

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1073

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 24-5-13.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

Chapter 13.1. Converted Motor Vehicle Protection

Sec. 1. As used in this chapter, "buyer" means any person who, for purposes of a personal, noncommercial use, enters into an agreement or contract within Indiana for the purchase of a converted motor vehicle covered under this chapter.

Sec. 2. As used in this chapter, "conversion" means the:

- (1) removal of;**
- (2) addition of; or**
- (3) modification to;**

a physical or digital component or system of a motor vehicle that is approved by the National Highway Traffic Safety Administration (NHTSA) to make the motor vehicle accessible for a person with a disability.

Sec. 3. As used in this chapter, "converted motor vehicle" means a new motor vehicle that has a conversion.

Sec. 4. As used in this chapter, "dealer" has the meaning set forth in IC 9-32-2-9.6.

Sec. 5. As used in this chapter, "installer" means any person who is engaged in the business of:

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- (1) modifying a motor vehicle to make a converted motor vehicle; or
- (2) fixing a conversion in a converted motor vehicle.

Sec. 6. As used in this chapter, "manufacturer" means:

- (1) any person who is engaged in the business of manufacturing motor vehicles, or, in the case of motor vehicles not manufactured in the United States, any person who is engaged in the business of importing motor vehicles; or
- (2) any person who is engaged in the business of manufacturing parts for a conversion to a converted motor vehicle.

Sec. 7. As used in this chapter, "motor vehicle" means any self-propelled vehicle that:

- (1) has a declared gross vehicle weight of less than ten thousand (10,000) pounds;
- (2) is sold to:
 - (A) a buyer in Indiana and registered in Indiana; or
 - (B) a buyer in Indiana who is a nonresident (as defined in IC 9-13-2-113);
- (3) is intended primarily for use and operation on public highways; and
- (4) is required to be registered or licensed before use or operation.

The term does not include a recreational vehicle.

Sec. 8. As used in this chapter, "nonconformity" means any specific or generic defect or condition or any concurrent combination of defects or conditions that:

- (1) substantially impairs the use, market value, or safety of a converted motor vehicle; or
- (2) renders the converted motor vehicle nonconforming to the terms of the warranty of a responsible manufacturer or installer.

Sec. 9. As used in this chapter, "responsible manufacturer or installer" means the manufacturer or installer that is liable for the:

- (1) repair of;
- (2) replacement of; or
- (3) reimbursement for;

a converted motor vehicle under section 11 of this chapter.

Sec. 10. 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 converted motor



vehicle to a buyer; or

(B) in the case of a replacement converted motor vehicle provided by a responsible manufacturer or installer to a buyer under this chapter, on the date of delivery of the replacement converted motor 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 converted motor vehicle has been driven eighteen thousand (18,000) miles after the date identified under subdivision (1).

Sec. 11. (a) Except as provided in subsections (b) and (c), the manufacturer under section 6(2) of this chapter is the responsible manufacturer or installer if:

(1) any part of the conversion results in the nonconformity; or

(2) the nonconformity is related to or caused by the conversion.

(b) The manufacturer under section 6(1) of this chapter is the responsible manufacturer or installer if the part of the converted motor vehicle that results in the nonconformity is not caused by or otherwise related to the conversion.

(c) The installer under section 5 of this chapter is the responsible manufacturer or installer if the nonconformity is related to or caused by the installation of the conversion into the converted motor vehicle.

Sec. 12. If a converted motor vehicle suffers from a nonconformity and the buyer reports the nonconformity within the term of protection to the responsible manufacturer or installer, its agent, or its authorized dealer then the responsible manufacturer or installer or the agent of the responsible manufacturer or installer shall make the repairs that are necessary to correct the nonconformity, even if the repairs are made after the expiration of the term of protection.

Sec. 13. (a) A buyer must first notify the responsible manufacturer or installer of a claim under this chapter if the responsible manufacturer or installer has made the disclosure required by subsection (b). However, if the responsible manufacturer or installer has not made the required disclosure, the buyer is not required to notify the responsible manufacturer or installer of a claim under this chapter.

(b) Except as provided in subsection (c), the responsible manufacturer or installer shall clearly and conspicuously disclose



to the buyer, in the warranty or owner's manual, that written notification of the nonconformity is required before the buyer may be eligible for a refund or replacement of the converted motor vehicle. The responsible manufacturer or installer shall include with the warranty or owner's manual the name and address to which the buyer must send notification.

(c) A manufacturer under section 6(1) of this chapter who has complied with the disclosure requirements under IC 24-5-13-9 has complied with the disclosure requirements under subsection (b).

Sec. 14. (a) If, after a reasonable number of attempts, the responsible manufacturer or installer, its agent, or authorized dealer is unable to correct the nonconformity, the responsible manufacturer or installer shall accept the return of the converted motor vehicle from the buyer and, at the buyer's option, either, not later than thirty (30) days after receipt of the converted motor vehicle and any reasonably required documents, refund the amount paid by the buyer or provide a replacement converted motor vehicle of comparable value.

(b) If a responsible manufacturer or installer reasonably determines that providing a replacement converted motor vehicle of comparable value is impractical, the responsible manufacturer or installer may require a buyer to accept the refund described in subsection (a).

Sec. 15. (a) If a refund is tendered under this chapter with respect to a converted motor vehicle that is not a leased converted motor vehicle, the refund must be the full contract price of the converted motor vehicle, including all credits and allowances for any trade-in converted motor vehicle and less a reasonable allowance for use.

(b) To determine a reasonable allowance for use under this section, multiply:

- (1) the total contract price of the converted motor vehicle; by
- (2) a fraction having as its denominator one hundred thousand (100,000) and having its numerator the number of miles that the converted motor vehicle traveled before the responsible manufacturer or installer accepts the return of the converted motor vehicle.

(c) The refund must also include reimbursement for the following incidental costs:

- (1) All sales tax.
- (2) The unexpended portion of the registration fee and excise tax that has been prepaid for any calendar year.



(3) All finance charges actually expended.

(4) The cost of all options added by the authorized dealer.

(d) Refunds made under this section shall be made to the buyer and lienholder, if any, as their respective interests appear on the records of ownership.

Sec. 16. (a) If a refund is tendered under this chapter with respect to a leased converted motor vehicle, the refund shall be made as follows:

(1) The lessee shall receive all deposit and lease payments paid by the lessee to the lessor, including all credits and allowances for any trade-in converted motor vehicles, less a reasonable allowance for use.

(2) The lessor shall receive:

(A) the lessor's purchase cost, including freight and accessories;

(B) any fee paid to another to obtain the lease;

(C) any insurance premiums or other costs expended by the lessor for the benefit of the lessee;

(D) sales tax paid by the lessor; and

(E) five percent (5%) of the amount described in clause (A);

less the total of all deposit and lease payments paid by the lessee to the lessor, including all credits and allowances for any trade-in converted motor vehicle.

(b) To determine a reasonable allowance for use under this section, multiply:

(1) the total lease obligation of the lessee at the inception of the lease; by

(2) a fraction having as its denominator one hundred thousand (100,000) and as its numerator the number of miles that the converted motor vehicle traveled before the lessor's acceptance of its return.

Sec. 17. (a) If a converted motor vehicle is replaced by a responsible manufacturer or installer under this chapter, the responsible manufacturer or installer shall reimburse the buyer for any fees for the transfer of registration or any sales tax incurred by the buyer as a result of replacement.

(b) If a replaced converted motor vehicle was financed by the responsible manufacturer or installer, its subsidiary, or agent, the responsible manufacturer or installer, subsidiary, or agent may not require the buyer to enter into any refinancing agreement concerning a replacement converted motor vehicle that would



create any financial obligations upon the buyer less favorable than those of the original financing agreement.

Sec. 18. Whenever a converted motor vehicle is replaced or refunded under this chapter, the responsible manufacturer or installer shall reimburse the buyer for necessary towing and rental costs actually incurred as a direct result of the nonconformity.

Sec. 19. A buyer has the option of retaining the use of any converted motor vehicle returned under this chapter until the time that the buyer has been tendered a full refund or a replacement converted motor vehicle of comparable value. The use of a converted motor vehicle retained by a buyer after its return to a responsible manufacturer or installer under this chapter must, in cases in which a refund is tendered, be reflected in the reasonable allowance for use required under this chapter.

Sec. 20. (a) A reasonable number of attempts is considered to have been undertaken to correct a nonconformity if:

- (1) the nonconformity has been subject to repair at least four (4) times by the responsible manufacturer or installer or its agent, but the nonconformity continues to exist; or
- (2) the converted motor vehicle is out of service by reason of repair of any nonconformity for a cumulative total of at least thirty (30) business days, and the nonconformity continues to exist.

(b) The thirty (30) business day period in subsection (a)(2) shall be extended by any period of time during which parts or repair services are not available as a direct result of a strike, a period of civil unrest, a fire, a natural disaster, a terrorist attack, an act of God, or an act of war. The responsible manufacturer or installer, its agent, or an authorized dealer shall provide or make provision for the free use of a converted motor vehicle to any buyer whose converted motor vehicle is out of service by reason of repair during a strike, a period of civil unrest, a fire, a natural disaster, a terrorist attack, an act of God, or an act of war.

(c) The burden is on the responsible manufacturer or installer to show that the reason for an extension under subsection (b) was the direct cause for the failure of the responsible manufacturer or installer, its agent, or authorized dealer to cure any nonconformity during the time of the event.

Sec. 21. (a) A responsible manufacturer or installer, its agent, or authorized dealer may not refuse to diagnose or repair any converted motor vehicle for the purpose of avoiding liability under this chapter.



(b) A responsible manufacturer or installer, its agent, or authorized dealer shall provide a buyer with a written repair order each time the buyer's converted motor vehicle is brought in for examination or repair. The repair order must indicate all work performed on the converted motor vehicle including examination of the converted motor vehicle, parts, and labor.

Sec. 22. It is an affirmative defense to any claim under this chapter that:

- (1) the nonconformity, defect, or condition does not substantially impair the use, value, or safety of the converted motor vehicle; or
- (2) the nonconformity, defect, or condition is the result of abuse, neglect, or unauthorized modification or alteration of the converted motor vehicle by the buyer.

Sec. 23. (a) This chapter does not apply to any buyer who has not first resorted to an informal dispute settlement procedure established by a responsible manufacturer or installer or in which a responsible manufacturer or installer participates if:

- (1) the procedure is certified by the attorney general as:
 - (A) complying in all respects with 16 CFR 703; and
 - (B) complying with any other rules concerning certification adopted by the attorney general, including but not limited to the requirement of oral hearings, pursuant to IC 4-22-2; and
- (2) the buyer has received adequate written notice from the responsible manufacturer or installer of the existence of the procedure.

Adequate written notice includes the incorporation of the informal dispute settlement procedure into the terms of the written warranty to which the converted motor vehicle does not conform.

(b) A manufacturer under section 6(1) of this chapter shall provide adequate electronic notice of the procedure in subsection (a) on the Internet web site of the manufacturer.

Sec. 24. This chapter does not limit the rights or remedies that are otherwise available to a buyer under any other applicable provision of law.

Sec. 25. A buyer may bring a civil action to enforce this chapter in any circuit or superior court.

Sec. 26. A buyer who prevails in any action brought under this chapter is entitled to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses, including attorney's fees based on actual time expended by the attorney, determined by



the court to have been reasonably incurred by the buyer for or in connection with the commencement and prosecution of the action.

Sec. 27. (a) An action brought under this chapter must be commenced within two (2) years following the date the buyer first reports the nonconformity to the responsible manufacturer or installer, its agent, or authorized dealer.

(b) When the buyer has commenced an informal dispute settlement procedure described in section 23 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.

Sec. 28. Nothing in this chapter imposes any liability on a dealer or creates a cause of action by a consumer against a dealer, and a responsible manufacturer or installer may not, directly or indirectly, expose any franchised dealer to liability under this chapter.

Sec. 29. Nothing in this chapter creates joint and several liability.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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