

IC 9-22-4

Chapter 4. Licensing of Vehicle Salvaging

IC 9-22-4-0.3

Certain rules adopted by bureau considered rules of secretary of state

Sec. 0.3. The rules adopted by the bureau of motor vehicles before July 1, 2008, concerning this chapter are considered, after June 30, 2008, rules of the secretary of state.

As added by P.L.220-2011, SEC.219.

IC 9-22-4-1

Necessity of license

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

- (1) Sell a used major component part of a vehicle.
- (2) Wreck or dismantle a vehicle for resale of the major component parts of the vehicle.
- (3) Rebuild a wrecked or dismantled vehicle.
- (4) Possess more than two (2) inoperable vehicles subject to registration for more than thirty (30) days.
- (5) Engage in the business of storing, disposing, salvaging, or recycling of vehicles, vehicle hulks, or the parts of vehicles.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.18.

IC 9-22-4-2

Application for license; filing; fee

Sec. 2. To apply for a license under this chapter, a disposal facility, a used parts dealer, or an automotive salvage rebuilder must do the following:

- (1) File a completed application, which must be verified by the secretary of state.
- (2) Submit with the application the licensing fee under IC 9-29-7 to the secretary of state.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.19.

IC 9-22-4-3

Application form

Sec. 3. The secretary of state shall prescribe an application form to be used by persons applying for a license under this chapter. The application must include the following information:

- (1) The applicant's name.
- (2) The applicant's type of business organization and the following as appropriate:
 - (A) If the applicant is a corporation, the name and address of each officer and director of the corporation.

- (B) If the applicant is a sole proprietorship, the name and address of the sole proprietor.
 - (C) If the applicant is a partnership, the name and address of each partner.
 - (D) If the applicant is an unincorporated association or similar form of business organization, the name and address of each member, trustee, or manager.
- (3) The applicant's principal place of business.
 - (4) All places other than the applicant's principal place of business at which the applicant proposes to conduct any of the activities set out in section 1 of this chapter.
 - (5) The types of activities set out in section 1 of this chapter that the applicant proposes to conduct.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.20.

IC 9-22-4-4

Duration of license; renewal

Sec. 4. Each license, except an initial license, shall be issued for a twelve (12) month period beginning March 1 and expiring the last day of February of each year. An initial license may be issued for a period of less than twelve (12) months, but the license must expire on the last day of February immediately following the date the license is issued.

As added by P.L.2-1991, SEC.10.

IC 9-22-4-5

Review and approval of applications

Sec. 5. Within a reasonable time, the secretary of state shall do the following:

- (1) Review all applications submitted under this chapter.
- (2) Approve all applications submitted unless any of the following apply:
 - (A) The application does not conform with this chapter.
 - (B) The applicant has made a material misrepresentation on the application.
 - (C) The applicant has been guilty of a fraudulent act in connection with one (1) of the activities specified in section 1 of this chapter.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.21.

IC 9-22-4-6

Denial of license; right to hearing

Sec. 6. A person denied a license under section 5 of this chapter is entitled to a hearing under section 10 of this chapter.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.22.

IC 9-22-4-7

Approval of application; grant of original and supplemental licenses

Sec. 7. If the secretary of state approves an application under this chapter, the secretary of state shall grant the applicant the following:

- (1) An original license for the applicant's principal place of business.
- (2) A supplemental license for each other place of business listed on the application.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.23.

IC 9-22-4-8

Licenses; form and information

Sec. 8. The secretary of state shall prescribe the form of the licenses granted under section 7 of this chapter. A license granted under section 7 of this chapter must include the following information:

- (1) The licensee's name.
- (2) The licensee's type of business organization and the following as appropriate:
 - (A) If a corporation, the name and address of each officer.
 - (B) If a sole proprietorship, the name and address of the proprietor.
 - (C) If a partnership, the name and address of each managing partner.
 - (D) If an unincorporated association or similar form of business organization, the name and address of the manager or other chief administrative official.
- (3) The licensee's principal place of business.
- (4) The place of business to which each supplemental license applies.
- (5) A listing of the types of business activities specified in section 1 of this chapter that the licensee may conduct.
- (6) The date the license expires.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.24.

IC 9-22-4-9

Posting licenses

Sec. 9. The licensee shall post each license granted under this chapter in a conspicuous place at each place of business.

As added by P.L.2-1991, SEC.10.

IC 9-22-4-10

Revocation or suspension of licenses; investigations; orders; remedies

Sec. 10. (a) The secretary of state may investigate a violation of this chapter, including a violation of a rule adopted under section 12 of this chapter. In conducting an investigation under this subsection, the secretary of state may do the following:

- (1) Administer oaths and affirmations.
- (2) Subpoena witnesses and compel attendance.
- (3) Take evidence.
- (4) Require the production of documents or records that the secretary of state determines are material to the investigation.

Upon a motion by the secretary of state, the court may order a person that fails to obey a subpoena issued under subdivision (2) to obey the subpoena.

(b) A person may not be excused from:

- (1) obeying a subpoena issued by;
- (2) attending a proceeding and testifying as ordered by; or
- (3) otherwise producing evidence as ordered by;

the secretary of state on grounds that the person's testimony or evidence may tend to incriminate the person or subject the person to a penalty or forfeiture. However, a person that asserts the privilege against self-incrimination may not be prosecuted or subjected to a penalty or forfeiture for any matter concerning the person's testimony or evidence.

(c) Following an investigation under subsection (a), the secretary of state may, without a hearing, issue orders and notices that the secretary of state determines to be in the public interest. The secretary of state may issue an order under this subsection suspending or revoking the license of a disposal facility, used parts dealer, or automotive salvage rebuilder only if the secretary of state determines that any of the following conditions exist:

- (1) The licensee made a material misrepresentation on the license application.
- (2) The licensee committed a fraudulent act in connection with one (1) of the activities specified in section 1 of this chapter.
- (3) The licensee committed a material violation of the recordkeeping requirements of IC 9-22-3-19.
- (4) The licensee has violated any other provision of this chapter or the rules adopted under this chapter by the bureau.
- (5) The licensee has committed a violation of a statute concerning theft, arson, mischief, forgery, deception, or fraud, or the motor vehicle titling laws.
- (6) The licensee has had a license issued under IC 9-23 revoked or suspended.

(d) Upon the entry of an order under subsection (c), the secretary of state shall promptly notify all interested parties of the following:

- (1) The date of issuance.
- (2) The reasons for issuance.
- (3) That, upon written request, the matter will be set for hearing within fifteen (15) business days after receipt of the request.

(e) An order issued under subsection (c) remains in effect until the secretary of state:

- (1) modifies or vacates the order; or
- (2) conducts a hearing and issues a final determination.

(f) If the secretary of state conducts a hearing under this section, the secretary of state may depose any witness.

(g) In addition to all other remedies, the secretary of state may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate this chapter:

- (1) An injunction.
- (2) Appointment of a receiver or conservator.
- (3) A civil penalty not to exceed five thousand dollars (\$5,000) per violation.
- (4) An action to enforce a civil penalty assessed under subdivision (3).

(h) In a court proceeding initiated under this section in which judgment is awarded to the secretary of state, the secretary of state is entitled to recover the costs and expenses of investigation, and the court shall include the costs in its final judgment.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.25.

IC 9-22-4-11

Local zoning body complaints; delaying issuance or renewal of license

Sec. 11. If the secretary of state receives a written complaint from a local zoning body that a disposal facility or automotive salvage rebuilder subject to this chapter is operating in violation of a local zoning ordinance, the secretary of state shall delay the issuance or renewal of the facility's or rebuilder's license until the local zoning complaints have been satisfied.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.26.

IC 9-22-4-12

Rules

Sec. 12. The secretary of state may adopt rules under IC 4-22-2 to carry out this chapter.

As added by P.L.2-1991, SEC.10. Amended by P.L.106-2008, SEC.27.

IC 9-22-4-13

Unlicensed vehicle salvaging; classification of violation

Sec. 13. A person who violates section 1 of this chapter commits a Class C infraction.

As added by P.L.2-1991, SEC.10.

IC 9-22-4-14

Appeals

Sec. 14. (a) An appeal may be taken from a final order of the secretary of state under this chapter as follows:

- (1) By an applicant for a license under this chapter, from a final order of the secretary of state concerning the application.
- (2) By a licensee, from a final order of the secretary of state affecting the licensee's license under this chapter.

(3) By a person against whom a civil penalty is assessed under section 10(g)(3) of this chapter, from the final order of the secretary of state assessing the civil penalty.

(4) By a person named as a respondent in an investigation or a proceeding under section 10 of this chapter, from a final order of the secretary of state entered under section 10 of this chapter.

An appeal under this subdivision may be taken in:

(A) the Marion County circuit court; or

(B) the circuit or superior court of the county in which the appellant resides or maintains a place of business.

(b) A person who seeks to appeal a final order of the secretary of state under this section must serve the secretary of state with the following not more than twenty (20) days after the entry of the order:

(1) A written notice of the appeal stating:

(A) the court in which the appeal will be taken; and

(B) the grounds on which a reversal of the final order is sought.

(2) A written demand from the appellant for:

(A) a certified transcript of the record; and

(B) all papers on file in the secretary of state's office; concerning the order from which the appeal is being taken.

(3) A bond in the penal sum of five hundred dollars (\$500) payable to the state with sufficient surety to be approved by the secretary of state, conditioned upon:

(A) the faithful prosecution of the appeal to final judgment; and

(B) the payment of all costs that are adjudged against the appellant.

(c) Not later than ten (10) days after the secretary of state is served with the items described in subsection (b), the secretary of state shall make, certify, and deliver to the appellant the transcript described in subsection (b)(2)(A). Not later than five (5) days after the appellant receives the transcript under this subsection, the appellant shall file the transcript and a copy of the notice of appeal with the clerk of the court. The notice of appeal serves as the appellant's complaint. The secretary of state may appear before the court, file any motion or pleading in the matter, and form the issue. The cause shall be entered on the court's calendar to be heard de novo and shall be given precedence over all matters pending in the court.

(d) The court shall receive and consider any pertinent oral or written evidence concerning the order of the secretary of state from which the appeal is taken. If the order of the secretary of state is reversed, the court shall in its mandate specifically direct the secretary of state as to the secretary of state's further action in the matter. The secretary of state is not barred from revoking or altering the order for any proper cause that accrues or is discovered after the order is entered. If the order is affirmed, the appellant may, after thirty (30) days from the date the order is affirmed, file a new application for a license under this chapter if the application is not

otherwise barred or limited. During the pendency of the appeal, the order from which the appeal is taken is not suspended but remains in effect unless otherwise ordered by the court. An appeal may be taken from the judgment of the court on the same terms and conditions as an appeal is taken in civil actions.

(e) IC 4-21.5 does not apply to a proceeding under this chapter.

As added by P.L.106-2008, SEC.28.