

Emergency Rule
LSA Document #14-247(E)

DIGEST

Temporarily adds noncode provisions for licensing requirements for wholesale dealers who transition to used dealers when the wholesale license is repealed. Statutory authority: [IC 4-22-2-37.1](#); [IC 9-32-3-3](#). Effective June 30, 2014.

SECTION 1. A wholesale dealer with a valid wholesale license may transition to a used dealer license at any time, including upon license renewal, between July 1, 2014, and June 30, 2015. A wholesale dealer that transitions to a used dealer license before July 1, 2015, must either:

- (1) meet all of the requirements found in [IC 9-32](#), 75 IAC, and LSA Document #13-440(E) (Emergency Rules) for used dealer licenses before July 1, 2015; or**
- (2) request a transitional grace period and meet all of the transition period requirements.**

SECTION 2. A valid wholesale dealer, who meets all of the requirements found in [IC 9-32](#), 75 IAC, and LSA Document #13-440 (E) (Emergency Rules) for a used dealer license and chooses to transition to a used dealer license before July 1, 2015, without requesting a transition period, may use the following steps to complete the transition:

STEP 1: Clearly mark on the completed renewal application or new application that the dealer would like to transition from a valid wholesale license to a used dealer license.

STEP 2: A compliance clerk with the division will contact the dealer to assist with necessary documentation to complete the application process. A new application is required if business location is changing or transition occurs outside of renewal period. If the business location is changing, supporting documentation is required to demonstrate address changes have been completed on bond, insurance, registered merchant's certificate, and tax documents. The division will schedule an inspection of the established place of business to ensure compliance.

STEP 3: Dealers must submit the licensing fee for a used dealer license with a new application if transition occurs during dealer renewal. Dealers do not submit payment for licensing fee if transition occurs outside of dealer renewal, but dealers will renew license and plates during the next statutory renewal period.

STEP 4: Dealers will maintain allocated plates and license until dealer receives new used dealer plates.

STEP 5: The division will send an invoice for payment of used dealer plates. The dealer will get an invoice for the same amount of used dealer plates as wholesale plates or used plates the dealer currently maintains. If the dealer wants a different number of used dealer plates, the dealer must communicate that with the division.

STEP 6: Once payment is processed, the division will mail the new license and used dealer plates to the dealer's established place of business. The dealer must return all wholesale plates to the division to avoid penalty.

SECTION 3. (a) A valid wholesale dealer, who wants to transition to a valid used dealer by requesting a transition period, must meet the following requirements:

(1) The transitioning dealer must request a transition period in writing from the division by completing the transition period request form.

(2) The transitioning dealer must meet all of the used dealer requirements found in [IC 9-32](#) upon request for transition period, with the following exceptions:

(A) Have at least one thousand three hundred (1,300) square feet and be able to accommodate the display of a minimum of ten (10) vehicles of the kind and type that the dealer is licensed to sell and space for customer parking.

(B) Be well lit during hours of operation.

(C) Have and display customer parking areas adequately surfaced with asphalt, concrete, rock, or substance that will not change with weather conditions.

(D) Have a conspicuous permanent sign identifying the dealer by name in which the dealer is licensed.

(3) The transitioning dealer must have an established place of business that includes a dealer office as follows:

(A) The transitioning dealer's established place of business must:

- (i) have a separate exterior entrance;
- (ii) maintain a distinct impression of a separate business both on the exterior and interior of the building by having complete separation from adjacent businesses in the same building; and
- (iii) have a sign on the exterior of the building with business name and office hours.

(B) The dealer office shall be:

- (i) housed at the dealer's established place of business;
- (ii) at least one hundred (100) square feet in size;
- (iii) equipped with office furniture such as a desk, chairs, and filing cabinets;
- (iv) served with utilities such as electricity, lighting, heat, and a business telephone; and
- (v) reflective of functional use and operation of the license.

(4) The established place of business may not house a secondary business unless that business is closely related to the sale of motor vehicles and this secondary business does not provide in excess of fifty percent (50%) of the dealer's gross income.

(5) The transitioning dealer must provide photographs of the established place of business with the initial application for the dealer license. These photographs must include, but are not limited to, the interior and exterior of the office building. The photographs must not be less than three (3) inches by five (5) inches in size. Digital photographs must be unaltered and verifiable. All photographs must be updated if the dealership is moved, substantially altered or modified.

(6) The transitioning dealer, or his or her employee, must be available at the established place of business during posted business hours for an audit by the division.

(7) The transitioning dealer's established place of business must be accessible to the public for a minimum of ten (10) hours each week during normal business hours. For the purpose of this document, "accessible" means the place of business must be manned at least five (5) hours each week and a telephone answering, paging, or mobile service offered during the remaining five (5) hours each week. The hours of operation must be displayed on the exterior of the established place of business.

(8) Dealer licenses, dealer plates, and division correspondence shall be mailed to the business address only.

(9) The transitioning dealer must provide a federal identification number and a retail merchant's certificate number.

(10) The transitioning dealer must have twelve (12) sales in a twelve (12) month period to the general public. There is no minimum requirement for wholesale sales made in any twelve (12) month period.

(b) Once the transition period is approved by the division, the transitioning dealer must complete a transition period update form every one hundred twenty (120) days to update the division on the transition progress during the transition period.

(c) A transitioning dealer who does not comply with [IC 9-32](#), 75 IAC, and this SECTION is subject to enforcement action under [IC 9-32-16](#).

SECTION 4. (a) A valid wholesale dealer who meets all of the requirements in SECTION 3 of this document, and is granted a transition period by the division, may use the following steps to complete the transition:

STEP 1: Clearly mark on a completed renewal application or completed new application that the dealer would like to transition from a valid wholesale dealer license to a used dealer license.

STEP 2: Submit a completed transition period request form. The transition period request form is available on the division's website.

STEP 3: A compliance clerk with the division will contact the dealer to assist with necessary documentation to complete the application process. A new application is required if the business location is changing or transition occurs outside of renewal period. If the business location is changing, supporting documentation is required to demonstrate address changes have been completed on bond, insurance, registered merchant's certificate, and tax documents. The division will schedule an inspection of the established place of business to ensure compliance.

STEP 4: Dealer must submit the licensing fee for a used dealer license with a new application if transition occurs during dealer renewal. Dealer does not submit a payment for the licensing fee if transition occurs outside of dealer's renewal, but dealer will renew license and plates during the next statutory renewal period.

STEP 5: Dealer will maintain allocated plates and license throughout the renewal and transition period until dealer receives new used dealer plates.

STEP 6: Division will send dealer an invoice for payment of used dealer plates. Dealer will get an invoice for the same amount of used dealer plates as wholesale plates or used plates the dealer

currently maintains. If the dealer wants a different number of used dealer plates then dealer must communicate that with the division.

STEP 7: Once payment is processed for the used dealer plates, the division will mail the new license and used dealer plates to the dealer's established place of business. The dealer must return all wholesale plates to the division to avoid penalty.

STEP 8: The dealer must complete and submit to the division, a transition period update form every one hundred twenty (120) days to update on the progress towards full compliance with the used dealer license.

STEP 9: The dealer will operate with a transition period used dealer license until July 1, 2016, or until the dealer is in full compliance with all used dealer requirements found in [IC 9-32](#) and 75 IAC, whichever occurs first.

(b) By July 1, 2016, dealer must be in full compliance with all used dealer requirements found in [IC 9-32](#) and 75 IAC.

SECTION 5. Any wholesale dealer license that is not transitioned to a used dealer license as outlined in **SECTIONS 1 through 4** of this document is considered expired, null, and void on July 1, 2015.

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