

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 222

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AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-32-2-24.8, AS ADDED BY P.L.134-2023, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 24.8. "Stop sale directive" means a notification issued by a manufacturer or distributor stating that a **new or** used vehicle in inventory may not be sold or leased at retail or wholesale due to:

- (1) a federal safety recall for:
  - (A) a defect; or
  - (B) a noncompliance; or
- (2) a federal emissions recall.

SECTION 2. IC 9-32-11-2, AS AMENDED BY P.L.20-2022, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) An application for a license under this article must:

- (1) be accompanied by payment of the applicable fee required under this section;
- (2) be on a form prescribed by the secretary;
- (3) contain the information the secretary considers necessary to enable the secretary to determine fully:
  - (A) the qualifications and eligibility of the applicant to receive the license; and
  - (B) the ability of the applicant to conduct properly the business



- for which the application is submitted;
- (4) contain evidence of a bond required in subsection (e);
- (5) contain evidence of liability coverage required by section 14 of this chapter;
- (6) contain the federal tax identification number issued to the dealer; and
- (7) contain the registered retail merchant's certificate issued to the dealer under IC 6-2.5-8.

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.

(c) An applicant who proposes to use the Internet or another computer network to facilitate the sale of motor vehicles shall maintain all records at the established place of business in Indiana.

(d) Except as provided in subsection (e), the application must include an affidavit from:

- (1) the person charged with enforcing a zoning ordinance, if one exists; or
- (2) the zoning enforcement officer under IC 36-7-4;

who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment.

(e) If there is no person or officer under subsection (d)(1) or (d)(2), the application must be accompanied by a statement to that effect from the executive (as defined in IC 36-1-2-5) of the unit in which the real property is located.

(f) The applicant may file the zoning affidavit under subsection (d) or statement under subsection (e) with the application at any time after the filing of the application. However, the secretary may not issue a license until the applicant files the affidavit or the statement.

(g) The zoning affidavit under subsection (d) or statement under subsection (e) may not be signed by a person described in subsection (d)(1) or (d)(2) or the executive of the unit more than ninety (90) days before the affidavit or statement is submitted to the secretary as part of an application for a license under this article.

(h) A licensee shall maintain a bond satisfactory to the secretary in the amount of twenty-five thousand dollars (\$25,000). The bond must:

- (1) be in favor of the state;
- (2) secure payment of fines, penalties, costs, and fees assessed by the secretary after:
  - (A) notice;
  - (B) opportunity for a hearing; and
  - (C) opportunity for judicial review; and



(3) secure the payment of damages to a person aggrieved by a violation of this article by the licensee after a judgment has been issued.

(i) Service under this chapter shall be made in accordance with the Indiana Rules of Trial Procedure.

(j) The fee for a license for a manufacturer or a distributor is thirty-five dollars (\$35).

(k) The fee for a license for a used motor vehicle dealer, new motor vehicle dealer, or automobile auction company is thirty dollars (\$30).

(l) The fee for a transfer dealer or a converter manufacturer is twenty dollars (\$20).

(m) The fees collected under this section are nonrefundable and shall be deposited as set forth in IC 9-32-7-3.

**(n) An application for a used motor vehicle dealer license must include a certificate of completion of the training course described in IC 9-32-16-1.3, issued by the Independent Automobile Dealers Association domiciled in Indiana.**

SECTION 3. IC 9-32-11-23, AS ADDED BY P.L.134-2023, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 23. (a) Except as otherwise provided in an agreement for reimbursement ~~between a manufacturer or distributor and a dealer~~, **that provides for reimbursement in an amount that is equivalent to or greater than the amount set forth in subsection (b)**, a manufacturer or distributor shall provide a remedy procedure or parts to repair a **new or** used motor vehicle that is subject to a stop sale directive, if:

(1) the dealer has an active sales and service agreement with the manufacturer or distributor for the line make of the **new or** used motor vehicle subject to the stop sale directive; and

(2) the **new or** used motor vehicle subject to the stop sale directive is in the dealer's inventory at the time the stop sale directive is issued.

(b) If a manufacturer or distributor **is required to provide a remedy under subsection (a) and** does not provide a remedy or parts required under subsection (a) for at least thirty (30) days after the stop sale directive is issued, the manufacturer or distributor shall, upon application of the dealer, pay or credit the dealer an amount equal to one percent (1%) of the **new motor vehicle price invoiced to the dealer or one percent (1%) of the** average wholesale value of the used motor vehicle per month.

(c) A manufacturer or distributor may cease compensation under subsection (b) on the date upon which of any of the following occurs:



- (1) The stop sale directive is withdrawn.
- (2) The manufacturer or distributor provides the dealer with a remedy or parts under subsection (a).
- (3) The dealer sells, trades, transfers, or otherwise disposes of the **new or** used motor vehicle.

(d) This section does not require a manufacturer or distributor to provide total compensation to a dealer that would exceed the total **new motor vehicle price invoiced to the dealer or** average wholesale value of the used motor vehicle.

(e) A manufacturer or distributor may compensate a dealer under a recall compensation program **an amount not less than an amount described under this section** if the dealer agrees to compensation under the program.

(f) Any compensation provided to a dealer under this section is exclusive and may not be combined with any other recall compensation remedy under state or federal law.

SECTION 4. IC 9-32-13-6, AS AMENDED BY P.L.20-2022, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. (a) For purposes of this section, "salvage vehicle" has the meaning set forth in IC 9-13-2-160(2).

(b) It is an unfair practice for a dealer to sell, exchange, or transfer a rebuilt or salvage vehicle without disclosing in writing to the purchaser, customer, or transferee the fact that the motor vehicle is a rebuilt or salvage vehicle if the dealer knows or should reasonably know before consummating the sale, exchange, or transfer that the motor vehicle is a rebuilt or salvage vehicle.

**(c) The purchaser, customer, or transferee must sign a written acknowledgment of receipt of the written disclosure described in subsection (b).**

**(d) The division shall prescribe the form of the written disclosure described in subsection (b).**

SECTION 5. IC 9-32-16-1, AS AMENDED BY P.L.108-2019, SECTION 189, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) This chapter shall be administered by the secretary.

(b) The secretary:

- (1) shall employ employees, including a director, investigators, or attorneys, necessary for the administration of this article; and
- (2) shall fix the compensation of the employees with the approval of the budget agency.

(c) It is unlawful for the director or an officer, employee, or designee of the secretary to use for personal benefit or the benefit of



others records or other information obtained by or filed with the dealer services division under this article that are confidential. This article does not authorize the director or an officer, employee, or designee of the secretary to disclose the record or information, except in accordance with this chapter.

(d) This article does not create or diminish a privilege or exemption that exists at common law, by statute or rule, or otherwise.

(e) The secretary may develop and implement dealer's and motor vehicle purchaser's education initiatives to inform dealers and the public about the offer or sale of motor vehicles, with particular emphasis on the prevention and detection of fraud involving motor vehicle sales. In developing and implementing these initiatives, the secretary may collaborate with public and nonprofit organizations with an interest in consumer education. The secretary may accept a grant or donation from a person that is not affiliated with the dealer industry or from a nonprofit organization, regardless of whether the organization is affiliated with the dealer industry, to develop and implement consumer education initiatives. ~~This subsection does not authorize the secretary to require participation or monetary contributions of a registrant in an education program.~~

(f) Fees and funds accruing from the administration of this article:

(1) described in IC 9-32-7-1(d) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in the dealer compliance account established by IC 9-32-7-1(a);

(2) described in IC 9-32-7-2(b) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in the dealer enforcement account established by IC 9-32-7-2(a);

(3) that are designated for deposit in the motor vehicle highway account shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in the motor vehicle highway account under IC 8-14-1;

(4) described in IC 9-32-7-3(3) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited with the state police department, and these fees and funds are continuously appropriated to the department for its use in enforcing odometer laws;

(5) described in IC 9-32-7-3(4) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited with the attorney general, and these fees and funds are continuously appropriated to the attorney general for use in



enforcing odometer laws; and

(6) that are designated for deposit in the state construction fund shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in the state construction fund.

Expenses incurred in the administration of this article shall be paid from the state general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, grants and donations under subsection (e), costs of investigations, and civil penalties recovered under this chapter shall be deposited by the treasurer of state in the dealer enforcement account established by IC 9-32-7-2. The funds in the dealer compliance account established by IC 9-32-7-1 must be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the enforcement and administration of this article.

(g) In connection with the administration and enforcement of this article, the attorney general shall render all necessary assistance to the director upon the request of the director. To that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the director as the demands of the division require. Expenses incurred by the attorney general for the purposes stated under this subsection are chargeable against and shall be paid out of funds appropriated to the attorney general for the administration of the attorney general's office. The attorney general may authorize the director and the director's designee to represent the director and the division in any proceeding involving enforcement or defense of this article.

(h) The secretary, director, and employees of the division are not liable in an individual capacity, except to the state, for an act done or omitted in connection with the performance of their duties under this article.

(i) The director and each attorney or investigator designated by the secretary:

- (1) are police officers of the state;
- (2) have all the powers and duties of police officers in conducting investigations for violations of this article, or in serving any process, notice, or order issued by an officer, authority, or court in connection with the enforcement of this article; and
- (3) comprise the enforcement department of the division.

The division is a criminal justice agency for purposes of IC 5-2-4 and IC 10-13-3.



(j) The provisions of this article delegating and granting power to the secretary, division, and director shall be liberally construed to the end that:

- (1) the practice or commission of fraud may be prohibited and prevented; and
- (2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured.

(k) Copies of any statements and documents filed in the office of the secretary and of any records of the secretary certified by the director are admissible in any prosecution, action, suit, or proceeding based on, arising out of, or under this article to the same effect as the original of the statement, document, or record would be if actually produced.

SECTION 6. IC 9-32-16-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 1.3. (a) The secretary in consultation with the Independent Automobile Dealers Association domiciled in Indiana and the division shall develop a required training course that an applicant for a used motor vehicle dealer license must complete in order to obtain a used motor vehicle dealer license. The training course must provide the used motor vehicle dealer information on:**

- (1) licensing requirements;**
- (2) laws; and**
- (3) rules.**

**(b) The training course under this section must be offered and certified by the Independent Automobile Dealers Association domiciled in Indiana.**

**(c) The training course under this section must be offered online.**

**(d) Upon completion of the training course:**

- (1) the Independent Automobile Dealers Association domiciled in Indiana shall issue a certificate of completion to each used motor vehicle dealer who successfully completes the training course; and**
- (2) the used motor vehicle dealer is not required to retake the training course.**

**(e) The applicant for a used motor vehicle dealer license must submit the certificate of completion issued by the Independent Automobile Dealers Association domiciled in Indiana in subsection (d)(1) with the applicant's application for a used motor vehicle dealer license.**

**(f) The cost for the training course under this section shall:**



- (1) not exceed three hundred dollars (\$300); and
- (2) be payable to the Independent Automobile Dealers Association domiciled in Indiana.

(g) A used motor vehicle dealer is not required to participate in the training course under this section if the dealer:

- (1) is renewing the used motor vehicle dealer's license; or
- (2) has:
  - (A) more than one (1) used motor vehicle dealership location; and
  - (B) previously completed the training course under this section to obtain a used motor vehicle dealer license for one (1) of the dealer's used motor vehicle dealership locations.

SECTION 7. IC 9-32-16-6, AS AMENDED BY P.L.120-2020, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. (a) A dealer licensed or required to be licensed under this article shall make and maintain the records, accounts, correspondence, memoranda, papers, books, and other records required under this article.

(b) Dealer records required to be maintained under this article may be maintained in any form of data storage acceptable to the secretary so long as the records are readily accessible **electronically or by mail** and available to copy by an investigating or auditing employee of the secretary upon demand at the place of business. ~~of the dealer; electronically; or by mail.~~

(c) Dealer records required to be maintained under this article must be maintained at the place of business of a dealer for a period of two (2) years. Following the two (2) year period, records may be moved offsite but must be maintained for a period of five (5) years.

**(d) If an investigating or auditing employee of the secretary requests dealer records required to be maintained under this article in an electronic format, the dealer must provide the dealer records to the investigating or auditing employee of the secretary not more than ten (10) business days after the request.**

SECTION 8. IC 9-32-16-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: **Sec. 6.3. An item, including a fee or products or services to be performed after the sale, that is not included in the advertised sale price, which includes manufacturer options, for a motor vehicle as stated in the contract for sale or lease, shall be a separate line item on the contract for sale or lease.**





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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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