SENATE BILL No. 277

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-13.

Synopsis: Methamphetamine vehicle information disclosure. Requires a dealer or seller who knows or reasonably should know that a motor vehicle has been used to manufacture methamphetamine to disclose this fact, in writing, to a buyer or prospective buyer of the motor vehicle before the sale. Provides that failure to disclose gives rise to a cause of action in which the buyer may seek: (1) remediation to a certain standard; or (2) reimbursement for remediation costs. Provides that, in addition, a court may award a buyer or prospective buyer liquidated damages of not more than $10,000.

Effective: July 1, 2013.

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January 8, 2013, read first time and referred to Committee on Civil Law.

C o p y

Introduced

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. 277

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:

SECTION 1. IC 24-5-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. This chapter applies to all:

(1) motor vehicles that are sold, leased, transferred, or replaced by a dealer or manufacturer in Indiana; **and**

(2) methamphetamine vehicles that are sold, leased, transferred, or replaced by a dealer or seller in Indiana.

SECTION 2. IC 24-5-13-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.1. As used in this chapter, "dealer" has the meaning set forth in IC 9-13-2-42.**

SECTION 3. IC 24-5-13-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.1. As used in this chapter, "methamphetamine vehicle" means any motor vehicle subject to registration and certificate of title provisions that has been used in the manufacturing of methamphetamine. For the purposes of this**

chapter, a methamphetamine vehicle suffers from a nonconformity.

SECTION 4. IC 24-5-13-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.1. As used in this chapter, "seller" means a person who:**

(1) sells, leases, exchanges, or transfers; or

(2) solicits a sale, lease, exchange, or transfer of;

a methamphetamine vehicle to a buyer.

SECTION 5. IC 24-5-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. **This section does not apply to a methamphetamine vehicle.** As used in this chapter, "term of protection" means a period of time that:

(1) begins:

(A) on the date of original delivery of a motor vehicle to a buyer; or

(B) in the case of a replacement vehicle provided by a manufacturer to a buyer under this chapter, on the date of delivery of the replacement vehicle to the buyer; and

(2) ends the earlier of:

(A) eighteen (18) months after the date identified under subdivision (1); or

(B) the time the motor vehicle has been driven eighteen thousand (18,000) miles after the date identified under subdivision (1).

SECTION 6. IC 24-5-13-16.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 16.1. (a) If a dealer or seller knows or reasonably should know that a motor vehicle is a methamphetamine vehicle, the dealer or seller shall disclose, in writing, to the buyer or prospective buyer that the motor vehicle is a methamphetamine vehicle.**

(b) The written disclosure required under subsection (a) shall be provided before the dealer or seller sells, leases, exchanges, transfers, or accepts payment from a buyer or prospective buyer.

SECTION 7. IC 24-5-13-16.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 16.2. (a) In addition to any other remedy or penalty provided in this chapter, if a dealer or seller fails to make a disclosure required under section 16.1 of this chapter, a buyer or prospective buyer may bring a civil action against the dealer or seller.**

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(b) In an action brought by a buyer or prospective buyer under this section, a court may order a dealer or seller to perform either of the following:

(1) Decontaminate or contract for the decontamination of the methamphetamine vehicle so that the methamphetamine vehicle meets one (1) or more of the following minimum clearance levels and requirements:

(A) Surface area wipe of less than one (1) microgram per square foot of unlawfully manufactured controlled substances or precursor drugs.

(B) Indoor air clearance level of less than or equal to one (1) part per million (1,000,000) of volatile organic compounds.

(C) Surface area wipe of less than or equal to forty (40) micrograms per square foot of lead.

(D) Indoor air clearance level of less than three-tenths (0.3) micrograms per cubic meter.

(E) Surface pH level for corrosives of between 6.0 and 8.0.

(2) Reimburse a buyer or prospective buyer who incurred damages or expenses to remediate or decontaminate a methamphetamine vehicle to address the nonconformity.

(c) In addition to the remedies described in subsection (b), a court may award liquidated damages to a buyer or prospective buyer in an amount not to exceed ten thousand dollars ($10,000).

SECTION 8. IC 24-5-13-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 23. (a) **This subsection does not apply to an action concerning a violation of section 16.1 of this chapter.** An action brought under this chapter must be commenced within two (2) years following the date the buyer first reports the nonconformity to the manufacturer, its agent, or authorized dealer.

(b) **This subsection does not apply to an action concerning a violation of section 16.1 of this chapter.** When the buyer has commenced an informal dispute settlement procedure described in section 19 of this chapter, the two (2) year period specified in subsection (a) is tolled during the time the informal dispute settlement procedure is being conducted.

(c) An action concerning a violation of section 16.1 of this chapter must be commenced within two (2) years following the date of the violation.

SECTION 9. IC 24-5-13-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 24. **This section does**

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not apply to a transaction or solicited transaction relating to a methamphetamine vehicle. Nothing in this chapter imposes any liability on a dealer or creates a cause of action by a consumer against a dealer, and a manufacturer may not, directly or indirectly, expose any franchised dealer to liability under this chapter.

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