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TITLE 140 BUREAU OF MOTOR VEHICLES

LSA Document #01-81

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with the secretary of state.

140 IAC 3.5-2-4 **140 IAC 3.5-2-13**
140 IAC 3.5-2-9 **140 IAC 3.5-2-15**
140 IAC 3.5-2-11

SECTION 1. UNDER IC 4-22-2.5-3, 140 IAC 3.5-2-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

140 IAC 3.5-2-4 Dealer license requirements
Authority: IC 9-14-2-2
Affected: IC 9-13-2; IC 9-18-26; IC 9-23-2-10

Sec. 4. Under IC 9-23, dealers designated dealer-new, dealer-used, motorcycle dealer-new, and motorcycle dealer-used shall meet the following requirements:

(1) A dealer must have a license issued by the commissioner in order to receive dealer plates.

(2) **An** application for a **new** dealer license and dealer plates may be ~~made after~~ **submitted any time prior to** December 15 ~~or two (2) months prior to the expiration month of each year~~ for the ~~following~~ **current** license year. **A dealer license renewal application may be submitted thirty (30) days prior to the license expiration date.**

(3) An applicant who applies for a license after December 15 ~~but before the end of the last day of the expiration month of the license year~~ shall be eligible to be licensed for the following year.

(4) Only one (1) dealer can be licensed from the same address or established place of business.

(5) In addition to the requirements outlined in IC 9-23, a dealer must meet the following minimum requirements:

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

(B) The dealer must, for the entire licensing period, have an established place of business with an Indiana address other than an Indiana post office box address. Dealer licenses and dealer plates shall be mailed to the business address only. 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. Multiple business locations such as strip office malls, garages, or residential properties shall be accepted if:

(i) a separate entrance is maintained;

(ii) a separate address is maintained, **and the business location is not a part of or attached to a residential dwelling;**

(iii) local zoning requirements are met;

~~(iii)~~ **(iv)** a distinct impression of separate businesses is given to the general public; and

~~(iv)~~ **(v)** all other location and office requirements are met.

(C) The dealer's established place of business shall:

(i) be accessible to the public;

(ii) have at least a space of 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 which the dealer is licensed to sell and space for customer parking;

(iii) meet all local zoning requirements;

(iv) be well lit during hours of operation; and
(v) have display and customer parking areas adequately surfaced with asphalt, concrete, rock, or substance which will not change with weather conditions.
(D) The dealer's 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; and
(iv) served with utilities such as electricity, lighting, heat, and a business telephone.
(E) The dealer must provide garage liability insurance for the established place of business under IC 9-23-2-10.
(F) The dealer must provide photographs of the established place of business with the initial application for dealer license. These photographs must include, but are not limited to, the major:
(i) sales and storage lot;
(ii) exterior advertising sign; and
(iii) display and office building.
The photographs must not be less than three (3) inches by five (5) inches in size. The photographs will be required to be updated if the dealership is moved or if its physical facilities are substantially altered or modified.
(G) The dealer must be in good standing with the bureau of motor vehicles, the department of revenue, and the state police department.
(H) The dealer must provide, with the initial licensing application, evidence of a franchise or contract agreement, if applicable, showing a sales arrangement with a manufacturer, converter manufacturer, or distributor.
(I) The dealer must maintain, at the established place of business, a conspicuous, permanent sign identifying the dealer by the name in which the dealer is licensed and the dealership's hours of operation.
(J) The dealer's established place of business must be accessible to the public for a minimum of thirty (30) hours each week during normal business hours. For the purpose of this rule, "accessible" means the place of business must be:
(i) manned at least thirty (30) hours each week;
(ii) manned at least twenty (20) hours each week and a telephone answering, paging, or mobile service offered during the remaining ten (10) hours each week, the number for which is identified on the business sign; or
(iii) opened by appointment at least thirty (30) hours each week by maintaining a manned telephone or mobile telephone service for a minimum of ten (10) hours each week and a telephone answering, paging, or mobile service offered during remaining twenty (20) hours each week, the number for which is identified on the business sign.
(Bureau of Motor Vehicles; 140 IAC 3.5-2-4; filed Jan 5, 1994, 5:00 p.m.: 17 IR 973)

SECTION 2. UNDER IC 4-22-2.5-3, 140 IAC 3.5-2-9 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

140 IAC 3.5-2-9 Transfer dealer license requirements
Authority: IC 9-14-2-2
Affected: IC 9-13-2; IC 9-18; IC 9-23-2-10

Sec. 9. (a) Transfer dealers must be properly licensed by the commissioner in order to receive transfer dealer plates.

(b) **An** application for **a new** transfer dealer license and transfer dealer plates may be ~~made after~~ **submitted any time prior to** December 15 ~~or two (2) months prior to May 1 of each year~~ for the ~~following~~ **current** license year. **A transfer dealer license renewal application may be submitted thirty (30) days prior to the license expiration date.**

(c) An applicant who applies for a license under this section after December 15 ~~but before May 1 of the license year~~ shall be eligible to be licensed for the following year.

(d) A transfer dealer ~~at a minimum,~~ shall do the following:
(1) Furnish a federal identification number and a retail merchant's certificate number.
(2) Have a place of business which is devoted to the conduct of a business related to the sale of motor vehicles. The place of business must be a permanent, enclosed building or structure. The place of business shall not include a residence, tent, temporary stand, or permanent quarters temporarily occupied. Parking or storage of a minimum of ten (10) motor vehicles must be provided.

(3) Furnish photographs of the place of business with the initial application for a transfer dealer license. These photographs must include, but are not limited to, the major sales, storage, and office space utilized by the transfer dealer. The photographs must be not less than three (3) inches by five (5) inches in size. The photographs must be updated if the dealership is moved or if its physical facilities are substantially altered or modified.
(4) The transfer dealer must be in good standing with the bureau of motor vehicles, the department of revenue, and the state police department.
(5) Furnish proof of coverage by garage liability insurance under IC 9-23-2-10 if the dealer has an established place of business. The transfer dealer must be covered by business liability insurance if the dealer has a place of business.
(6) Provide a statement delineating the type and extent of the dealer's business.

(e) Unless conflicting with the provisions of this section, all rules that the commissioner finds applicable governing dealers shall apply to transfer dealers. *(Bureau of Motor Vehicles; 140 IAC 3.5-2-9; filed Jan 5, 1994, 5:00 p.m.: 17 IR 976)*

SECTION 3. UNDER IC 4-22-2.5-3, 140 IAC 3.5-2-11 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

140 IAC 3.5-2-11 Wholesale dealer, auctioneer, and broker licenses
Authority: IC 9-14-2-2
Affected: IC 9-13-2; IC 9-18-26; IC 9-23

Sec. 11. (a) Wholesale dealers, automobile auctioneers, and brokers must be properly licensed by the commissioner in order to receive dealer plates.

(b) **An** application for **a new** wholesale dealer license and dealer plates may be ~~made after~~ **submitted any time prior to** December 15 ~~or two (2) months prior to May 1 of each year~~ for the ~~following~~ **current license** year. **A wholesale dealer, automobile auctioneer, or broker license renewal application may be submitted thirty (30) days prior to the license expiration date.**

(c) Any applicant who applies for a license after December 15 ~~but before May 1 of the license year~~ is eligible to be licensed for the following year.

(d) The following are minimum requirements for licensing wholesale dealers, automobile auctioneers, and brokers:
(1) An applicant must furnish a federal identification number and a retail merchant's certificate number.
(2) An applicant must be covered by business liability insurance in an amount determined by the commissioner.
(3) An applicant must be in good standing with the bureau of motor vehicles, the department of revenue, and the state police department.
(4) Each applicant must submit to an investigation by the bureau of motor vehicles within one hundred twenty (120) days following the issuance of the wholesale dealer license. Business records must be presented to verify the number of monthly sales. Each applicant will be contacted at the address given on the license application. If the applicant is not available when the investigator calls, it will be the responsibility of the dealer to contact the bureau of motor vehicles to arrange for a subsequent visit. Dealer plates will not be renewed under this section until an investigation has been conducted.
(5) The wholesale dealer must provide a permanent Indiana address at which the dealer may be contacted by the bureau of motor vehicles.
(6) A wholesale dealer must sell a minimum of one hundred twenty (120) vehicles per year.
(7) Unless conflicting with the provisions of this section, all rules that the commissioner finds applicable governing dealers shall apply to wholesale dealers, automobile auctioneers, and brokers.
(8) A wholesale dealer, except a dealer licensed as an automobile auctioneer, may not sell vehicles to the general public.
(Bureau of Motor Vehicles; 140 IAC 3.5-2-11; filed Jan 5, 1994, 5:00 p.m.: 17 IR 976)

SECTION 4. UNDER IC 4-22-2.5-3, 140 IAC 3.5-2-13 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

140 IAC 3.5-2-13 Number of vehicles sold by dealer or transfer dealer
Authority: IC 9-14-2-2
Affected: IC 9-18-26; IC 9-23

Sec. 13. (a) Dealers and transfer dealers, with the exception of wholesale dealers, financial institutions, and insurance companies, must sell a minimum of twelve (12) vehicles ~~per year.~~ **within a twelve (12) month period.** For the purpose of determining the number of units sold or anticipated to be sold by a dealer, the licensing year shall be used. ~~A dealer or transfer dealer licensed after the dealer plate category's expiration date of any year shall be given a credit of one (1) vehicle per month for each whole month that has expired~~.

(b) A wholesale dealer is subject to the requirement of selling one hundred twenty (120) vehicles ~~per year. A wholesale dealer licensed after April 30 of any year shall be given a credit of ten (10) vehicles per month for each whole month that has expired.~~ **within a twelve (12) month period**. **For the purpose of determining the number of units sold or anticipated to be sold by a wholesale dealer, the licensing year shall be used.** *(Bureau of Motor Vehicles; 140 IAC 3.5-2-13; filed Jan 5, 1994, 5:00 p.m.: 17 IR 977)*

SECTION 5. UNDER IC 4-22-2.5-3, 140 IAC 3.5-2-15 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

140 IAC 3.5-2-15 Interim plates; restrictions on use
Authority: IC 9-14-2-2
Affected: IC 9-18-26-10; IC 9-23

Sec. 15. (a) Requirements for the use of interim plates shall be as follows:
(1) Under IC 9-18-26-10, interim plates may be utilized only by the operator of a motor vehicle for a period not to exceed thirty-one (31) days after the date of delivery or until regular registration plates are obtained, whichever occurs first.
(2) Only one (1) interim plate may be issued by a dealer to the purchaser of a motor vehicle. No additional interim plates may be issued for the motor vehicle for any reason.
(3) Interim plates may not be utilized on a vehicle owned or in inventory of a licensed dealer.
(4) Interim plates may not be utilized on vehicles sold on consignment by a dealer.
(5) Interim plates assigned by the bureau of motor vehicles to any dealer may be given or sold to another registered dealer **in good standing with the bureau of motor vehicles** so long as the transfer, by interim plate control number, is recorded in ~~the~~ **each** dealer's interim plate log.
(6) A registered dealer obtaining interim plates from another dealer must record those plates in the dealer's interim plate log by interim plate control number and name of transferring dealer.
(7) The dealer must provide an ownership document to the purchaser at the time of issuance of the interim plate.
(8) Interim plates may not be utilized on vehicles sold to dealers at automobile auctions unless the dealer is an out-of-state dealer without metal dealer plates from the dealer's state or is an Indiana license only dealer without metal dealer plates.

(b) Requirements for the interim plate log shall be as follows:
(1) All dealers utilizing interim plates must maintain a log recording the issuance of each plate.
(2) The interim plate log shall include, but is not limited to, the following:
(A) An interim plate control number by control number sequence.
(B) The name and address of the party to whom the interim plate was issued.
(C) The make, model, and year of the vehicle to which the plate is to be affixed.
(D) The manufacturer's vehicle identification number.
(E) The date of issuance of the interim plate.
(3) All interim plates not issued by the dealer must be retained in the dealer's possession at all times.
(4) The interim plate log shall be maintained continuously for a period of three (3) years.

(c) Penalties shall be as follows:
(1) Any misuse of an interim plate may result in the limiting of the dealer's interim plate usage or suspension of the dealer's license.
(2) The dealer is subject to all criminal penalties provided by statute.

(Bureau of Motor Vehicles; 140 IAC 3.5-2-15; filed Jan 5, 1994, 5:00 p.m.: 17 IR 978)

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on July 3, 2001 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Auditorium, Indianapolis, Indiana the Bureau of Motor Vehicles will hold a public hearing to readopt rules.

Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to:

Tamara Brown, Legal Department
Indiana Bureau of Motor Vehicles
Indiana Government Center- North
100 North Senate Avenue, Room 440
Indianapolis, Indiana 46204

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room 440 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gary A. Gibson
Commissioner
Bureau of Motor Vehicles