

Economic Impact Statement
LSA Document #16-435

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**1. An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.**

The secretary of state's office estimates that 4,401 current licensees will be subject to the proposed rule. Based on historical data (licenses issued in the past 5 years), the secretary of state's office expects to add approximately 250 new licensees each year, the majority of which will be dealer licenses. The secretary of state's office does not know for certain, but the office's experience is that the overwhelming majority of licensees are small businesses as defined by [IC 5-28-2-6](#).

Dealer – The secretary of state's office currently licenses 3,756 dealers that sell new and/or used cars.

Manufacturer – The secretary of state's office currently licenses approximately 160 manufacturers.

Distributor – The secretary of state's office currently licenses 38 distributors.

Converter Manufacturer – The secretary of state's office currently licenses 31 converter manufacturers.

Transfer dealer – The secretary of state's office currently licenses 379 transfer dealers.

Automobile Auction – The secretary of state's office currently licenses 39 automobile auctions.

Automotive Mobility – The secretary of state's office does not have any licensed automotive mobility dealers at this time.

2. An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

Compliance with the new requirements imposed by this rule should result in only minimal new annual reporting, record keeping, or other administrative costs for small businesses, if it results in any new costs at all.

- The requirement to complete and maintain a consignment agreement is already an existing rule ([75 IAC 6-2-8\(d\)](#)). The rule is just being relocated.
- The secretary of state's office does not anticipate that the requirement to maintain dealer designee assignment forms will result in more than minimal new record keeping costs, if any. Dealers are already required to maintain all records for this period of time, so their record keeping practices will not need to be altered. Dealers cannot have more than 10 dealer designee plates, so the amount of new records being kept should be limited to 20 per year, as plates can be assigned for 6 months at a time. The secretary of state's office has created the form to be used. The only potential cost is printing the form. Assuming a cost of \$1/page means a maximum of \$20 per year per dealer that chooses to use dealer designee plates. Only new dealers, used dealers, watercraft dealers, and manufacturers are eligible for dealer designee license plates; there are currently 4,096 of these licensees. If they all chose to have 10 dealer designee plates and assign each of them twice a year, this means the maximum annual economic impact would be \$81,920.

3. An estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.

We estimate the total annual economic impact to be \$178,510, as detailed below.

Dealer (cost will vary \$18,780 - \$37,560+) – The only truly new location requirement in the proposed rule is that, if a dealer is located at a retail complex (e.g. strip mall, business park) that vehicles within the dealer's inventory will need to be clearly marked with the name in which the dealer is licensed. Dealers can handle this as simply or elaborately as they would like. The cost could be as minimal as purchasing appropriate markers to use to write on the car windows (estimated cost of \$5-10 per dealer) or printing out simple signs to place inside the car (estimated at \$1 per page). Or the dealer could go further and order custom stickers. The choice is theirs.

The cost will also depend on how large a dealer's inventory is. Dealers with larger inventories will need more markers, stickers, etc. than a dealer with a smaller inventory. This requirement will not apply to all dealers. It has been the secretary of state's experience that most choose a standalone location. But the secretary of state's estimates are based on assuming all dealers will need to comply in order to be conservative.

All other dealer location requirements are already in rules – they are just being relocated or, in some cases, reworded to be more relaxed or add an exemption.

Manufacturer (\$5-\$10) – at this time the secretary of state's office is aware of only one manufacturer that engages in direct sales to consumers. This company also holds a dealer license, so it is already in compliance with the location requirements. As discussed above, there is only one new location requirement

that, if applicable to this licensee, would result in de minimis cost to the licensee. The cost to any new licensee would be the same as described above for dealers.

Transfer dealer (\$0) – a transfer dealer is defined as "a person that transfers ownership of at least twelve (12) motor vehicles during a twelve (12) month period as part of the person's primary business." Because transfer dealers need to already have an operational business in order to even meet the definition of a transfer dealer, the secretary of state's office anticipates that there will be no economic impact to small businesses subject to this rule.

Transfer dealer licenses are intended to be utilized primarily by banks and insurance companies who need to transfer ownership of repossessed cars. The secretary of state's experience with banks and insurance companies indicates that the locations they choose for their primary business will be sufficient to meet the location requirements. Because no one is going to start a business for the sole purpose of becoming a transfer dealer, the secretary of state's office does not anticipate any costs to new licensees. If selling cars is your primary business, then a dealer license is more appropriate.

Automobile Auction (\$140,940+) – The secretary of state's office anticipates that any automobile auction operating as a legitimate auction will not need to incur any cost to come into compliance with the new location requirements. Indeed, that is the point of the requirements – to ensure that licenses are only granted to those who genuinely intend to engage in the sale of motor vehicles. Licensees should be able to meet the requirements without even knowing what the requirements are.

The secretary of state's office anticipates that compliance with the statutory requirement to have an established place of business ([IC 9-13-2-42](#)) will also serve as compliance with the new requirements to have an office, as an established place of business, by definition ([IC 9-13-2-50](#)), must contain "a permanent enclosed building or structure for the purpose of carrying out the business for which the dealer is licensed or applying to be licensed." Businesses may incur some cost to outfit the office with furniture, but these are fairly standard business operating costs. Looking at retail prices, the secretary of state's office estimates the cost to purchase office furniture to be approximately \$250 for a desk, chair, and filing cabinet. This is a maximum economic impact of \$9,750, assuming no current licensees have this furniture, which is unlikely.

It is difficult to say what the cost might be to add electricity and/or plumbing to a location that is not already equipped with them, as the cost will vary based on the location. Because so much auction business is conducted using the Internet, the secretary of state's office does not anticipate that any auctions are operating without electricity.

The sign requirement can be fulfilled with a modest sign. The only requirement is that it be permanent and conspicuous. Looking at retailer prices, it is the secretary of state's estimate that a dealer could obtain an appropriate sign for approximately \$50. Assuming none of the current licensed auctions have an appropriate sign (which is unlikely), the economic impact is \$1,950.

The requirement to have customer parking is very general. The secretary of state's office does not require paving, a minimum number of spaces, or anything else that would increase the cost for a dealer to bring its location into compliance. The secretary of state's office expects that the cost to add customer parking will vary widely based on location. However, it has been the secretary of state's experience that, due to the nature of the business, having adequate customer parking is something that businesses genuinely engaged in automobile auctions would equip their locations with regardless of our requirements. Because the secretary of state's office does not require parking to look or be a particular way, the secretary of state's office cannot estimate what the cost to auctions might be and cannot look to the average cost of any one specification, because there are no specifications. Only designated space is required.

It has been the secretary of state's experience that, due to the nature of the business, having adequate display space is something that businesses genuinely engaged in automobile auctions equip their locations with regardless of our requirements. The secretary of state's office does not require display space to be indoors, covered, etc., so there should not be any construction cost involved in creating display space. As with customer parking, only designated space is needed. Auctions whose locations are too small to designate display space for 10 vehicles would need to look at moving locations, the cost of which is unknown. The secretary of state's office is also willing to talk to dealers with unique issues to see how the matter can be resolved in a way that protects consumers without impeding business.

Automotive Mobility (\$0) – at this time, there are no licensed automotive mobility dealers. At this time, the

secretary of state's office does not anticipate adding new licensees, as the automotive mobility dealer license type is being converted to an endorsement applied to either a dealer or converter manufacturer license, whichever is applicable.

4. A statement justifying any requirement or cost that is imposed on small businesses by the rule, and not expressly required by the statute authorizing the agency to adopt the rules, or any other state or federal law.

These costs are associated with the minimal standards necessary to ensure that dealer licenses are held only by those genuinely engaged in the business of selling or manufacturing motor vehicles. The secretary of state's office is required by [IC 9-32-11-8](#) to adopt rules establishing requirements for initial application and renewal of a dealer's license. The application and renewal requirements in this rule are based in statutory requirements intended to provide consumer protection regarding physical safety and potential future judgments.

5. Regulatory Flexibility Analysis

Analysis of less intrusive or less costly alternative methods of achieving the purpose of the proposed rule:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

It is the secretary of state's office perspective that the proposed rule represents the least restrictive compliance requirements. The requirements imposed by the proposed rule represents the minimum standards for operating as a legitimate, customer-friendly business.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

The secretary of state's office is required by [IC 9-32-11-8](#) to adopt rules establishing requirements for initial application and renewal of a dealer's license. The secretary of state's office generally allows current dealers one license year to come into compliance before taking enforcement against a dealer for noncompliance. However, the secretary of state's office does not anticipate that any current dealers will have trouble bringing themselves into compliance. If needed, the secretary of state's office will utilize an exemption for dealers that can show good cause or significant hardship with regard to lack of compliance.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

It is the secretary of state's office perspective that the proposed rule represents the simplest version of secretary of state's office desired requirements and the simplest way to achieve the desired outcome(s).

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

It has been the secretary of state's office experience that the imposition of design standards is the only way to ensure that dealers are legitimate operations and have safe, appropriate spaces for consumers. We are unable to use performance standards as a measure for new businesses applying for initial licensure, as there is no performance to measure. Dealers are statutorily required to maintain bond and insurance – performance standards cannot serve as a substitute for that.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

The secretary of state's office does have the ability to grant an exemption for part of the requirements.

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