



January 28, 2021

HOUSE BILL No. 1246

DIGEST OF HB 1246 (Updated January 26, 2021 10:39 am - DI 140)

Citations Affected: IC 9-13; IC 9-32.

Synopsis: Auto dealer services. Amends the definition of the term "manufacturer" to exclude off-road vehicle manufacturers. Amends the term "transport operator" to remove Indiana dealers. Adds transport operators to the term "dealer owner". Defines the term "watercraft dealer". Provides that certain restrictions of use and the required displays of license plates do not apply to tractors, dump trucks, trucks with a rear-mounted forklift, or trucks with a mechanism to carry a rear-mounted forklift or implement. Provides the manner in which transport operators are to replace license plates or registration cards. Reorganizes and amends the transport operator license plate statutes. Provides that the motor vehicle sales advisory board shall be made up of at least six but not more than 11 persons appointed by the governor upon the recommendation of the secretary of state. Establishes that the majority of the current members of the motor vehicle sales advisory board constitutes a quorum for doing business. Provides that offsite sales do not include: (1) manufactured homes within manufactured home communities; (2) manufactured homes already located within manufactured home communities or to be installed in a manufactured home community; and (3) sales made by a dealer that owns and
(Continued next page)

Effective: July 1, 2021.

Sullivan, Austin

January 14, 2021, read first time and referred to Committee on Roads and Transportation.
January 28, 2021, reported — Do Pass.

HB 1246—LS 6838/DI 139



Digest Continued

operates a manufactured home community. Establishes that a franchisor is not considered to be competing unfairly or in violation of the law if operating: (1) a business for less than two years; (2) in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price; or (3) in a bona fide relationship in which an independent person has made a significant investment subject to loss in the business operation and can reasonably expect to acquire majority ownership or managerial control of the business on reasonable terms and conditions. Provides that the secretary of state may condition or limit a dealer license, transport operator, or endorsement application if it is in the best interest of the public. Establishes certain requirements for transport operators. Provides that a dealer that is injured by an unfair practice may file a request for declaratory judgment.

HB 1246—LS 6838/DI 139



January 28, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1246

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

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

- 1 SECTION 1. IC 9-13-2-97, AS AMENDED BY P.L.120-2020,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 97. (a) "Manufacturer" means, except as provided
4 in subsection (b), a person engaged in the business of constructing or
5 assembling vehicles, of a type required to be registered under IC 9-18
6 (before its expiration) or IC 9-18.1 at an established place of business.
7 The term does not include a converter manufacturer, an automotive
8 mobility dealer, or a recreational vehicle manufacturer.
9 (b) "Manufacturer", for purposes of IC 9-32, means a person who is
10 engaged in the business of manufacturing or assembling new motor
11 vehicles or major component parts of motor vehicles, or both, and sells
12 new motor vehicles to dealers, wholesale dealers, distributors, or the
13 general public. The term includes the following:
14 (1) A factory branch office of the manufacturer.
15 (2) A partnership, a firm, an association, a joint venture, a limited

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1 liability company, a corporation, or a trust, resident or
2 nonresident, that is controlled by the manufacturer.

3 The term does not include a converter manufacturer, an automotive
4 mobility dealer, **an off-road vehicle manufacturer**, a manufactured
5 home manufacturer, or a recreational vehicle manufacturer.

6 SECTION 2. IC 9-13-2-187, AS AMENDED BY P.L.128-2018,
7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2021]: Sec. 187. "Transport operator" means any of the
9 following:

10 (1) An Indiana ~~resident or~~ business ~~engaged in the business of~~
11 ~~furnishing that furnishes~~ drivers and operators for the purpose of
12 transporting motor vehicles in transit from one (1) place to
13 another by the drive away or tow away methods.

14 ~~(2) An Indiana dealer or manufacturer engaged in the operation~~
15 ~~or business described in subdivision (1). An Indiana dealer~~
16 ~~described in this subdivision must hold a valid Indiana dealer~~
17 ~~license.~~

18 ~~(3) (2)~~ An Indiana business that prepares newly purchased motor
19 vehicles of the business and delivers the motor vehicles to the
20 locations where the motor vehicles will be based, titled, and
21 registered.

22 ~~(4) (3)~~ An operator of a tractor-mobile home rig or a special
23 tractor-mobile home rig transporting a sectionalized building
24 using a disposable trailer.

25 SECTION 3. IC 9-32-2-9.9, AS AMENDED BY P.L.120-2020,
26 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2021]: Sec. 9.9. "Dealer owner" means the following:

28 (1) For a **transport operator**, a licensed **dealer**, or **an** applicant
29 dealer, other than a manufacturer, the following:

30 (A) If a corporation, each officer, director, and shareholder
31 having a ten percent (10%) or greater ownership interest in the
32 corporation.

33 (B) If a corporation and it has no officer, director, or
34 shareholder having a ten percent (10%) or greater ownership
35 interest in the corporation, one (1) or more officers, directors,
36 or shareholders designated in writing by the board of directors.

37 (C) If a sole proprietorship, the proprietor.

38 (D) If a partnership, each partner.

39 (E) If a limited liability company, each member of the
40 company.

41 (2) For a licensed or applicant manufacturer, one (1) or more
42 officers, directors, or shareholders designated in writing by the



- 1 manufacturer.
- 2 SECTION 4. IC 9-32-2-11.7 IS ADDED TO THE INDIANA CODE
3 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2021]: **Sec. 11.7. "Established place of business" has the meaning
5 set forth in IC 9-13-2-50.**
- 6 SECTION 5. IC 9-32-2-25.5 IS ADDED TO THE INDIANA CODE
7 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2021]: **Sec. 25.5. "Transport operator" has the meaning set forth
9 in IC 9-13-2-187.**
- 10 SECTION 6. IC 9-32-2-29 IS ADDED TO THE INDIANA CODE
11 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2021]: **Sec. 29. "Watercraft dealer" means a person that sells,
13 offers to sell, or advertises the sale of at least six (6):**
- 14 (1) watercrafts;
15 (2) trailers designed and used exclusively for the
16 transportation of watercrafts; or
17 (3) trailers sold in general association with the sale of
18 watercrafts;
19 **within a period of twelve (12) months.**
- 20 SECTION 7. IC 9-32-6-1, AS AMENDED BY P.L.120-2020,
21 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2021]: Sec. 1. (a) The following persons licensed under this
23 article may apply for dealer license plates:
- 24 (1) An automobile auction company.
25 (2) A converter manufacturer.
26 (3) A new motor vehicle dealer.
27 (4) A distributor.
28 (5) A watercraft dealer.
29 (6) A manufacturer.
30 (7) A transfer dealer.
31 (8) A used motor vehicle dealer.
- 32 (b) The application must include any information the secretary
33 reasonably requires. Upon successful application, two (2) certificates
34 of registration and two (2) metal dealer license plates shall then be
35 issued to the applicant. A person under subsection (a) may apply for
36 and at the discretion of the secretary receive additional dealer license
37 plates as set forth in section 5 of this chapter.
- 38 (c) **Except for license plates issued to transfer dealers,** the fee for
39 the first two (2) license plates issued under subsection (b) is as follows:
- 40 (1) For motorcycle dealer license plates, fifteen dollars (\$15).
41 (2) For license plates not described in subdivision (1), forty
42 dollars (\$40).



1 **(d) The fees for license plates issued to transfer dealers are**
 2 **established under section 2(c) of this chapter.**

3 ~~(d)~~ **(e)** Fees collected under subsection (c) shall be distributed as
 4 follows:

5 (1) Thirty percent (30%) to the dealer compliance account.

6 (2) Seventy percent (70%) to the motor vehicle highway account.

7 ~~(e)~~ **(f)** There is an additional service charge of five dollars (\$5) for
 8 each set of license plates issued under subsection (b). The service
 9 charge shall be deposited in the crossroads 2000 fund.

10 SECTION 8. IC 9-32-6-7, AS AMENDED BY P.L.120-2020,
 11 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2021]: Sec. 7. (a) Unless otherwise provided, dealer license
 13 plates may be used only on motor vehicles being held for sale or resale
 14 in the dealer's inventory. Dealer license plates may be placed only on
 15 motor vehicles in the dealer's inventory for the following reasons:

16 (1) Usual operation of the dealer's business.

17 (2) Movement of the dealer's inventory.

18 (3) As permitted by rules adopted by the secretary.

19 (b) Dealer license plates may not be used to avoid payment of
 20 applicable taxes.

21 (c) The license plates referenced in subsection (a), when not in use,
 22 must be stored at the dealer's established place of business.

23 **(d) This subsection does not apply to tractors, dump trucks,**
 24 **trucks with a rear-mounted forklift, or trucks with a mechanism**
 25 **to carry a rear-mounted forklift or implement.** While in use, dealer
 26 license plates must be displayed on the motor vehicle. The license plate
 27 must be displayed in the following manner:

28 (1) On the rear of the motor vehicle.

29 (2) With all text, numbers, and stickers fully visible and not
 30 obstructed or obscured by any part of the motor vehicle or other
 31 foreign materials, such as a plate frame or cover.

32 (3) Securely fastened in a horizontal position at a height of at least
 33 twelve (12) inches from the ground, measuring from the bottom
 34 of the license plate.

35 (e) A person that violates this section commits a Class A infraction.

36 SECTION 9. IC 9-32-6-16, AS AMENDED BY P.L.284-2019,
 37 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2021]: Sec. 16. (a) Except as provided in subsection (b), if a
 39 ~~dealer~~ license plate or registration card issued under this ~~chapter~~
 40 **article or under IC 9-31-3-19 (before its repeal) or ~~IC 9-32-8-8~~** is lost,
 41 stolen, or destroyed, the dealer **or transport operator** may apply for
 42 a replacement ~~dealer~~ license plate or registration card in the form and



1 manner prescribed by the secretary.

2 (b) If a ~~dealer~~ license plate is lost or stolen, the secretary may not
3 issue a replacement ~~dealer~~ license plate until the dealer **or transport**
4 **operator** to whom the ~~dealer~~ license plate was issued:

5 (1) has notified:

6 (A) the ~~Indiana~~ law enforcement agency that has jurisdiction
7 where the loss or theft occurred; or

8 (B) the law enforcement agency that has jurisdiction over the
9 address of the dealer's established place of business; and

10 (2) presents to the secretary on a form prescribed by the secretary
11 a report completed by the law enforcement agency that was
12 notified under subdivision (1).

13 SECTION 10. IC 9-32-7.5-2, AS ADDED BY P.L.120-2020,
14 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2021]: Sec. 2. (a) This section does not apply to a vehicle
16 registered as a recovery vehicle under IC 9-18.1-6.

17 (b) A transport operator may, instead of registering each motor
18 vehicle transported or disposable trailer used, make a verified
19 application upon a form prescribed by the secretary and furnished by
20 the secretary for a general distinctive registration number for:

21 (1) all motor vehicles transported by the transport operator and
22 used and operated for the purposes provided; or

23 (2) all disposable trailers used and operated for the purpose of
24 transporting sectionalized buildings.

25 (c) The application must contain the following:

26 (1) A brief description of:

27 (A) each style or type of motor vehicle transported or

28 ~~(B)~~ the type of disposable trailer used to transport the
29 sectionalized building, **whichever is applicable; and**

30 **(B) the manner in which the transport operator intends to**
31 **use the plates.**

32 (2) The name and address ~~including the county of residence~~, of
33 the transport operator.

34 (3) For an application to use a disposable trailer, a statement that
35 the disposable trailer will be disassembled after a single use.

36 (4) Any other information the secretary requires.

37 ~~(d) The secretary, upon receiving:~~

38 ~~(1) an application for a transport operator license plate; and~~

39 ~~(2) the fee under subsection (j);~~

40 shall issue to the person that submitted the application and fee two (2)
41 certificates of registration and the license plates with numbers
42 corresponding to the numbers of the certificates of registration. A



1 transport operator may obtain as many additional pairs of license plates
 2 as desired upon application and the payment to the secretary of the fee
 3 under subsection (k) for each pair of additional license plates:

4 (e) A license plate or sign other than those furnished and approved
 5 by the secretary may not be used:

6 (f) A transport operator license plate may not be used on a vehicle
 7 used or operated on a highway, except for the purpose of transporting:

- 8 (1) vehicles in transit; or
- 9 (2) sectionalized buildings:

10 A person may haul other vehicles or parts of vehicles in transit in the
 11 same combination:

12 (g) A transport operator may not operate a vehicle or any
 13 combination of vehicles in excess of the size and weight limits
 14 specified by law:

15 (h) A license plate issued under this section shall be displayed on
 16 the front and rear of each combination; and if only one (1) motor
 17 vehicle is transported; a license plate shall be displayed on both the
 18 front and rear of the motor vehicle:

19 (i) (d) The secretary may not issue transport operator license plates
 20 to a transport operator that has been convicted of violating this section
 21 **article** until the secretary is satisfied that the transport operator is able
 22 to comply with the requirements of this section.

23 (j) The fee for one (1) set of license plates for each transport
 24 operator is one hundred thirty-nine dollars and twenty-five cents
 25 (\$139.25). The fee shall be distributed as follows:

- 26 (1) Twenty-five cents (\$0.25) to the state construction fund;
- 27 (2) Five dollars (\$5) to the crossroads 2000 fund;
- 28 (3) Nine dollars (\$9) to the dealer compliance account;
- 29 (4) Thirty dollars (\$30) to the highway, road and street fund;
- 30 (5) Ninety-five dollars (\$95) to the motor vehicle highway
 31 account:

32 (k) The fee for each additional set of license plates for a transport
 33 operator is thirty-four dollars and twenty-five cents (\$34.25). The fee
 34 shall be distributed as follows:

- 35 (1) Twenty-five cents (\$0.25) to the state construction fund;
- 36 (2) Nine dollars (\$9) to the dealer compliance account;
- 37 (3) Ten dollars (\$10) to the crossroads 2000 fund;
- 38 (4) Fifteen dollars (\$15) to the motor vehicle highway account:

39 SECTION 11. IC 9-32-7.5-3 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2021]: **Sec. 3. (a) A transport operator may apply for transport
 42 operator license plates under section 2 of this chapter.**



1 **(b) The fee for the first transport operator license plate is one**
 2 **hundred thirty-nine dollars and twenty-five cents (\$139.25). A fee**
 3 **under this subsection shall be distributed as follows:**

- 4 **(1) Twenty-five cents (\$0.25) to the state construction fund.**
 5 **(2) Five dollars (\$5) to the crossroads 2000 fund.**
 6 **(3) Nine dollars (\$9) to the dealer compliance account.**
 7 **(4) Thirty dollars (\$30) to the highway, road and street fund.**
 8 **(5) Ninety-five dollars (\$95) to the motor vehicle highway**
 9 **account.**

10 **(c) The fee for each additional transport operator license plate**
 11 **is thirty-four dollars and twenty-five cents (\$34.25). A fee under**
 12 **this subsection shall be distributed as follows:**

- 13 **(1) Twenty-five cents (\$0.25) to the state construction fund.**
 14 **(2) Nine dollars (\$9) to the dealer compliance account.**
 15 **(3) Ten dollars (\$10) to the crossroads 2000 fund.**
 16 **(4) Fifteen dollars (\$15) to the motor vehicle highway account.**

17 **(d) The secretary, upon receiving:**

- 18 **(1) a complete application for transport operator license**
 19 **plates; and**
 20 **(2) the applicable fee;**

21 **shall issue to the transport operator certificates of registration and**
 22 **the transport operator license plates with numbers corresponding**
 23 **to the numbers of the certificates of registration for each transport**
 24 **operator license plate.**

25 **(e) Transport operator license plates expire according to the**
 26 **schedule in IC 9-32-6-6.5.**

27 SECTION 12. IC 9-32-7.5-4 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2021]: **Sec. 4. (a) Transport operator license plates may only be**
 30 **used for the purpose of transporting:**

- 31 **(1) vehicles in transit; or**
 32 **(2) sectionalized buildings.**

33 **(b) A person may haul:**

- 34 **(1) other vehicles; or**
 35 **(2) parts of vehicles;**

36 **in transit in the same combination.**

37 **(c) A transport operator may not operate a vehicle or any**
 38 **combination of vehicles in excess of the size and weight limits**
 39 **specified by law.**

40 **(d) A license plate or sign other than those furnished and**
 41 **approved by the secretary may not be used.**

42 SECTION 13. IC 9-32-7.5-5 IS ADDED TO THE INDIANA CODE



1 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2021]: **Sec. 5. A transport operator may not engage in retail sales
3 of motor vehicles or watercrafts.**

4 SECTION 14. IC 9-32-7.5-6 IS ADDED TO THE INDIANA CODE
5 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2021]: **Sec. 6. (a) A transport operator shall maintain a record of
7 each transport operator license plate issued to the transport
8 operator. The record shall account for every transport operator
9 license plate issued, including:**

10 (1) the dates the transport operator license plate is used;

11 (2) a description of the vehicle to which the transport operator
12 license plate is affixed, including the:

13 (A) vehicle make;

14 (B) vehicle model;

15 (C) manufacture year; and

16 (D) vehicle identification number (VIN);

17 (3) the destinations of the vehicle to which the transport
18 operator license plate is affixed; and

19 (4) the name of the person who operates the vehicle to which
20 the transport operator license plate is affixed.

21 (b) Records under subsection (a) must be maintained for at least
22 one (1) year from the date the transport operator license plate is
23 issued.

24 SECTION 15. IC 9-32-7.5-7 IS ADDED TO THE INDIANA CODE
25 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2021]: **Sec. 7. A transport operator shall furnish proof that the
27 transport operator has maintained financial responsibility for not
28 less than the minimum amounts under IC 9-25-4-5 for each set of
29 transport operator plates to be affixed to a motor vehicle:**

30 (1) at the time of application; or

31 (2) upon request of the secretary.

32 SECTION 16. IC 9-32-10-2, AS AMENDED BY P.L.284-2019,
33 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2021]: **Sec. 2. The advisory board is composed of the
35 secretary and ~~eleven (11)~~ at least six (6) but less than twelve (12)
36 persons appointed by the governor upon the recommendation of the
37 secretary as follows:**

38 (1) At least two (2) of the appointed members must be franchised
39 new motor vehicle dealers as follows:

40 (A) At least one (1) member must:

41 (i) have sold fewer than seven hundred fifty (750) new
42 motor vehicles in the year before the member's appointment;



- 1 and
 2 (ii) be a dealer owner listed on a valid license issued to a
 3 franchised new motor vehicle dealer under IC 9-32.
 4 (B) At least one (1) member must:
 5 (i) have sold more than seven hundred forty-nine (749) new
 6 motor vehicles in the year before the member's appointment;
 7 and
 8 (ii) be a dealer owner listed on a valid license issued to a
 9 franchised new motor vehicle dealer under IC 9-32.
 10 (2) At least two (2) of the appointed members must:
 11 (A) represent the motor vehicle manufacturing industry;
 12 (B) have been an Indiana resident for at least two (2) years
 13 immediately preceding the member's appointment; and
 14 (C) be employed by a manufacturer that holds a valid
 15 manufacturer license issued under IC 9-32.
 16 (3) At least two (2) members must:
 17 (A) represent used motor vehicle dealers that are not
 18 franchised new motor vehicle dealers; and
 19 (B) be a dealer owner listed on a valid license issued to a used
 20 motor vehicle dealer under IC 9-32.
 21 (4) The remaining members may be appointed from the following:
 22 (A) A representative of a used automobile auction validly
 23 licensed under IC 9-32.
 24 (B) A representative of an automobile salvage recycler validly
 25 licensed under IC 9-32.
 26 (C) A representative of a recreational vehicle dealer validly
 27 licensed under IC 9-32.
 28 (D) A representative of a watercraft dealer validly licensed
 29 under IC 9-32.
 30 (5) One (1) appointed member may represent the general public
 31 and may not have any direct interest in the manufacture or sale of
 32 motor vehicles or watercraft.

33 SECTION 17. IC 9-32-10-7, AS ADDED BY P.L.92-2013,
 34 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2021]: Sec. 7. ~~Seven (7)~~ **A majority of the current** members
 36 of the advisory board ~~constitute~~ **constitutes** a quorum for doing
 37 business. The majority vote of the members of the quorum, present and
 38 voting, is required for the passage of a matter put to a vote of the
 39 advisory board.

40 SECTION 18. IC 9-32-11-10, AS AMENDED BY P.L.120-2020,
 41 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2021]: Sec. 10. (a) This section does not apply to sales made



1 at a motor vehicle industry sponsored trade show.

2 (b) A dealer that sells to the general public may not sell or offer to
3 sell a motor vehicle at a location away from the dealer's established
4 place of business without obtaining an offsite sales permit under
5 section 11 of this chapter.

6 (c) A motor vehicle display is not considered an offsite sale if it is
7 conducted:

8 (1) by a new motor vehicle dealer; and

9 (2) in an open area where no sales personnel and sales material
10 are present.

11 **(d) A sale is not an offsite sale if:**

12 **(1) it is a sale of a manufactured home within a manufactured**
13 **home community;**

14 **(2) the manufactured home is already located within the**
15 **manufactured home community or will be installed within the**
16 **manufactured home community; and**

17 **(3) the sale is made by the dealer that owns and operates the**
18 **manufactured home community.**

19 SECTION 19. IC 9-32-13-23, AS AMENDED BY P.L.174-2016,
20 SECTION 103, IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2021]: Sec. 23. (a) It is an unfair practice for a
22 manufacturer, distributor, officer, or agent to do any of the following:

23 (1) Require, coerce, or attempt to coerce a new motor vehicle
24 dealer in Indiana to:

25 (A) change the location of the dealership;

26 (B) make any substantial alterations to the use of franchises;

27 or

28 (C) make any substantial alterations to the dealership premises
29 or facilities;

30 if to do so would be unreasonable or would not be justified by
31 current economic conditions or reasonable business
32 considerations. This subdivision does not prevent a manufacturer
33 or distributor from establishing and enforcing reasonable facility
34 requirements. However, a new motor vehicle dealer may elect to
35 use for the facility alteration locally sourced materials or supplies
36 that are substantially similar to those required by the
37 manufacturer or distributor, subject to the approval of the
38 manufacturer or distributor, which may not be unreasonably
39 withheld.

40 (2) Require, coerce, or attempt to coerce a new motor vehicle
41 dealer in Indiana to divest ownership of or management in
42 another line or make of motor vehicles that the dealer has



1 established in its dealership facilities with the prior written
 2 approval of the manufacturer or distributor.
 3 (3) Establish or acquire wholly or partially a franchisor owned
 4 outlet engaged wholly or partially in a substantially identical
 5 business to that of the franchisee within the exclusive territory
 6 granted the franchisee by the franchise agreement or, if no
 7 exclusive territory is designated, competing unfairly with the
 8 franchisee within a reasonable market area. A franchisor is not
 9 considered to be competing unfairly **or in violation of**
 10 **IC 9-32-11-20** if operating:
 11 (A) a business for less than two (2) years;
 12 (B) in a bona fide retail operation that is for sale to any
 13 qualified independent person at a fair and reasonable price; or
 14 (C) in a bona fide relationship in which an independent person
 15 has made a significant investment subject to loss in the
 16 business operation and can reasonably expect to acquire
 17 majority ownership or managerial control of the business on
 18 reasonable terms and conditions.
 19 (4) Require a dealer, as a condition of granting or continuing a
 20 franchise, approving the transfer of ownership or assets of a new
 21 motor vehicle dealer, or approving a successor to a new motor
 22 vehicle dealer to:
 23 (A) construct a new dealership facility;
 24 (B) modify or change the location of an existing dealership; or
 25 (C) grant the manufacturer or distributor control rights over
 26 any real property owned, leased, controlled, or occupied by the
 27 dealer.
 28 (5) Prohibit a dealer from representing more than one (1) line
 29 make of motor vehicles from the same or a modified facility if:
 30 (A) reasonable facilities exist for the combined operations;
 31 (B) the dealer meets reasonable capitalization requirements for
 32 the original line make and complies with the reasonable
 33 facilities requirements of the manufacturer or distributor; and
 34 (C) the prohibition is not justified by the reasonable business
 35 considerations of the manufacturer or distributor.
 36 Subdivisions (3) through (5) do not apply to recreational vehicle
 37 manufacturer franchisors.
 38 (b) This section does not prohibit the enforcement of a voluntary
 39 agreement between the manufacturer or distributor and the franchisee
 40 where separate and valuable consideration has been offered and
 41 accepted.
 42 SECTION 20. IC 9-32-16-2, AS AMENDED BY P.L.120-2020,



1 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2021]: Sec. 2. (a) An order issued under this article may:

3 (1) deny a dealer license, **transport operator license plate**, or
4 endorsement application for registration if the secretary finds that
5 the order is in the public interest and subsection (c) authorizes the
6 action;

7 (2) **condition or limit the issuance of transport operator**
8 **license plates to an applicant if the secretary finds that the**
9 **order is in the interest of the public and subsection (c)**
10 **authorizes the actions; and**

11 (3) ~~An order may~~ condition or limit the license of an applicant to
12 be a dealer and, if the applicant for a dealer license is a partner,
13 officer, director, or person having similar status or performing
14 similar functions, or a person directly or indirectly in control of
15 the dealership, the order may condition or limit the license.

16 (b) If the secretary finds that an order is in the public interest and
17 subsection (c) authorizes the action, an order issued under this article
18 may deny, revoke, suspend, condition, limit, or permanently bar the
19 granting of a license or endorsement or issuing of a license plate to or
20 an application for a license, endorsement, or license plate from a
21 **transport operator**, dealer, owner, dealer manager, or a person having
22 a similar status or performing similar functions as a dealer, or a person
23 directly or indirectly in control of the dealer. However, the secretary
24 may not:

25 (1) institute a revocation or suspension proceeding under this
26 subsection based on an order issued under the law of another state
27 that is reported to the secretary or a designee of the secretary more
28 than one (1) year after the date of the order on which it is based;
29 or

30 (2) issue an order on the basis of an order issued under the dealer
31 services laws of another state unless the other order was based on
32 conduct for which subsection (c) would authorize the action had
33 the conduct occurred in Indiana.

34 (c) A person may be disciplined under this section if the person:

35 (1) has filed an application for **transport operator license plates**,
36 a dealer license, or **a dealer** endorsement in Indiana under this
37 article, or its predecessor, within the previous ten (10) years,
38 which, as of the effective date of license or registration or as of
39 any date after filing in the case of an order denying effectiveness,
40 was incomplete as to a material fact or contained a statement that,
41 in light of the circumstances under which it was made, was false
42 or misleading with respect to a material fact;



- 1 (2) knowingly violated or knowingly failed to comply with this
 2 article, or its predecessor, within the previous ten (10) years;
 3 (3) has been convicted of a:
 4 (A) felony within the previous ten (10) years;
 5 (B) felony or misdemeanor involving theft or fraud; or
 6 (C) felony or misdemeanor concerning an aspect of business
 7 involving the offer, sale, financing, repair, modification, or
 8 manufacture of a motor vehicle or watercraft;
 9 (4) is enjoined or restrained by a court with jurisdiction in an
 10 action instituted by a state or the United States from engaging in
 11 or continuing an act, practice, or course of business involving an
 12 aspect of a business involving the offer, barter, sale, purchase,
 13 transfer, financing, repair, or manufacture of a motor vehicle or
 14 watercraft;
 15 (5) refuses to allow or otherwise impedes the secretary from
 16 conducting an audit or inspection;
 17 (6) has engaged in dishonest or unethical practices in a business
 18 involving the offer, barter, sale, purchase, transfer, financing,
 19 repair, or manufacture of a motor vehicle or watercraft within the
 20 previous ten (10) years;
 21 (7) is engaging in unfair practices as set forth in this article;
 22 (8) is on the most recent tax warrant list supplied to the secretary
 23 by the department of state revenue;
 24 (9) violates IC 23-2-2.7;
 25 (10) violates IC 9-19-9;
 26 (11) willfully violates federal or state law relating to the sale,
 27 distribution, financing, or insuring of motor vehicles or
 28 watercraft;
 29 (12) is not compliant with local, state, or federal laws and
 30 regulations regarding a dealer license, endorsement, or dealer
 31 business;
 32 (13) violates IC 9-32-9-15;
 33 (14) violates IC 9-32-9-16; or
 34 (15) violates IC 9-32-9-29.
 35 (d) The secretary may revoke, suspend, or deny an application,
 36 impose fines and costs, restrict, condition, limit, bar, or suspend a
 37 dealer license, **a dealer** endorsement, or **a** license plate issued under
 38 this article, or order restitution, or do any combination of these actions
 39 before final determination of an administrative proceeding. Upon the
 40 issuance of an order, the secretary shall promptly notify each person
 41 subject to the order:
 42 (1) that the order has been issued;



1 (2) the reasons for the action; and

2 (3) that upon receipt of a request in a record from the person, an
3 order setting a hearing date will be issued within fifteen (15) days.

4 If a hearing is not requested and no hearing is ordered by the secretary
5 within thirty (30) days after the date of service of the order, the order
6 becomes final by operation of law. If a hearing is requested or ordered,
7 the secretary, after notice of and opportunity for hearing to each person
8 subject to the order, may modify or vacate the order or extend the order
9 until final determination.

10 (e) After a hearing, the secretary may suspend or deny an
11 application, impose fines and costs, restrict, condition, limit, bar,
12 suspend, or revoke a **license plate issued under this article**, dealer
13 license or endorsement or order restitution, or do any combination of
14 these actions.

15 (f) Revocation or suspension of a license or endorsement of a dealer
16 may be limited to one (1) or more locations, to one (1) or more defined
17 areas, or only to certain aspects of the business.

18 (g) Except as provided in subsection (d), an order may not be issued
19 under this section without:

20 (1) appropriate notice to the applicant or registrant;

21 (2) an opportunity for a hearing; and

22 (3) reasons for the action.

23 (h) A person that controls, directly or indirectly, a person not in
24 compliance with this section may be disciplined by order of the
25 secretary under subsections (a) and (b) to the same extent as the
26 noncomplying person, unless the controlling person did not know, and
27 in the exercise of reasonable care could not have known, of the
28 existence of conduct that is a ground for discipline under this section.

29 (i) A person subject to this chapter that has not been issued a license
30 or endorsement is subject to the same disciplinary fines, costs, and
31 penalties as if a license had been issued.

32 SECTION 21. IC 9-32-16-11, AS AMENDED BY P.L.120-2020,
33 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2021]: Sec. 11. (a) All dealers **and transport operators**
35 operating as a:

36 (1) corporation;

37 (2) limited liability company;

38 (3) limited partnership; or

39 (4) limited liability partnership;

40 shall file and maintain all filings required to remain in good standing
41 with the secretary of state business services division.

42 (b) The dealer must, for the entire licensing period, have an



1 established place of business with a physical Indiana address. The
 2 dealer may not have a mailing address that differs from the actual
 3 location of the business. At the discretion of the secretary, an
 4 exemption may be granted for dealers with an established place of
 5 business in a location not serviced by the United States Postal Service
 6 to allow a post office box to be used as a mailing address. A dealer
 7 using a post office box for this reason must notify the division in
 8 writing with the dealer's application.

9 (c) Before the secretary may issue a license to a dealer **or license**
 10 **plates to a transport operator**, the following must occur:

11 (1) A dealer **or transport operator** must disclose to the secretary
 12 the following:

13 (A) Each dealer owner.

14 (B) For a dealer owner that is a business entity, the following:

15 (i) If a corporation, each officer, director, and shareholder
 16 designated in writing by the board of directors.

17 (ii) If a limited liability company, each member of the
 18 company designated in writing by all members.

19 (iii) If a partnership, each partner.

20 (iv) If a sole proprietorship, the proprietor.

21 (C) **Except for a transport operator**, each dealer manager.

22 (2) A person under subdivision (1) must submit to a national
 23 criminal history background check (as defined in IC 10-13-3-12)
 24 or expanded criminal history check (as defined in IC 20-26-2-1.5)
 25 administered by the state police.

26 The secretary shall make the determination whether an individual must
 27 submit to a national criminal history background check or an expanded
 28 criminal history check under this subsection.

29 (d) A national criminal history background check or expanded
 30 criminal history check conducted under subsection (c):

31 (1) is at the expense of the dealer **or transport operator**, and the
 32 dealer owners; and

33 (2) may be completed not more than sixty (60) days before the
 34 dealer applies for a license under this article.

35 (e) The secretary may deny an application for a license **or transport**
 36 **operator license plates** if the division finds that a dealer owner or a
 37 dealer manager has been convicted of a:

38 (1) felony within the previous ten (10) years;

39 (2) felony or misdemeanor involving theft or fraud; or

40 (3) felony or misdemeanor concerning an aspect of business
 41 involving the offer, sale, financing, repair, modification, or
 42 manufacture of a motor vehicle or watercraft.



1 (f) If a dealer **or transport operator** adds, **removes**, or changes a
 2 dealer owner or dealer manager after issuance of the initial license, the
 3 dealer **or transport operator** must submit an application for a change
 4 in ownership in a manner prescribed by the secretary not later than ten
 5 (10) days after the change. The new dealer owner or dealer manager
 6 shall submit to a national criminal history background check or
 7 expanded criminal history check as set forth in subsection (c).

8 (g) Following licensure under this article, a dealer **or transport**
 9 **operator** shall, not later than ninety (90) days after the entry of an
 10 order or judgment, notify the division in writing if the dealer owner or
 11 dealer manager has been convicted of a:

- 12 (1) felony within the past ten (10) years;
- 13 (2) felony or misdemeanor involving theft or fraud; or
- 14 (3) felony or misdemeanor concerning an aspect of business
 15 involving the:
 - 16 (A) offer;
 - 17 (B) sale;
 - 18 (C) financing;
 - 19 (D) repair;
 - 20 (E) modification; or
 - 21 (F) manufacture;

22 of a motor vehicle or watercraft.

23 (h) The dealer **or transport operator**, and the corporation,
 24 company, or partnership must be in good standing with the bureau, the
 25 department of state revenue, the department of financial institutions,
 26 and the state police department during the entire period for which a
 27 license is valid.

28 SECTION 22. IC 9-32-16-15, AS ADDED BY P.L.92-2013,
 29 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2021]: Sec. 15. (a) A dealer who is injured by an unfair
 31 practice set forth in IC 9-32-13 or IC 9-32-15 may file a complaint or
 32 petition with the division.

33 **(b) A dealer who is injured by an unfair practice set forth in**
 34 **IC 9-32-13-27 may file a request for declaratory judgment with the**
 35 **division.**

36 ~~(b)~~ (c) A dealer may not file a complaint, **request for declaratory**
 37 **judgment under subsection (b) based on an alleged violation of**
 38 **IC 9-32-13-27**, or petition with the division under subsection (a) based
 39 on an alleged violation of IC 9-32-13 or IC 9-32-15 by a manufacturer
 40 or distributor unless the dealer serves a demand for mediation upon the
 41 manufacturer or distributor:

- 42 (1) before; or



1 (2) at the same time as;
2 filing the complaint, **request for declaratory judgment**, or petition.
3 A demand for mediation must be in writing and served upon the
4 manufacturer or distributor by certified mail at an address designated
5 for the manufacturer or distributor in the licensor's records. The
6 demand for mediation must contain a brief statement of the dispute and
7 the relief sought by the dealer serving the demand.
8 ~~(e)~~ **(d)** Not later than twenty (20) days after the date the demand for
9 mediation is served under subsection ~~(b)~~; **(c)**, the parties shall mutually
10 select an independent mediator and meet with the mediator for the
11 purpose of attempting to resolve the dispute. The meeting place must
12 be within Indiana at a location selected by the mediator. The mediator
13 may extend the period in which the meeting must occur for good cause
14 shown by either party or upon stipulation of the parties.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1246, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1246 as introduced.)

PRESSEL

Committee Vote: Yeas 11, Nays 0

