

HOUSE BILL No. 1239

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-32.

Synopsis: Administrative proceedings for unfair practices. Allows a complaint that alleges the commission of an unfair practice under dealer services law to be filed with the office of administrative law proceedings (instead of with the dealer services division of the secretary of state). Provides that an administrative law judge with relevant experience shall preside over the proceedings and issue a written decision. Provides that the administrative law judge may recommend, and the secretary of state may adopt, remedial measures or other equitable remedies. Provides that the administrative law judge may recommend mediation during the pendency of the action.

Effective: July 1, 2024.

Steuerwald, Jeter

January 9, 2024, read first time and referred to Committee on Judiciary.



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.

HOUSE BILL No. 1239

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 9-32-13-31, AS AMENDED BY P.L.174-2016,
2 SECTION 107, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2024]: Sec. 31. (a) A dealer that alleges the
4 commission of an unfair practice by a manufacturer or distributor in
5 violation of: ~~section 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22,~~
6 ~~23, 28, 29, or 30 of this chapter~~
7 (1) **IC 9-32-11-20;**
8 (2) **this chapter;**
9 (3) **IC 9-32-15; or**
10 (4) **IC 23-2-2.7, as incorporated under this article;**
11 may file a complaint **directly** with the ~~division under IC 9-32-16-15.~~
12 **office of administrative law proceedings under IC 4-15-10.5.**
13 (b) Upon receipt of a complaint under subsection (a), the division
14 may conduct an investigation under ~~IC 9-32-16-14.~~ Pursuant to
15 **IC 4-15-10.5-13, an administrative law judge with relevant**
16 **experience shall be designated to preside over administrative**
17 **proceedings under subsection (a). The administrative law judge**



1 shall conduct the proceedings in accordance with IC 4-21.5. At the
 2 conclusion of the administrative proceedings, the administrative
 3 law judge shall issue a written decision pursuant to
 4 IC 4-15-10.5-14.

5 (c) If the division determines that a manufacturer or distributor has
 6 committed it is determined that a violation including an unfair
 7 practice described in occurred under subsection (a), the division may
 8 take action against the manufacturer or distributor under IC 9-32-16
 9 and IC 9-32-17: the administrative law judge may recommend, and
 10 the secretary of state may adopt, remedial measures or other
 11 equitable remedies.

12 (d) A person that performs an act that is an unfair practice under this
 13 chapter commits a Class A infraction.

14 (e) This section does not limit the ability of a dealer, manufacturer,
 15 or distributor to request a hearing under IC 9-32-16-2.

16 SECTION 2. IC 9-32-16-15, AS AMENDED BY P.L.182-2021,
 17 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2024]: Sec. 15. (a) A dealer who is injured by alleges the
 19 commission of an unfair practice set forth in IC 9-32-11-20,
 20 IC 9-32-13, or IC 9-32-15, or IC 23-2-2.7 may file a complaint or
 21 petition with the division: office of administrative law proceedings.

22 (b) A dealer who is injured by an unfair practice set forth in
 23 IC 9-32-13-27 may file a request for declaratory judgment with the
 24 division:

25 (c) A dealer may not file a complaint, request for declaratory
 26 judgment under subsection (b) based on an alleged violation of
 27 IC 9-32-13-27, or petition with the division under subsection (a) based
 28 on an alleged violation of IC 9-32-13 or IC 9-32-15 by a manufacturer
 29 or distributor unless the dealer serves a demand for mediation upon the
 30 manufacturer or distributor:

31 (1) before; or

32 (2) at the same time as;

33 filing the complaint, request for declaratory judgment, or petition. A
 34 demand for mediation must be in writing and served upon the
 35 manufacturer or distributor by certified mail at an address designated
 36 for the manufacturer or distributor in the licensor's records. The
 37 demand for mediation must contain a brief statement of the dispute and
 38 the relief sought by the dealer serving the demand.

39 (d) Not later than twenty (20) days after the date the demand for
 40 mediation is served under subsection (c), the parties shall mutually
 41 select an independent mediator and meet with the mediator for the
 42 purpose of attempting to resolve the dispute. The meeting place must



1 be within Indiana at a location selected by the mediator. The mediator
2 may extend the period in which the meeting must occur for good cause
3 shown by either party or upon stipulation of the parties:

4 **(b) The secretary of state shall retain ultimate authority for**
5 **actions brought under IC 9-32-13-24 and IC 9-32-13-27.**

6 **(c) As part of the adjudicatory process set forth in IC 4-15-10.5,**
7 **the administrative law judge may recommend mediation during**
8 **the pendency of the action.**

