

# SENATE BILL No. 194

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-5-13.3.

**Synopsis:** Right to rescind purchase of used motor vehicle. Permits the purchaser of a used motor vehicle purchased from a dealer to rescind the purchase of the vehicle within 72 hours after purchase under certain circumstances if the vehicle has a defect that substantially impairs the use, market value, or safety of the vehicle. Makes technical corrections.

**Effective:** July 1, 2013.

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January 7, 2013, read first time and referred to Committee on Commerce, Economic Development & Technology.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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## SENATE BILL No. 194

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

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

1 SECTION 1. IC 24-5-13.3 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2013]:

4 **Chapter 13.3. Right to Rescind Purchase of Used Motor Vehicle**

5 **Sec. 1. As used in this chapter, "dealer" has the meaning set**  
6 **forth in IC 9-13-2-42(a).**

7 **Sec. 2. As used in this chapter, "motor vehicle" means a vehicle**  
8 **that is:**

- 9 (1) self-propelled; and
- 10 (2) required to be titled by the bureau of motor vehicles under
- 11 IC 9-17-2-1(b).

12 **Sec. 3. As used in this chapter, "nonconformity" has the**  
13 **meaning set forth in IC 24-5-13-6.**

14 **Sec. 4. As used in this chapter, "purchaser" means a person who**  
15 **enters into a contract within Indiana for the purchase of a used**  
16 **motor vehicle from a dealer for purposes other than:**

- 17 (1) resale; or



- 1           (2) sublease.
- 2           **Sec. 5. As used in this chapter, "used motor vehicle" means a**
- 3 **motor vehicle that has been:**
- 4           (1) titled under IC 9-17 or under the motor vehicle title law of
- 5 another state; and
- 6           (2) transferred by a dealer to an ultimate purchaser.
- 7           **Sec. 6. Except as provided in section 7 of this chapter, if:**
- 8           (1) a purchaser purchases a used motor vehicle from a dealer;
- 9           (2) the used motor vehicle is subject to a nonconformity; and
- 10           (3) less than seventy-two (72) hours after purchasing the used
- 11 motor vehicle, the purchaser:
- 12           (A) returns the used motor vehicle to the dealer's place of
- 13 business;
- 14           (B) notifies the dealer of the existence of the
- 15 nonconformity; and
- 16           (C) informs the dealer that the purchaser wishes to rescind
- 17 the purchase of the used motor vehicle;
- 18 the purchase of the used motor vehicle is rescinded, and the dealer
- 19 shall make restitution to the purchaser under section 8 of this
- 20 chapter.
- 21           **Sec. 7. Section 6 of this chapter does not authorize a purchaser**
- 22 **to rescind the purchase of a used motor vehicle on the grounds that**
- 23 **the used motor vehicle is subject to a particular nonconformity if,**
- 24 **before the purchaser purchased the used motor vehicle, the dealer**
- 25 **plainly disclosed the existence of the nonconformity to the**
- 26 **purchaser in a writing attached to the used motor vehicle or in a**
- 27 **separate writing stating that:**
- 28           (1) the used motor vehicle is being sold "as is" or "with all
- 29 faults"; or
- 30           (2) all warranties applying to the used motor vehicle are
- 31 negated or excluded;
- 32 in accordance with IC 26-1-2-316.
- 33           **Sec. 8. (a) Restitution to the purchaser by the dealer under this**
- 34 **chapter shall be by means of:**
- 35           (1) a refund of the full contract price for the purchaser's
- 36 purchase of the used motor vehicle, including all credits and
- 37 allowances for any vehicle that was traded in for the used
- 38 motor vehicle; or
- 39           (2) the replacement of the used motor vehicle returned by the
- 40 purchaser with another motor vehicle of value comparable to
- 41 the value of the returned used motor vehicle.
- 42           (b) A refund under this chapter shall be made to the purchaser

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1 and any lienholder, as the respective interests appear on the  
 2 records of ownership.  
 3 (c) A purchaser who prevails in an action under this chapter  
 4 shall be allowed to select the means under subsection (a) by which  
 5 the dealer will make restitution to the purchaser.  
 6 Sec. 9. This chapter does not limit the rights or remedies that  
 7 are otherwise available to a purchaser under any other applicable  
 8 law, including under IC 24-5-13.  
 9 Sec. 10. (a) A purchaser may bring a civil action to enforce this  
 10 chapter in a circuit or superior court in the county in which the  
 11 purchase occurred.  
 12 (b) A purchaser may not initiate an action under this chapter  
 13 more than two (2) years after the date on which the purchaser:  
 14 (1) returned the used motor vehicle to the dealer's place of  
 15 business; and  
 16 (2) informed the dealer of the rescission of the purchase of the  
 17 used motor vehicle.  
 18 (c) A purchaser who prevails in an action under this chapter is  
 19 entitled to recover as part of the judgment the total amount of costs  
 20 and expenses, including attorney's fees based on actual time  
 21 expended by the attorney, determined by the court to have been  
 22 reasonably incurred by the purchaser for or in connection with the  
 23 litigation.

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