distributor's
 28 written request for such an accounting. An expense
 29 accounting may be requested by a manufacturer or
 30 distributor before exercising the right of first refusal.
 31 **(d) Violation of this section by the manufacturer or distributor**
 32 is an unfair practice by a manufacturer or distributor.
 33 **Sec. 23. It is an unfair practice for a manufacturer, distributor,**
 34 **officer, or agent to do any of the following:**
 35 **(1) Require, coerce, or attempt to coerce a new motor vehicle**
 36 **dealer in Indiana to:**
 37 **(A) change the location of the dealership;**
 38 **(B) make any substantial alterations to the use of**
 39 **franchises; or**
 40 **(C) make any substantial alterations to the dealership**
 41 **premises or facilities;**
 42 **if to do so would be unreasonable or would not be justified by**

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1 current economic conditions or reasonable business
 2 considerations. This subdivision does not prevent a
 3 manufacturer or distributor from establishing and enforcing
 4 reasonable facility requirements.

5 (2) Require, coerce, or attempt to coerce a new motor vehicle
 6 dealer in Indiana to divest ownership of or management in
 7 another line or make of motor vehicles that the dealer has
 8 established in its dealership facilities with the prior written
 9 approval of the manufacturer or distributor.

10 (3) Establish or acquire wholly or partially a franchisor
 11 owned outlet engaged wholly or partially in a substantially
 12 identical business to that of the franchisee within the exclusive
 13 territory granted the franchisee by the franchise agreement
 14 or, if no exclusive territory is designated, competing unfairly
 15 with the franchisee within a reasonable market area. A
 16 franchisor is not considered to be competing unfairly if
 17 operating:

18 (A) a business for less than two (2) years;

19 (B) in a bona fide retail operation that is for sale to any
 20 qualified independent person at a fair and reasonable
 21 price; or

22 (C) in a bona fide relationship in which an independent
 23 person has made a significant investment subject to loss in
 24 the business operation and can reasonably expect to
 25 acquire majority ownership or managerial control of the
 26 business on reasonable terms and conditions.

27 This subdivision does not apply to recreational vehicle
 28 manufacturer franchisors.

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

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

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

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1 within that relevant market area.

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

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

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

6 a new motor vehicle dealer may bring a declaratory judgment
7 action in the circuit court for the county in which the new motor
8 vehicle dealer is located to determine whether good cause exists for
9 the establishing or relocating of a proposed new motor vehicle
10 dealer. If an action is filed under this section, the franchisor may
11 not establish or relocate the proposed new motor vehicle dealer
12 until the circuit court has rendered a decision on the matter. An
13 action brought under this section shall be given precedence over all
14 other civil matters on the docket of the court.

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

19 (1) Permanency of the investment.

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

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

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

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

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

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

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

36 (1) act as;

37 (2) offer to act as; or

38 (3) profess to be;

39 a broker in the advertising, buying, or selling of at least five (5)
40 new or used vehicles per year.

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

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

9 **Chapter 14. Damage to New Motor Vehicles**

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

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

15 **Sec. 2. Notwithstanding the terms, provisions, or conditions of**
16 **any agreement or franchise, a manufacturer, converter**
17 **manufacturer, or automotive mobility dealer is liable for all**
18 **damage to a new motor vehicle before delivery of the motor vehicle**
19 **to a carrier or transporter.**

20 **Sec. 3. A motor vehicle dealer is liable for damage to a new**
21 **motor vehicle after the motor vehicle is delivered to the carrier or**
22 **transporter only if the dealer selects the method of transportation,**
23 **mode of transportation, and the carrier or transporter. In all other**
24 **instances, the manufacturer is liable for carrier related damage to**
25 **a new motor vehicle.**

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

- 27 (1) glass;
- 28 (2) radios;
- 29 (3) tires; and
- 30 (4) bumpers;

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

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

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

41 **Chapter 15. Succession to Franchise by Designated Family**
42 **Members**

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

- 2 (1) the franchise is granted to a dealer other than a new motor
3 vehicle dealer; and
4 (2) the franchise or other written document filed with the
5 franchisor includes the franchisee's designation of a successor
6 to the franchise who is not the:
7 (A) spouse of the franchisee;
8 (B) child of the franchisee;
9 (C) grandchild of the franchisee;
10 (D) spouse of a:
11 (i) child; or
12 (ii) grandchild;
13 of the franchisee;
14 (E) parent of the franchisee; or
15 (F) sibling of the franchisee.

16 **Sec. 2. A designated family member of a deceased or**
17 **incapacitated franchisee may succeed the franchisee under the**
18 **existing franchise if:**

- 19 (1) the manufacturer or distributor determines, subject to
20 section 3 of this chapter, that the existing franchise should be
21 honored; and
22 (2) the designated family member complies with section 4 of
23 this chapter.

24 **Sec. 3. A manufacturer or distributor may refuse to honor the**
25 **succession of an existing franchise under section 2 of this chapter**
26 **only for good cause.**

27 **Sec. 4. To qualify under section 2 of this chapter to succeed a**
28 **franchisee under the existing franchise, a designated family**
29 **member must do all the following:**

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

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1 the existing franchise should be honored.
2 **Sec. 5. (a) Not later than sixty (60) days after receipt of:**
3 **(1) notice from a designated family member under section 4(1)**
4 **of this chapter; or**
5 **(2) requested personal or financial data under section 4(4) of**
6 **this chapter;**
7 **a manufacturer or distributor that determines that good cause**
8 **exists for refusing to honor the existing franchise shall serve notice**
9 **of the determination on the designated family member.**
10 **(b) The notice required under subsection (a) must state the**
11 **following:**
12 **(1) The specific grounds for the manufacturer's or**
13 **distributor's determination.**
14 **(2) The date on which the existing franchise will be**
15 **discontinued, which must be at least ninety (90) days after the**
16 **date the notice is served.**
17 **(c) If notice of the manufacturer's determination is not served**
18 **within the time specified in subsection (a) and does not comply with**
19 **subsection (b), the franchise must be honored and is not subject to**
20 **discontinuance under this chapter.**
21 **Chapter 16. Administration and Legal Proceedings**
22 **Sec. 1. (a) This chapter shall be administered by the division.**
23 **The secretary shall appoint the director, who is responsible for the**
24 **direction and supervision of the division and the administration of**
25 **this article under the direction and control of the secretary. The**
26 **salary of the director shall be paid out of funds appropriated for**
27 **the administration of this article. The director serves at the will of**
28 **the secretary.**
29 **(b) The secretary:**
30 **(1) shall employ employees, including a director, investigators**
31 **or attorneys, necessary for the administration of this article;**
32 **and**
33 **(2) shall fix the compensation of the employees with the**
34 **approval of the budget agency.**
35 **(c) It is unlawful for the director or an officer, employee, or**
36 **designee of the secretary to use for personal benefit or the benefit**
37 **of others records or other information obtained by or filed with the**
38 **dealer services division under this article that are not public. This**
39 **article does not authorize the director or an officer, employee, or**
40 **designee of the secretary to disclose the record or information,**
41 **except in accordance with this chapter.**
42 **(d) This article does not create or diminish a privilege or**

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1 exemption that exists at common law, by statute or rule, or
2 otherwise.

3 (e) The director may develop and implement dealer's and
4 vehicle purchaser's education initiatives to inform dealers and the
5 public about the offer or sale of vehicles, with particular emphasis
6 on the prevention and detection of fraud involving vehicle sales. In
7 developing and implementing these initiatives, the director may
8 collaborate with public and nonprofit organizations with an
9 interest in consumer education. The director may accept a grant or
10 donation from a person that is not affiliated with the dealer
11 industry or from a nonprofit organization, regardless of whether
12 the organization is affiliated with the dealer industry, to develop
13 and implement consumer education initiatives. This subsection
14 does not authorize the director to require participation or
15 monetary contributions of a registrant in an education program.

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

31 (g) In connection with the administration and enforcement of
32 this article, the attorney general shall render all necessary
33 assistance to the director upon the request of the director. To that
34 end, the attorney general shall employ legal and other professional
35 services as are necessary to adequately and fully perform the
36 service under the direction of the director as the demands of the
37 division require. Expenses incurred by the attorney general for the
38 purposes stated under this subsection are chargeable against and
39 shall be paid out of funds appropriated to the attorney general for
40 the administration of the attorney general's office. The attorney
41 general may authorize the director and the director's designee to
42 represent the director and the division in any proceeding involving

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enforcement or defense of this article.

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

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

- (1) are police officers of the state;
- (2) have all the powers and duties of police officers in conducting investigations for violations of this article, or in serving any process, notice, or order issued by an officer, authority, or court in connection with the enforcement of this article; and
- (3) comprise the enforcement department of the division.

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

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

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

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

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

Sec. 2. (a) An order issued under this article may deny a dealer license application for registration if the secretary finds that the order is in the public interest and subsection (c) authorizes the action. An order may condition or limit the license of an applicant to be a dealer and, if the applicant for a dealer license is a partner, officer, director, or person having similar status or performing

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1 similar functions, or a person directly or indirectly in control of the
2 dealership, the order may condition or limit the license.

3 (b) If the secretary finds that the order is in the public interest
4 and subsection (c) authorizes the action, an order issued under this
5 article may deny, revoke, suspend, condition, limit, or permanently
6 bar the granting of a license to or an application for a license from
7 a dealer, or a partner, an officer, a director, or a person having a
8 similar status or performing similar functions as a dealer, or a
9 person directly or indirectly in control of the dealer. However, the
10 secretary may not:

11 (1) institute a revocation or suspension proceeding under this
12 subsection based on an order issued under the law of another
13 state that is reported to the secretary or a designee of the
14 secretary more than one (1) year after the date of the order on
15 which it is based; or

16 (2) issue an order on the basis of an order issued under the
17 dealer services laws of another state unless the other order
18 was based on conduct for which subsection (c) would
19 authorize the action had the conduct occurred in Indiana.

20 (c) A person may be disciplined under subsections (a) and (b) if
21 the person:

22 (1) has filed an application for a dealer license in this state
23 under this article within the previous ten (10) years, which, as
24 of the effective date of license or registration or as of any date
25 after filing in the case of an order denying effectiveness, was
26 incomplete as to a material fact or contained a statement that,
27 in light of the circumstances under which it was made, was
28 false or misleading with respect to a material fact;

29 (2) knowingly violated or knowingly failed to comply with this
30 article within the previous ten (10) years;

31 (3) has been convicted of a felony within the previous ten (10)
32 years or has been convicted of a misdemeanor involving theft,
33 fraud, or an aspect of business involving the offer, sale,
34 financing, repair, or manufacture of a vehicle;

35 (4) is enjoined or restrained by a court with jurisdiction in an
36 action instituted by a state or the United States from engaging
37 in or continuing an act, practice, or course of business
38 involving an aspect of a business involving the offer, barter,
39 sale, purchase, transfer, financing, repair, or manufacture of
40 a vehicle;

41 (5) refuses to allow or otherwise impedes the secretary from
42 conducting an audit or inspection;

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- 1 **(6) has engaged in dishonest or unethical practices in a**
- 2 **business involving the offer, barter, sale, purchase, transfer,**
- 3 **financing, repair, or manufacture of a vehicle within the**
- 4 **previous ten (10) years;**
- 5 **(7) is engaging in unfair practices as set forth in this article;**
- 6 **(8) is on the most recent tax warrant list supplied to the**
- 7 **secretary by the department of state revenue;**
- 8 **(9) violates IC 23-2-2.7; or**
- 9 **(10) violates IC 9-19-9.**
- 10 **(d) The secretary may suspend or deny an application**
- 11 **summarily or restrict, condition, limit, censure, bar, or suspend a**
- 12 **dealer license before final determination of an administrative**
- 13 **proceeding. Upon the issuance of an order, the secretary shall**
- 14 **promptly notify each person subject to the order:**
- 15 **(1) that the order has been issued;**
- 16 **(2) the reasons for the action; and**
- 17 **(3) that within fifteen (15) days after the receipt of a request**
- 18 **in a record from the person the matter will be scheduled for**
- 19 **a hearing.**
- 20 **If a hearing is not requested and no hearing is ordered by the**
- 21 **secretary within thirty (30) days after the date of service of the**
- 22 **order, the order becomes final by operation of law. If a hearing is**
- 23 **requested or ordered, the secretary, after notice of and opportunity**
- 24 **for hearing to each person subject to the order, may modify or**
- 25 **vacate the order or extend the order until final determination.**
- 26 **(e) Revocation or suspension of a license of a manufacturer, a**
- 27 **distributor, a factory branch, a dealer, or an automobile auctioneer**
- 28 **may be limited to one (1) or more locations, to one (1) or more**
- 29 **defined areas, or only to certain aspects of the business.**
- 30 **(f) Except as provided in subsection (d), an order may not be**
- 31 **issued under this section without:**
- 32 **(1) appropriate notice to the applicant or registrant;**
- 33 **(2) an opportunity for a hearing; and**
- 34 **(3) findings of fact and conclusion of law in a record.**
- 35 **(g) A person that controls, directly or indirectly, a person not in**
- 36 **compliance with this section may be disciplined by order of the**
- 37 **secretary under subsections (a) and (b) to the same extent as the**
- 38 **noncomplying person, unless the controlling person did not know,**
- 39 **and in the exercise of reasonable care could not have known, of the**
- 40 **existence of conduct that is a ground for discipline under this**
- 41 **section.**
- 42 **Sec. 3. Information or documents obtained by the division in the**

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1 course of an investigation, unless such information or documents
 2 are published by the division under the authority of the division
 3 under statute or rule, are confidential. Such information and
 4 documents may be disclosed to:

- 5 (1) representatives of domestic or foreign governmental
 6 authorities;
- 7 (2) self-regulatory agencies;
- 8 (3) state or federal law enforcement officers;
- 9 (4) special counsels; and
- 10 (5) trustees in a bankruptcy proceeding;

11 upon the acceptance of an access request letter. The division may
 12 also, to the extent necessary, disclose such information and
 13 documents in court proceedings, when ordered to do so by a court
 14 with jurisdiction, or when appropriate in furtherance of any
 15 ongoing investigation or proceeding.

16 Sec. 4. A person complying with any request, order, or subpoena
 17 issued by the division for the production of documentary evidence
 18 shall retain the originals and shall provide the division with clearly
 19 legible, true, and complete copies of the documents requested,
 20 along with a signed cover letter, which must identify those
 21 documents with a reasonable degree of specificity.

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

- 24 (1) the dealer services regulator in another state;
- 25 (2) a foreign jurisdiction;
- 26 (3) the United States Department of Justice;
- 27 (4) an insurance regulator; or
- 28 (5) a governmental law enforcement agency.

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

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

35 Sec. 7. (a) A dealer licensed or required to be licensed under this
 36 article shall make and maintain the records, accounts,
 37 correspondence, memoranda, papers, books, and other records
 38 required under this article.

39 (b) Dealer records required to be maintained under
 40 IC 9-32-5-14 and other records required under this article may be
 41 maintained in any form of data storage acceptable to the secretary
 42 if the records are readily accessible and available to copy by an

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1 investigating or auditing employee of the secretary upon demand
2 at the place of business of the dealer.

3 (c) The records of a dealer licensed or required to be licensed
4 under this article are subject to such reasonable periodic, special,
5 or other audits or inspections by a representative of the secretary,
6 within or outside Indiana, as the secretary considers necessary or
7 appropriate in the public interest and for the protection of
8 investors. An audit or inspection may be made at any time and
9 without prior notice. The representative of the secretary may copy,
10 and remove for audit or inspection copies of, the records the
11 secretary reasonably considers necessary or appropriate to
12 conduct the audit or inspection.

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

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

- 32 (1) whether the requesting regulator is permitted and has
33 agreed to provide assistance reciprocally within the state or
34 foreign jurisdiction of the requesting regulator to the
35 secretary on dealer matters when requested;
36 (2) whether compliance with the request would violate or
37 prejudice the public policy of Indiana; and
38 (3) the availability of resources and employees of the division
39 to carry out the request for assistance.

40 Sec. 9. (a) A person shall cooperate in an inquiry, investigation,
41 or inspection conducted by, or on behalf of, the division for
42 purposes of determining whether or not a person has violated or is

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1 about to violate any provision under this article. The willful failure
 2 of a person to cooperate, absent a bona fide claim of privilege,
 3 may:

- 4 (1) be considered by the division a violation of statute; and
 5 (2) thus subject the person to denial, suspension, or revocation
 6 of licensing or registration or a bar from licensing or
 7 registration.

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

10 (1) The failure to timely respond by way of appearance or
 11 production of documents to a subpoena or order issued by the
 12 division.

13 (2) The failure to answer any question pertinent to inquiry
 14 unless the response to the question is subject to a bona fide
 15 claim of privilege.

16 (3) The failure to grant the division personnel access to:

17 (A) the business premises of a dealer or a person required
 18 to be licensed as a dealer; or

19 (B) the records and documents that the dealer or person
 20 required to be licensed as a dealer is required, by statute or
 21 rule, to make available for inspection.

22 (4) The failure to attend a scheduled proceeding at which the
 23 appearance of the person is directed. If a person elects to
 24 retain counsel for the purpose of representation in any such
 25 proceeding, it is the responsibility of the person to do so in a
 26 timely fashion. The failure of a person to retain counsel,
 27 absent a showing of good cause, does not require an
 28 adjournment of the proceeding.

29 (5) The failure to timely respond to or to provide information
 30 requested under a demand under this chapter.

31 (6) Aiding or abetting the failure of another person to
 32 cooperate.

33 Sec. 10. (a) The division may examine, without notice in a
 34 manner reasonable under the circumstances, the records, within or
 35 outside Indiana, of a licensed dealer in order to determine
 36 compliance under this article. The dealer shall make the records
 37 available to the division in a legible form.

38 (b) The division may copy records or require a dealer to copy
 39 records and provide the copies to the division to the extent and in
 40 the manner reasonable under the circumstances.

41 (c) The division may impose a reasonable fee for the expense of
 42 making copies under subsection (b).



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1 **Sec. 11. (a) The secretary or a designee of the secretary may**
 2 **refer the facts drawn from an investigation to the prosecuting**
 3 **attorney of the county in which a crime is alleged to have been**
 4 **committed.**

5 **(b) The secretary may assist the prosecuting attorney in**
 6 **prosecuting an action brought subsequent to a referral made under**
 7 **subsection (a), which may include a division attorney serving as a**
 8 **special deputy prosecutor appointed by the prosecuting attorney.**

9 **(c) A prosecuting attorney to which facts concerning fraud are**
 10 **referred under subsection (a) may refer the matter to the attorney**
 11 **general.**

12 **(d) If a matter has been referred to the attorney general under**
 13 **subsection (c), the attorney general may:**

14 **(1) file an information in a court with jurisdiction over the**
 15 **matter in a county in which the offense is alleged to have been**
 16 **committed; and**

17 **(2) prosecute the alleged offense.**

18 **The secretary and the division shall assist the attorney general in**
 19 **prosecuting an action referred under subsection (c), which may**
 20 **include a division attorney serving as a special deputy attorney**
 21 **general appointed by the attorney general.**

22 **Sec. 12. (a) All dealers operating as a:**

23 **(1) corporation;**

24 **(2) limited liability company;**

25 **(3) limited partnership; or**

26 **(4) limited liability partnership;**

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

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

32 **(c) The dealer must, for the entire licensing period, have an**
 33 **established place of business with a physical Indiana address. The**
 34 **dealer may not have a mailing address that differs from the actual**
 35 **location of the business.**

36 **(d) The applicant and all corporate officers, partners, and**
 37 **owners must submit to a national criminal history background**
 38 **check (as defined in IC 10-13-3-12) administered by the state police**
 39 **at the expense of the applicant and the corporate officers, partners,**
 40 **and owners. The secretary may deny an application based upon**
 41 **felony or misdemeanor convictions related to dealing in motor**
 42 **vehicles.**

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

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

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

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

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

19 (1) remove;

20 (2) copy by any manner; or

21 (3) order a copy of the official transcript without
 22 authorization by the director.

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

26 (1) Records relating to the complaints made to the division
 27 and records relating to investigations of the division.

28 (2) Information or documents obtained by the officers or
 29 employees of the division in the course of an audit or
 30 investigation, unless made a matter of public record, the
 31 division considers confidential.

32 Officers and employees of the division shall not make confidential
 33 information or documents available to anyone other than a
 34 member, officer, or employee of the secretary's office, the division,
 35 or any other regulatory or law enforcement agency, unless the
 36 secretary or director authorizes the disclosure of such information
 37 or the production of such documents as not being contrary to
 38 public interest.

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

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1 **(b) The following records are confidential and are not available**
 2 **for inspecting and copying under subsection (a):**

3 **(1) A record obtained by the secretary in connection with an**
 4 **audit or inspection under section 7(c) of this chapter or an**
 5 **investigation under section 15(2) of this chapter.**

6 **(2) A part of a record filed in connection with an application**
 7 **that contains trade secrets or confidential information if the**
 8 **person filing the registration statement or report has asserted**
 9 **a claim of confidentiality or privilege that is authorized by law**
 10 **and approved by the secretary.**

11 **(3) A record that is not required to be provided to the**
 12 **secretary or filed under this article and is provided to the**
 13 **secretary only on the condition that the record will not be**
 14 **subject to public examination or disclosure.**

15 **(4) A:**

16 **(A) Social Security number;**

17 **(B) residential address unless used as a business address;**
 18 **and**

19 **(C) residential telephone number unless used as a business**
 20 **telephone number;**

21 **contained in a record that is filed.**

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

24 **(A) expunged from the records of the secretary by a**
 25 **designee; or**

26 **(B) determined to be confidential by the designee if the**
 27 **secretary finds the determination to be based on statutory**
 28 **authority.**

29 **(c) If the disclosure is for the purpose of a civil, administrative,**
 30 **or criminal investigation, action, or proceeding or to a person**
 31 **specified in section 9 of this chapter, the secretary may disclose a**
 32 **record obtained in connection with an audit or inspection under**
 33 **section 7 of this chapter or a record obtained in connection with an**
 34 **audit or inspection under section 2(c)(5) of this chapter.**

35 **Sec. 17. (a) If the secretary believes that a person has engaged,**
 36 **is engaging, or is about to engage in an act, practice, or course of**
 37 **business constituting a violation of this article or a rule adopted or**
 38 **order issued under this article or that a person has engaged, is**
 39 **engaged, or is about to engage in an act, practice, or course of**
 40 **business that materially aids a violation of this article or a rule**
 41 **adopted or order issued under this article, the director may**
 42 **maintain an action in the circuit or superior court in the county**

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1 where the investigation or inquiry in question is being conducted
 2 to enjoin the act, practice, or course of business and to enforce
 3 compliance with this article or a rule adopted or order issued
 4 under this article.

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

7 (1) issue a permanent or temporary injunction, restraining
 8 order, or declaratory judgment;

9 (2) order other appropriate or ancillary relief, which may
 10 include:

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

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

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

19 (ii) collect debts; and

20 (iii) acquire and dispose of property;

21 (C) imposing a civil penalty of up to ten thousand dollars
 22 (\$10,000) per violation and an order of rescission,
 23 restitution, or disgorgement directed to a person that has
 24 engaged in an act, practice, or course of business
 25 constituting a violation of this article or a rule adopted or
 26 order issued under this article; and

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

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

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

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

34 Sec. 18. (a) The secretary may:

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

41 (2) require or permit a person to testify, file a statement, or
 42 produce a record, under oath or otherwise as the secretary

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1 determines, as to all the facts and circumstances concerning
 2 a matter to be investigated or about which an action or
 3 proceeding is to be instituted; and

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

9 (b) For purposes of an investigation under this article, the
 10 secretary or a designated employee of the secretary may
 11 administer oaths and affirmations, subpoena witnesses, seek
 12 compulsion of attendance, take attendance, take evidence, require
 13 the filing of statements, and require the production of any records
 14 that the secretary considers relevant or material to the
 15 investigation. Upon order of the secretary or a hearing officer
 16 appointed by the secretary in a hearing, depositions may be taken
 17 in the manner prescribed by law for depositions in civil actions and
 18 made returnable to the secretary or a hearing officer appointed by
 19 the secretary.

20 (c) If a person does not appear or refuses to testify, file a
 21 statement, or produce records, or otherwise does not obey a
 22 subpoena as required by this article, the secretary or hearing
 23 officer appointed by the secretary may apply to the circuit or
 24 superior court in the county where the hearing, investigation, or
 25 inquiry in question is being conducted to enforce compliance. The
 26 court may:

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

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

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1 (e) If a witness, in any hearing, inquiry, or investigation
 2 conducted under this article, refuses to answer any question or
 3 produce any item, the secretary may file a written petition with the
 4 circuit or superior court in the county where the hearing,
 5 investigation, or inquiry in question is being conducted requesting
 6 a hearing on the refusal. The court shall hold a hearing to
 7 determine if the witness may refuse to answer the question or
 8 produce the item. If the court determines that the witness, based
 9 upon the witness's privilege against self-incrimination, may
 10 properly refuse to answer or produce an item, the secretary may
 11 make a written request that the court grant use immunity to the
 12 witness. Upon written request of the secretary, the court shall
 13 grant use immunity to a witness. The court shall instruct the
 14 witness, by written order or in open court, that:

- 15 (1) any evidence the witness gives, or evidence derived from
 16 that evidence, may not be used in any criminal proceedings
 17 against that witness, unless the evidence is volunteered by the
 18 witness or is not responsive to a question; and
 19 (2) the witness must answer the questions asked and produce
 20 the items requested.

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

26 (f) In any prosecution, action, suit, or proceeding based upon or
 27 arising out of or under this article, a certificate signed by the
 28 secretary showing compliance or noncompliance with this article
 29 by the dealer constitutes prima facie evidence of compliance with
 30 this article and is admissible in evidence in any action at law or in
 31 equity to enforce this article.

32 (g) Each witness who appears before the secretary or a hearing
 33 officer appointed by the secretary by order is entitled to receive for
 34 the witness's attendance the fees and mileage provided for
 35 witnesses in civil cases, which must be audited and paid by the state
 36 in the same manner as other expenses of the division are audited
 37 and paid upon the presentation of proper vouchers sworn to by the
 38 witnesses and approved by the secretary. However, a witness
 39 subpoenaed at the instance of parties other than the secretary or
 40 a hearing officer appointed by the secretary is not entitled to any
 41 fee or compensation from the state.

42 Chapter 17. Penalties and Disciplinary Action



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

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

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

14 (c) A person who knowingly or intentionally violates
 15 IC 9-32-3-2(a)(3) commits a:

- 16 (1) Class A misdemeanor for the first violation; and
- 17 (2) Class D felony for a second or subsequent unrelated
 18 violation.

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

- 22 (1) IC 9-32-5-7.
- 23 (2) IC 9-32-5-10.
- 24 (3) IC 9-32-5-11(d).
- 25 (4) IC 9-32-5-12.

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

28 **Sec. 4.** (a) Except as provided in subsections (b) and (c), a person
 29 who knowingly or intentionally violates IC 9-32-8 commits a Class
 30 B misdemeanor.

31 (b) A person who knowingly or intentionally violates
 32 IC 9-32-8-27 commits a Class D felony.

33 (c) In addition to any applicable criminal penalty, a person who
 34 violates IC 9-32-8 commits a deceptive act that is actionable by the
 35 attorney general and is subject to the remedies and penalties under
 36 IC 24-5-0.5.

37 **Sec. 5.** A person who knowingly or intentionally violates any of
 38 the following commits a Class B misdemeanor:

- 39 (1) IC 9-32-9-1.
- 40 (2) IC 9-32-9-2.
- 41 (3) IC 9-32-9-10.

42 **Sec. 6.** A person who knowingly or intentionally violates:

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1 (1) IC 9-32-11-1; or
2 (2) IC 9-32-11-12;
3 **commits a Class A misdemeanor.**
4 **Sec. 7. (a) Except as provided in subsection (b), a person who**
5 **knowingly or intentionally violates IC 9-32-13 commits a Class B**
6 **misdemeanor.**
7 **(b) A person who knowingly or intentionally violates:**
8 (1) IC 9-32-13-25; or
9 (2) IC 9-32-13-26;
10 **commits a Class A misdemeanor.**
11 **Sec. 8. A person who knowingly or intentionally violates**
12 **IC 9-32-16-13 commits a Class D felony.**
13 **Sec. 9. A dealer who fails to deliver a certificate of origin or title**
14 **under IC 9-32-4-2 or IC 9-32-4-8 or fails to deliver timely a**
15 **certificate of title under IC 9-32-3-2(c) is subject to the following**
16 **civil penalties:**
17 (1) One hundred dollars (\$100) for the first violation.
18 (2) Two hundred and fifty dollars (\$250) for the second
19 violation.
20 (3) Five hundred dollars (\$500) for all subsequent violations.
21 **Payment shall be made to the secretary and deposited in the dealer**
22 **enforcement account established under IC 9-32-6-2.**
23 **Sec. 10. A retail lessor who fails to comply with IC 9-32-12, as**
24 **set forth in IC 9-32-12-4, is liable to the retail lessee for:**
25 (1) actual damages sustained;
26 (2) a civil penalty of not more than one thousand dollars
27 (\$1,000) per lease transaction; and
28 (3) reasonable attorney's fees and costs.
29 **Sec. 11. In addition to all other remedies, the secretary may seek**
30 **the following remedies against a person that violates, attempts to**
31 **violate or assists in a violation of or an attempt to violate**
32 **IC 9-32-16:**
33 (1) An injunction.
34 (2) Appointment of a receiver or conservator.
35 (3) A civil penalty not to exceed ten thousand dollars (\$10,000)
36 per violation.
37 (4) An action to enforce a civil penalty assessed under
38 subdivision (3).
39 **Civil penalties recovered under this section shall be paid to the**
40 **state and deposited into the dealer enforcement account established**
41 **by IC 9-32-6-2.**
42 SECTION 86. IC 23-19-6-1, AS AMENDED BY P.L.114-2010,

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1 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2012]: Sec. 1. (a) This article shall be administered by a
3 division of the office of the secretary of state. The secretary of state
4 shall appoint a securities commissioner who shall be responsible for
5 the direction and supervision of the division and the administration of
6 this article under the direction and control of the secretary of state. The
7 salary of the securities commissioner shall be paid out of the funds
8 appropriated for the administration of this article. The commissioner
9 shall serve at the will of the secretary of state.

10 (b) The secretary of state:

11 (1) shall employ a chief deputy, attorneys, a senior investigator,
12 a senior accountant, and other deputies, investigators,
13 accountants, clerks, stenographers, and other employees necessary
14 for the administration of this article; and

15 (2) shall fix their compensation with the approval of the budget
16 agency.

17 (c) It is unlawful for the commissioner or an officer, employee, or
18 designee of the commissioner to use for personal benefit or the benefit
19 of others records or other information obtained by or filed with the
20 commissioner that are not public under section 7(b) of this chapter.
21 This article does not authorize the commissioner or an officer,
22 employee, or designee of the commissioner to disclose the record or
23 information, except in accordance with section 2, 7(c), or 8 of this
24 chapter.

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

27 (e) Subject to IC 4-2-6-15, the commissioner may develop and
28 implement investor education initiatives to inform the public about
29 investing in securities, with particular emphasis on the prevention and
30 detection of securities fraud. In developing and implementing these
31 initiatives, the commissioner may collaborate with public and nonprofit
32 organizations with an interest in investor education. The commissioner
33 may accept a grant or donation from a person that is not affiliated with
34 the securities industry or from a nonprofit organization, regardless of
35 whether the organization is affiliated with the securities industry, to
36 develop and implement investor education initiatives. This subsection
37 does not authorize the commissioner to require participation or
38 monetary contributions of a registrant in an investor education
39 program.

40 (f) Fees and funds of whatever character accruing from the
41 administration of this article shall be accounted for by the secretary of
42 state and shall be deposited with the treasurer of state to be deposited

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1 by the treasurer of ~~the~~ state in either the state general fund or the
 2 enforcement account referenced below. Subject to IC 4-2-6-15,
 3 expenses incurred in the administration of this article shall be paid
 4 from the state general fund upon appropriation being made for the
 5 expenses in the manner provided by law for the making of those
 6 appropriations. However, grants and donations received under
 7 subsection (e), costs of investigations recovered under section 4(e) of
 8 this chapter, and civil penalties recovered under sections 3(b) and 4(d)
 9 of this chapter shall be deposited by the treasurer of state in a separate
 10 account to be known as the securities division enforcement account.
 11 Notwithstanding ~~IC 9-23-6-4~~, IC 23-2-2.5-34, IC 23-2-2.5-43,
 12 IC 23-2-5-7, IC 23-19-4-12, IC 25-11-1-15, and this chapter, five
 13 percent (5%) of funds received ~~after June 30, 2010~~, for deposit in the
 14 enforcement account shall instead be deposited in the securities
 15 restitution fund established under ~~IC 23-20-1-26~~. **IC 23-20-1-25**.
 16 Subject to IC 4-2-6-15, the funds deposited in the enforcement account
 17 shall be available, with the approval of the budget agency:

- 18 (1) to augment and supplement the funds appropriated for the
- 19 administration of this article; and
- 20 (2) for grants and awards to nonprofit entities for programs and
- 21 activities that will further investor education and financial literacy
- 22 in the state.

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

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

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

42 (i) The commissioner shall take, prescribe, and file the oath of office

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1 prescribed by law. The commissioner, chief deputy commissioner, and
2 each attorney or investigator designated by the commissioner are police
3 officers of the state and shall have all the powers and duties of police
4 officers in making arrests for violations of this article, or in serving any
5 process, notice, or order connected with the enforcement of this article
6 by whatever officer, authority, or court issued and shall comprise the
7 enforcement department of the division and are considered a criminal
8 justice agency for purposes of IC 5-2-4 and IC 10-13-3.

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

- 12 (1) the practice or commission of fraud may be prohibited and
- 13 prevented;
- 14 (2) disclosure of sufficient and reliable information in order to
- 15 afford reasonable opportunity for the exercise of independent
- 16 judgment of the persons involved may be assured; and
- 17 (3) the qualifications may be prescribed to assure availability of
- 18 reliable broker-dealers, investment advisers, and agents engaged
- 19 in and in connection with the issuance, barter, sale, purchase,
- 20 transfer, or disposition of securities in this state.

21 It is the intent and purpose of this article to delegate and grant to and
22 vest in the secretary of state, the securities division, and the
23 commissioner full and complete power to carry into effect and
24 accomplish the purpose of this article and to charge them with full and
25 complete responsibility for its effective administration.

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

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

34 SECTION 87. IC 24-4-6-1, AS AMENDED BY P.L.156-2006,
35 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2012]: Sec. 1. (a) This section does not apply to a person that
37 holds a special event permit issued under ~~IC 9-23-2-16~~ **IC 9-32-11-16**.

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

40 SECTION 88. IC 34-30-2-30, AS AMENDED BY P.L.42-2011,
41 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2012]: Sec. 30. ~~IC 9-22-3-25~~ **IC 9-32-8-24** (Concerning

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1 persons releasing or providing evidence or information concerning
 2 salvage motor vehicles).
 3 SECTION 89. IC 35-51-9-1, AS ADDED BY P.L.70-2011,
 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 9:
 6 IC 9-14-3.5-15 (Concerning bureau of motor vehicles).
 7 IC 9-14-5-9 (Concerning parking placards for persons with
 8 physical disabilities).
 9 IC 9-17-2-15 (Concerning certificates of title).
 10 IC 9-17-2-16 (Concerning certificates of title).
 11 IC 9-17-3-3.2 (Concerning certificates of title).
 12 IC 9-17-3-7 (Concerning certificates of title).
 13 IC 9-17-4-6 (Concerning certificates of title).
 14 IC 9-18-2-42 (Concerning motor vehicle registration and license
 15 plates).
 16 IC 9-18-2-44 (Concerning motor vehicle registration and license
 17 plates).
 18 IC 9-18-2-45 (Concerning motor vehicle registration and license
 19 plates).
 20 IC 9-18-4-8 (Concerning motor vehicle registration and license
 21 plates).
 22 IC 9-18-8-11 (Concerning motor vehicle registration and license
 23 plates).
 24 IC 9-18-8-12 (Concerning motor vehicle registration and license
 25 plates).
 26 IC 9-18-8-13 (Concerning motor vehicle registration and license
 27 plates).
 28 IC 9-18-8-14 (Concerning motor vehicle registration and license
 29 plates).
 30 IC 9-18-8-15 (Concerning motor vehicle registration and license
 31 plates).
 32 IC 9-18-13-9 (Concerning motor vehicle registration and license
 33 plates).
 34 IC 9-18-22-6 (Concerning motor vehicle registration and license
 35 plates).
 36 ~~IC 9-18-26-11 (Concerning motor vehicle registration and license~~
 37 ~~plates):~~
 38 ~~IC 9-18-26-13 (Concerning motor vehicle registration and license~~
 39 ~~plates):~~
 40 IC 9-18-27-9 (Concerning motor vehicle registration and license
 41 plates).
 42 IC 9-19-9-5 (Concerning motor vehicle equipment).

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- 1 IC 9-19-10.5-4 (Concerning motor vehicle equipment).
 2 IC 9-19-10.5-5 (Concerning motor vehicle equipment).
 3 IC 9-20-18-4 (Concerning motor vehicle size and weight
 4 regulation).
 5 IC 9-21-5-13 (Concerning traffic regulation).
 6 IC 9-21-6-3 (Concerning traffic regulation).
 7 IC 9-21-8-50 (Concerning traffic regulation).
 8 IC 9-21-8-52 (Concerning traffic regulation).
 9 IC 9-21-8-55 (Concerning traffic regulation).
 10 IC 9-21-8-56 (Concerning traffic regulation).
 11 IC 9-21-8-58 (Concerning traffic regulation).
 12 IC 9-21-12-9 (Concerning traffic regulation).
 13 IC 9-21-12-11 (Concerning traffic regulation).
 14 ~~IC 9-22-3-31 (Concerning abandoned, salvaged, and scrap~~
 15 ~~vehicles):~~
 16 ~~IC 9-22-3-32 (Concerning abandoned, salvaged, and scrap~~
 17 ~~vehicles):~~
 18 ~~IC 9-22-3-33 (Concerning abandoned, salvaged, and scrap~~
 19 ~~vehicles):~~
 20 IC 9-22-5-17 (Concerning abandoned, salvaged, and scrap
 21 vehicles).
 22 ~~IC 9-23-6-1 (Concerning vehicle manufacturers, distributors, and~~
 23 ~~dealers):~~
 24 IC 9-24-1-8 (Concerning driver's licenses).
 25 IC 9-24-6-16 (Concerning driver's licenses).
 26 IC 9-24-6-17 (Concerning driver's licenses).
 27 IC 9-24-11-8 (Concerning driver's licenses).
 28 IC 9-24-15-11 (Concerning driver's licenses).
 29 IC 9-24-16-12 (Concerning driver's licenses).
 30 IC 9-24-16-13 (Concerning driver's licenses).
 31 IC 9-24-18-1 (Concerning driver's licenses).
 32 IC 9-24-18-2 (Concerning driver's licenses).
 33 IC 9-24-18-7 (Concerning driver's licenses).
 34 IC 9-24-19-2 (Concerning driver's licenses).
 35 IC 9-24-19-3 (Concerning driver's licenses).
 36 IC 9-24-19-4 (Concerning driver's licenses).
 37 IC 9-25-6-18 (Concerning financial responsibility).
 38 IC 9-25-8-2 (Concerning financial responsibility).
 39 IC 9-26-1-8 (Concerning accidents and accident reports).
 40 IC 9-26-1-9 (Concerning accidents and accident reports).
 41 IC 9-26-6-4 (Concerning accidents and accident reports).
 42 IC 9-30-4-7 (Concerning licenses and registrations).

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- 1 IC 9-30-4-8 (Concerning licenses and registrations).
 2 IC 9-30-4-13 (Concerning licenses and registrations).
 3 IC 9-30-5-1 (Concerning operating a vehicle while intoxicated).
 4 IC 9-30-5-2 (Concerning operating a vehicle while intoxicated).
 5 IC 9-30-5-3 (Concerning operating a vehicle while intoxicated).
 6 IC 9-30-5-4 (Concerning operating a vehicle while intoxicated).
 7 IC 9-30-5-5 (Concerning operating a vehicle while intoxicated).
 8 IC 9-30-5-7 (Concerning operating a vehicle while intoxicated).
 9 IC 9-30-5-8 (Concerning operating a vehicle while intoxicated).
 10 IC 9-30-6-8.7 (Concerning implied consent).
 11 IC 9-30-9-7.5 (Concerning alcohol abuse deterrent programs).
 12 IC 9-30-10-16 (Concerning habitual violator of traffic laws).
 13 IC 9-30-10-17 (Concerning habitual violator of traffic laws).
 14 IC 9-30-10-17.5 (Concerning habitual violator of traffic laws).
 15 IC 9-31-2-26 (Concerning watercraft titling and registration).
 16 IC 9-31-2-27 (Concerning watercraft titling and registration).
 17 IC 9-31-2-28 (Concerning watercraft titling and registration).
 18 **IC 9-32-17-2 (Concerning certificates of title).**
 19 **IC 9-32-17-3 (Concerning dealer license plates).**
 20 **IC 9-32-17-4 (Concerning salvage motor vehicles).**
 21 **IC 9-32-17-5 (Concerning licensing of vehicle salvaging).**
 22 **IC 9-32-17-6 (Concerning regulation of vehicle**
 23 **merchandising).**
 24 **IC 9-32-17-7 (Concerning unfair practices by dealers).**
 25 **IC 9-32-17-8 (Concerning administration and judicial review**
 26 **by the dealer services division of the secretary of state).**
 27 SECTION 90. [EFFECTIVE JULY 1, 2012] **(a) The legislative**
 28 **services agency shall prepare legislation for introduction in the**
 29 **2013 regular session of the general assembly to organize and**
 30 **correct statutes affected by this act, if necessary.**
 31 **(b) This SECTION expires December 31, 2013.**

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