

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1396

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 IC 9-13-2-1.3 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 1-3: "Adjusted or net capitalized cost", for purposes of IC 9-32, has the meaning set forth in IC 9-32-2-2.~~

SECTION 2. IC 9-13-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. "Automotive salvage recycler" means a business that:

- (1) acquires damaged, inoperative, discarded, abandoned, or salvage motor vehicles, or their remains, as stock-in-trade;
- (2) dismantles and processes such vehicles or remains for the reclamation and sale of reusable components and parts; ~~and~~
- (3) disposes of recyclable materials to a scrap metal processor or other appropriate facility; **or**
- (4) performs any combination of these actions.**

For purposes of this title, a recycling facility, a used parts dealer, and an automotive salvage rebuilder are all considered as an automotive salvage recycler.

SECTION 3. IC 9-13-2-18.6 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 18-6: "Capitalized cost", for purposes of IC 9-32, has the meaning set forth in IC 9-32-2-7.~~

SECTION 4. IC 9-13-2-18.7 IS REPEALED [EFFECTIVE JULY

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1, 2015]. Sec. 18-7: "Capitalized cost reduction"; for purposes of IC 9-32, has the meaning set forth in IC 9-32-2-8.

SECTION 5. IC 9-13-2-42, AS AMENDED BY P.L.62-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year. The term includes a person who sells off-road vehicles and, after December 31, 2013, a person who sells snowmobiles. A dealer must have an established place of business that meets the minimum standards prescribed by the secretary of state under rules adopted under IC 4-22-2.

(b) The term does not include the following:

- (1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.
- (2) A public officer while performing official duties.
- (3) An automotive mobility dealer.

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public at least six (6):

- (1) boats; or
- (2) trailers:
 - (A) designed and used exclusively for the transportation of watercraft; and
 - (B) sold in general association with the sale of watercraft;

per year.

(d) "Dealer", for purposes of IC 9-32, and unless otherwise provided, means:

- (1) an automobile auctioneer;
- (2) an automotive mobility dealer;
- (3) a converter manufacturer;
- (4) a dealer;
- (5) a distributor;
- ~~(6) a distributor representative;~~
- ~~(7) a factory or manufacturer representative;~~
- ~~(8) (6) a manufacturer;~~
- ~~(9) (7) a salvage dealer;~~
- ~~(10) (8) a transfer dealer;~~
- ~~(11) (9) a watercraft dealer; or~~
- ~~(12) (10) before July 1, 2015, a wholesale dealer.~~

SECTION 6. IC 9-13-2-44 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 44: (a) "Disposal facility" means a person, firm, limited liability company, corporation, or other legal entity that, in the course



of business; engages in the acquisition and dismantling or demolition of vehicles; motorcycles; semitrailers; or recreational vehicles or their remains for the benefit of reusable components and parts or recyclable materials:

(b) The term includes the following enterprises:

- (1) An automotive salvage recycler.
- (2) A hulk crusher.
- (3) A scrap metal processor.

SECTION 7. IC 9-13-2-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 45. "Distributor" means a person, other than a manufacturer or wholesale dealer, who is engaged in the business of selling motor vehicles to dealers located in Indiana. The term includes a distributor's branch office. ~~or the distributor's representative.~~ The term does not include a recreational vehicle manufacturer.

SECTION 8. IC 9-13-2-45.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 45.2. "Distributor representative", for purposes of IC 9-32-11, has the meaning set forth in IC 9-32-2-10.5.**

SECTION 9. IC 9-13-2-92.5 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 92.5. "Lease agreement", for purposes of IC 9-32, has the meaning set forth in IC 9-32-2-17.~~

SECTION 10. IC 9-13-2-92.7 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 92.7. "Lease transaction", for purposes of IC 9-32, has the meaning set forth in IC 9-32-2-18.~~

SECTION 11. IC 9-13-2-97, AS AMENDED BY P.L.147-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 97. (a) "Manufacturer" means, except as provided in subsection (b), a person engaged in the business of constructing or assembling vehicles, of a type required to be registered under IC 9-18, at an established place of business. The term does not include a converter manufacturer, an automotive mobility dealer, or a recreational vehicle manufacturer.

(b) "Manufacturer", for purposes of ~~IC 9-23~~, **IC 9-32**, means a person who is engaged in the business of manufacturing or assembling new motor vehicles or major component parts of motor vehicles, or both, and sells new motor vehicles to dealers, wholesale dealers, distributors, or the general public. The term includes the following:

- (1) A factory branch office of the manufacturer.
- (2) ~~An authorized representative of the manufacturer.~~
- (3) **(2)** A partnership, a firm, an association, a joint venture, a limited liability company, a corporation, or a trust, resident or



nonresident, that is controlled by the manufacturer.

The term does not include a converter manufacturer, an automotive mobility dealer, or a recreational vehicle manufacturer.

SECTION 12. IC 9-13-2-97.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 97.6. "Manufacturer representative", for purposes of IC 9-32-11, has the meaning set forth in IC 9-32-2-18.5.**

SECTION 13. IC 9-13-2-124 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 124. (a) "Person" means, except as otherwise provided in this section, an individual, a firm, a partnership, an association, a fiduciary, an executor or administrator, a governmental entity, a limited liability company, or a corporation.

(b) "Person", for purposes of IC 9-14-3.5, does not include the state or an agency of the state.

(c) "Person", for purposes of IC 9-20-14, IC 9-20-15, and IC 9-20-18-13(b), means a mobile home or sectionalized building transport company, mobile home or sectionalized building manufacturer, mobile home or sectionalized building dealer, or mobile home or sectionalized building owner.

(d) "Person", for purposes of ~~IC 9-23~~, **IC 9-32**, means an individual, a corporation, a limited liability company, an association, a partnership, a trust, or other entity. The term does not include the state, an agency of the state, or a municipal corporation.

SECTION 14. IC 9-13-2-150.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 150.3. (a) "Recycling facility" means a person, firm, limited liability company, corporation, or other legal entity that, in the course of business, engages in the acquisition and dismantling or demolition of vehicles, motorcycles, semitrailers, or recreational vehicles or their remains for the benefit of reusable components and parts or recyclable materials.**

(b) The term includes the following enterprises:

- (1) An automotive salvage recycler.**
- (2) A hulk crusher.**
- (3) A scrap metal processor that processes at least five (5) vehicles during a twelve (12) month period.**

SECTION 15. IC 9-13-2-154.5 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 154.5. "Retail lessee", for purposes of IC 9-32, has the meaning set forth in IC 9-32-2-21.~~

SECTION 16. IC 9-13-2-154.6 IS REPEALED [EFFECTIVE JULY



1, 2015]. Sec. 154.6. "Retail lessor", for purposes of IC 9-32, has the meaning set forth in IC 9-32-2-22.

SECTION 17. IC 9-13-2-192 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 192. "Unit", for purposes of IC 9-21-18, **IC 9-32-9-3, IC 9-32-11-2, IC 9-32-11-6, and IC 9-32-11-11.5**, has the meaning set forth in IC 9-21-18-3.

SECTION 18. IC 9-22-3-4, AS AMENDED BY P.L.125-2012, SECTION 128, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The bureau shall issue a certificate of salvage title as proof of ownership for a salvage motor vehicle when the acquiring insurance company, ~~disposal~~ **recycling** facility, or person does the following:

- (1) Applies for the certificate of salvage title.
- (2) Pays the appropriate fee under IC 9-29-7.
- (3) Surrenders the motor vehicle's original certificate of title or other proof of ownership as determined by the bureau.

SECTION 19. IC 9-22-3-13, AS AMENDED BY P.L.262-2013, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. A scrap metal processor or other appropriate facility that purchases or acquires a salvage motor vehicle that has been totally demolished or destroyed as a result of normal processing performed by a ~~disposal~~ **recycling** facility is not required to apply for and receive a certificate of salvage title for the vehicle. The facility or processor that performed the processing that resulted in the vehicle being demolished or destroyed shall surrender the certificate of title, the certificate of authority, or the certificate of salvage title to the bureau.

SECTION 20. IC 9-22-3-19, AS AMENDED BY P.L.92-2013, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 19. (a) The secretary of state shall prescribe recordkeeping forms to be used by:

- (1) a ~~disposal~~ **recycling** facility;
- (2) an automotive salvage rebuilder; and
- (3) a used parts dealer licensed under IC 9-32-9;

to preserve information about salvage vehicles or major component parts acquired or sold by the business.

(b) The recordkeeping forms required under subsection (a) must contain the following information:

- (1) For each new or used vehicle acquired or disposed of or for the major component parts of a new or used vehicle, the following:
 - (A) A description of the vehicle or major component part,



including numbers or other marks identifying the vehicle or major component part.

(B) The date the vehicle or major component part was acquired and disposed of.

(C) The name and address of the person from whom the vehicle or major component part was acquired.

(D) Verification of the purchaser of the vehicle or major component part by driver's license, state identification card, or other reliable means.

(2) For motor vehicles acquired or disposed of, in addition to the information required by subdivision (1), the following:

(A) The vehicle's trade name.

(B) The vehicle's manufacturer.

(C) The vehicle's type.

(D) The model year and vehicle identification number.

(E) A statement of whether any number has been defaced, destroyed, or changed.

(3) For wrecked, dismantled, or rebuilt vehicles, the date the vehicle was dismantled or rebuilt.

(c) Separate records for each vehicle or major component part must be maintained.

(d) The recordkeeping requirements of this section do not apply to hulk crushers or to scrap metal processors when purchasing scrap from a person who is licensed under IC 9-32-9 and who is required to keep records under this section.

SECTION 21. IC 9-22-3-22, AS AMENDED BY P.L.92-2013, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) This section applies to vehicles and their component parts that are in either their current model year or in the immediately preceding six (6) model years when purchased by a ~~disposal~~ **recycling** facility or automotive salvage rebuilder.

(b) A ~~disposal~~ **recycling** facility and automotive salvage rebuilder licensed under IC 9-32-9 must complete the recordkeeping forms developed under section 19 of this chapter for the purchase of a salvage motor vehicle or major component part.

SECTION 22. IC 9-22-3-24, AS AMENDED BY P.L.93-2010, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 24. The secretary of state, a police officer, or an agent of the secretary of state or a police officer may enter upon the premises of a ~~disposal~~ **recycling** facility, insurance company, or other business dealing in salvage vehicles during normal business hours to inspect a motor vehicle, semitrailer, recreational vehicle, major



component part, records, certificate of title, and other ownership documents to determine compliance with this chapter.

SECTION 23. IC 9-22-3-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 26. A court may issue a warrant to search the premises of an automotive salvage rebuilder, an automotive salvage recycler, a ~~disposal~~ **recycling** facility, or a used parts dealer for any major component parts being possessed, kept, sold, bartered, given away, used, or transported in violation of this chapter.

SECTION 24. IC 9-22-3-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 35. The prosecution of a ~~disposal~~ **recycling** facility, automotive salvage rebuilder, insurance company, or individual suspected of having violated this section may be instituted by the filing of an information or indictment in the same manner as other criminal cases are commenced.

SECTION 25. IC 9-22-5-18.2, AS AMENDED BY P.L.217-2014, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 18.2. (a) A ~~disposal~~ **recycling** facility, a scrap metal processor, or an agent of a ~~disposal~~ **recycling** facility or scrap metal processor may purchase a motor vehicle without a certificate of title for the motor vehicle if:

- (1) the motor vehicle is at least fifteen (15) model years old;
- (2) the purchase is solely for the purpose of dismantling or wrecking the motor vehicle for the recovery of scrap metal or the sale of parts; and
- (3) the ~~disposal~~ **recycling** facility or scrap metal processor records all purchase transactions of vehicles as required in subsection (b).

(b) A ~~disposal~~ **recycling** facility or scrap metal processor shall maintain the following information with respect to each motor vehicle purchase transaction to which the ~~disposal~~ **recycling** facility or scrap metal processor is a party for at least two (2) years following the date of the purchase transaction:

- (1) The name and address of any secondary metals recycler or salvage yard.
- (2) The name, initials, or other identifying symbol of the person entering the information.
- (3) The date of the purchase transaction.
- (4) A description of the motor vehicle that is the subject of the purchase transaction, including the make and model of the motor vehicle, if practicable.
- (5) The vehicle identification number of the motor vehicle.
- (6) The amount of consideration given for the motor vehicle.



(7) A written statement signed by the seller or the seller's agent certifying that the seller or the seller's agent has the lawful right to sell and dispose of the motor vehicle.

(8) The name and address of the person from whom the motor vehicle is being purchased.

(9) A photocopy or electronic scan of one (1) of the following forms of identification issued to the seller or the seller's agent:

(A) A current and valid driver's license.

(B) An identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government.

(C) A government issued document bearing an image of the seller or seller's agent, as applicable.

For purposes of complying with this subdivision, a ~~disposal~~ **recycling** facility or scrap metal processor is not required to make a separate copy of the seller's or seller's agent's identification for each purchase transaction involving the seller or seller's agent but may instead refer to a copy maintained in reference to a particular purchase transaction.

(c) A ~~disposal~~ **recycling** facility or scrap metal processor may not complete a purchase transaction in the absence of the information required under subsection (b)(9).

(d) A ~~disposal~~ **recycling** facility, a scrap metal processor, or an agent of a ~~disposal~~ **recycling** facility or scrap metal processor that knowingly or intentionally buys a motor vehicle that is less than fifteen (15) model years old without a certificate of title for the motor vehicle commits a Level 6 felony.

SECTION 26. IC 9-29-17-4, AS AMENDED BY P.L.216-2014, SECTION 152, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) The fee for the issuance of an interim dealer license plate under IC 9-32-6-11 is three dollars (\$3). ~~There is an additional service charge of two dollars (\$2):~~

(b) Fees collected under subsection (a) shall be deposited as set forth in section 14(c) of this chapter.

~~(c) Service charges collected under this section shall be deposited in the crossroads 2000 fund.~~

SECTION 27. IC 9-29-17-10, AS AMENDED BY P.L.62-2014, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. The fee for a ~~manufacturer representative; a distributor representative;~~ a wholesale dealer, a transfer dealer, a converter manufacturer, or an automotive mobility dealer under IC 9-32-11-1, **or a manufacturer representative or distributor**



representative under IC 9-32-11-7, is twenty dollars (\$20). The fee for an automotive mobility dealer who:

- (1) buys or sells vehicles, or both;
- (2) sells, installs, or services, offers to sell, install, or service, or solicits or advertises the sale, installation, or servicing of equipment or modifications specifically designed to facilitate use or operation of a vehicle by an individual who is disabled or aged; or
- (3) performs acts described in both subdivisions (1) and (2);

is twenty dollars (\$20). The fees collected shall be deposited as set forth in IC 9-32-7-3.

SECTION 28. IC 9-29-17-12, AS ADDED BY P.L.92-2013, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. The **license permit** fee for each offsite sales **license permit** issued under IC 9-32-11-11 is twenty-five dollars (\$25). The fees collected shall be deposited as set forth in IC 9-32-7-3.

SECTION 29. IC 9-29-17-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 17. (a) The permit fee for an out-of-state dealer special event auction permit under IC 9-32-11-11.5 is five hundred dollars (\$500).**

(b) The secretary retains the fees collected under subsection (a).

SECTION 30. IC 9-32-2-2 IS REPEALED [EFFECTIVE JULY 1, 2015]. **Sec. 2: "Adjusted or net capitalized cost" means the capitalized cost, less any capitalized cost reduction payments made by a retail lessee at the inception of a lease agreement. The adjusted or net capitalized cost is the basis for calculating the amount of a retail lessee's periodic payment under a lease agreement.**

SECTION 31. IC 9-32-2-7 IS REPEALED [EFFECTIVE JULY 1, 2015]. **Sec. 7: (a) "Capitalized cost" means the amount that, after deducting any capitalized cost reduction, serves as the basis for determining the base lease payment, which is the part of the periodic lease payment that is the sum of:**

- (1) the average periodic lease charge; and
- (2) the average periodic depreciation.

(b) For a single payment lease, the base lease payment is the sum of:

- (1) the average periodic lease charge multiplied by the number of months in the term of the lease; and
- (2) the average periodic depreciation multiplied by the number of months in the term of the lease.

(c) The capitalized cost may include any of the following:

- (1) Taxes:



- (2) Registration fees.
- (3) License fees.
- (4) Insurance charges.
- (5) Charges for guaranteed auto protection or GAP coverage.
- (6) Charges for service contracts and extended warranties.
- (7) Fees and charges for accessories and for installing accessories.
- (8) Charges for delivery, service, and repair.
- (9) Administrative fees, acquisition fees, and all fees or charges for providing services incidental to the lease agreement.
- (10) The unpaid balance of an amount financed under an outstanding motor vehicle loan agreement or motor vehicle retail installment contract with respect to a motor vehicle used as a trade-in vehicle.
- (11) The unpaid part of the early termination obligation under an outstanding lease agreement.
- (12) The first periodic payment due at the inception of the lease agreement, if not otherwise paid by the retail lessee.

SECTION 32. IC 9-32-2-8 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 8: "Capitalized cost reduction" means a payment made by cash, check, credit card, debit card, net vehicle trade-in, rebate, or other similar means in the nature of a down payment or credit, made by a retail lessee at the inception of a lease agreement, for the purpose of reducing the capitalized cost and does not include any periodic payments received by the retail lessor at the inception of the lease agreement.

SECTION 33. IC 9-32-2-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 10.5. "Distributor representative" means a person that is certified by the secretary to be an agent of a licensed distributor to act on behalf of a distributor licensed under this article.**

SECTION 34. IC 9-32-2-17 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 17: "Lease agreement" means a written agreement entered into in Indiana for the transfer from a retail lessor to a retail lessee of the right to possess and use a motor vehicle in exchange for consideration for a scheduled term exceeding four (4) months, whether or not the retail lessee has the option to purchase or otherwise become the owner of the motor vehicle upon expiration of the agreement. The term does not include an agreement that covers an absolute sale, a sale pending approval, or a retail installment sale.

SECTION 35. IC 9-32-2-18 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 18: "Lease transaction" means a presentation made to a



retail lessee concerning a motor vehicle, including a sales presentation or a document presented to the retail lessee, resulting in the execution of a lease agreement:

SECTION 36. IC 9-32-2-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 18.5. "Manufacturer representative" means a person that is certified by the secretary to be an agent of a licensed manufacturer to act on behalf of a manufacturer licensed under this article.**

SECTION 37. IC 9-32-2-21 IS REPEALED [EFFECTIVE JULY 1, 2015]. **Sec. 21. "Retail lessee" means an individual who executes a lease agreement for a motor vehicle from a retail lessor primarily for personal, family, or household purposes.**

SECTION 38. IC 9-32-2-22 IS REPEALED [EFFECTIVE JULY 1, 2015]. **Sec. 22. "Retail lessor" means a person who regularly engages in the business of selling or leasing motor vehicles and who offers or arranges a lease agreement for a motor vehicle. The term includes an agent or affiliate who acts on behalf of the retail lessor and excludes any assignee of the lease agreement.**

SECTION 39. IC 9-32-4-1, AS AMENDED BY P.L.217-2014, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is transferred in any manner other than by a transfer on death conveyance under IC 9-17-3-9, in addition to complying with IC 9-17-3-3.4, the person who holds the certificate of title must do the following:**

- (1) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.
- (2) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all the following conditions exist:
 - (A) The seller or transferor is a vehicle dealer licensed by the state under this article.
 - (B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.
 - (C) The vehicle dealer provides the purchaser or transferee with an affidavit under section 2 of this chapter.
 - (D) The purchaser or transferee has made all agreed upon



initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) Keep proof of delivery of the certificate of title with the dealer records.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(1) or (a)(2) at the time of the sale.

(c) A vehicle dealer who fails to deliver a ~~the~~ certificate of title within the time specified under ~~this section~~ **subsection (a)** is subject to the following civil penalties:

- (1) One hundred dollars (\$100) for the first violation in a calendar year.
- (2) Two hundred fifty dollars (\$250) for the second violation in a calendar year.
- (3) Five hundred dollars (\$500) for all subsequent violations in a calendar year.

Payment shall be made to the secretary of state and deposited in the dealer enforcement account established under IC 9-32-7-2.

(d) If a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee has the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser or transferee. **The relief referenced in this subsection is relief for the purchaser or transferee only and does not preclude the ability of the division to collect civil penalties under subsection (c).**

(e) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party one hundred dollars (\$100). If:

- (1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed



to timely deliver the certificate of title in the third party's possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(f) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle shall deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(g) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within ten (10) days after the date of sale.

(h) Except as provided in subsection (i), a person who violates this section commits a Class C infraction.

(i) A person who knowingly or intentionally violates subsection (a)(1), (a)(2), or (d) commits a Class B misdemeanor.

(j) For purposes of this section, "deliver the certificate of title" means to deliver the certificate of title to the purchaser or transferee by postmark dated mail, certified mail with return receipt, or hand delivery.

SECTION 40. IC 9-32-5-2, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. A ~~manufacturer, a converter manufacturer, an automotive mobility dealer,~~ a dealer or other person may not sell or otherwise dispose of a new motor vehicle to another person, to be used by the other person for purposes of display or resale, without delivering to the other person a manufacturer's certificate of origin under this chapter that indicates the assignments of the certificate of origin necessary to show the ownership of the title to a person who purchases the motor vehicle.

SECTION 41. IC 9-32-5-5, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. A ~~manufacturer, a converter manufacturer, an automotive mobility dealer,~~ or a dealer must have:

- (1) a certificate of title;
- (2) an assigned certificate of title;
- (3) a manufacturer's certificate of origin;
- (4) an assigned manufacturer's certificate of origin; or



(5) other proof of ownership or evidence of right of possession as determined by the secretary;
for a motor vehicle, semitrailer, or recreational vehicle in the ~~manufacturer's, converter manufacturer's, automotive mobility dealer's, or dealer's~~ possession.

SECTION 42. IC 9-32-5-8, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. A ~~manufacturer, a converter manufacturer, an automotive mobility dealer, or a~~ dealer shall deliver an assigned certificate of title or certificate of origin to a person entitled to the certificate of title or certificate of origin.

SECTION 43. IC 9-32-5-9, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) In order to obtain or maintain a ~~manufacturer's, a converter manufacturer's, an automotive mobility dealer's, or a~~ dealer's license from the secretary, a person must agree to allow a police officer or an authorized representative of the secretary to inspect:

(1) certificates of origin, certificates of title, assignments of certificates of origin and certificates of title, or other proof of ownership or evidence of right of possession as determined by the secretary; and

(2) motor vehicles, semitrailers, or recreational vehicles that are held for resale by the ~~manufacturer, converter manufacturer, automotive mobility dealer, or~~ dealer;

in the ~~manufacturer's, converter manufacturer's, automotive mobility dealer's, or~~ dealer's place of business during reasonable business hours.

(b) A certificate of title, a certificate of origin, and any other proof of ownership described under subsection (a):

(1) must be readily available for inspection by or delivery to the proper persons; and

(2) may not be removed from Indiana.

SECTION 44. IC 9-32-6-1, AS AMENDED BY P.L.62-2014, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. A person licensed under IC 9-32-11 may apply for a dealer license plate. The application must include any information the secretary reasonably requires. Upon application, a ~~distinctive registration number shall be assigned to each applicant. two (2) certificates of registration and two (2) metal license plates bearing the registration number of the applicant shall then be issued to the applicant. A dealer may apply for and receive additional dealer plates as set forth in section 5 of this chapter.~~



SECTION 45. IC 9-32-6-2, AS AMENDED BY P.L.62-2014, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The secretary shall issue dealer license plates under this chapter according to the following classifications:

- (1) Dealer-new.
- (2) Dealer-used.
- (3) Manufacturer.
- (4) Dealer-wholesale.

The secretary may not issue a license plate described in subdivision (4) after June 30, 2015.

(b) The secretary may adopt rules under IC 4-22-2 to establish additional classifications of dealer license plates, and may prescribe the general conditions for usage of an additional classification. The secretary shall establish the ~~classifications of antique car museum dealer license plates and classification of~~ dealer promotional license plates.

SECTION 46. IC 9-32-6-7, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2015 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) Except as provided in ~~sections~~ **section 8 and 9** of this chapter, dealer-new, dealer-used, manufacturer, and ~~wholesale~~ *dealer-wholesale* license plates may be used only on motor vehicles in the:

- (1) dealer's inventory being held for sale;
- (2) usual operation of the manufacturer's or dealer's business;
- (3) movement of the manufacturer's or dealer's inventory; or
- (4) inventory of a manufacturer or dealer that is unattended by the manufacturer or dealer or the dealer's agent for a maximum of ten (10) days by a prospective buyer or a service customer.

(b) The license plates referenced in subsection (a) must be:

- (1) primarily used or stored at an address within Indiana; or
- (2) displayed on a vehicle being transported for purposes of sale by a licensed Indiana dealer.

(c) *A person who violates this section commits a Class A infraction.*

~~(d)~~ **(d)** *This subsection expires January 1, 2016. A dealer-wholesale license plate may not be issued or displayed after June 30, 2015.*

SECTION 47. IC 9-32-6-8, AS AMENDED BY P.L.62-2014, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. Dealer-new, dealer-used, manufacturer, and dealer-wholesale license plates may be used ~~without restriction~~ by a manufacturer, a dealer, or an employee of a manufacturer or a dealer **without restriction if the use is** in compliance with **section 7 of this**



chapter and rules adopted by the secretary to prohibit use of the plates solely to avoid payment of applicable taxes. However, a dealer-wholesale license plate may not be used or displayed after June 30, 2015.

SECTION 48. IC 9-32-6-9 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 9. Dealer-new; dealer-used; manufacturer; and dealer-wholesale license plates may be used without restriction by a designee of a dealer or a designee of a manufacturer under rules adopted by the secretary. The rules must provide the following:

- (1) The dealer or manufacturer is to be assessed and pay the motor vehicle excise tax under IC 6-6-5 attributable to that part of the total year that the designee operates the motor vehicle.
- (2) The dealer or manufacturer shall report to the secretary the date of assignment to a designee, the designee's name and address, and the date of termination of the assignment within ten (10) days after the assignment or termination.
- (3) The tax calculated in subdivision (1) shall be paid within thirty (30) days after the termination of the assignment to the designee or at the time the dealer or manufacturer purchases license plates under this chapter.

However, a dealer-wholesale license plate may not be used or displayed after June 30, 2015.

SECTION 49. IC 9-32-6-12, AS AMENDED BY P.L. 217-2014, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. **(a)** A dealer that may not knowingly or intentionally: issues

- (1) issue** an altered interim license plate or an interim license plate with false or fictitious information; or
- (2) alter a dealer-new, dealer-used, or manufacturer license plate or use a dealer-new, dealer-used, or manufacturer license plate that is false or fictitious.**

(b) A dealer that violates this section commits a Class A infraction.

SECTION 50. IC 9-32-8-2, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. A person that sells to the general public at least six (6):

- (1) boats;**
- (2) trailers that are:**
 - (A) designed and used exclusively for the transportation of watercraft; and**
 - (B) sold in general association with the sale of watercraft;**



or

(3) items set forth in both subdivisions (1) and (2);
each year must be licensed under this chapter before the person may engage in the business of selling boats **or trailers**.

SECTION 51. IC 9-32-8-4, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. A license issued to a boat dealer must specify the location of ~~each~~ **the established** place of business and shall be conspicuously displayed at ~~each~~ **the established place of business**. ~~location~~. If a business name or location is changed, the licensee shall notify the secretary within ten (10) days and remit the fee specified under IC 9-29-17-6(a). The secretary shall endorse that change on the boat dealer license if it is determined that the change is not subject to other provisions of this chapter.

SECTION 52. IC 9-32-9-1, AS AMENDED BY P.L.217-2014, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) A ~~disposal~~ **recycling** facility, a used parts dealer, or an automotive salvage rebuilder must be licensed by the secretary under this chapter before the facility, dealer, or rebuilder may do any of the following:

- (1) Sell a used major component part of a vehicle.
- (2) Wreck or dismantle a vehicle for resale of the major component parts of the vehicle.
- (3) Rebuild a wrecked or dismantled vehicle.
- (4) Possess more than two (2) inoperable vehicles subject to registration for more than thirty (30) days unless the facility, dealer, or rebuilder holds a mechanic's lien on each vehicle over the quantity of two (2).
- (5) Engage in the business of storing, disposing, salvaging, or recycling of vehicles, vehicle hulks, or parts of vehicles.

(b) A person who violates this section commits a Class A infraction.

SECTION 53. IC 9-32-9-2, AS AMENDED BY P.L.217-2014, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) A ~~disposal~~ **recycling** facility, a used parts dealer, or an automotive salvage rebuilder licensed in Indiana must have ~~a principal~~ **an established** place of business in Indiana conducting the business that is the basis for the license. ~~A~~ **An established** place of business that performs only ministerial tasks is not considered to be conducting business.

(b) A ~~disposal~~ **recycling** facility, a used parts dealer, or an automotive salvage rebuilder who violates this section commits a Class A infraction.

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SECTION 54. IC 9-32-9-3, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. To apply for a license under this chapter, a disposal facility, a used parts dealer, or an automotive salvage ~~rebuilder~~ **recycler** must submit the following **an application** to the secretary.

(1) ~~A completed~~ **An application which must be verified for a license under this chapter must:**

(1) **be on a form prescribed** by the secretary;

(2) **contain the licensing 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 properly conduct the business for which the application is submitted; and**

(3) **be accompanied by the following:**

(A) **Evidence of a bond required under IC 9-32-11-2.**

(B) **Payment of the applicable fee under IC 9-29-17-7.**

(C) **An affidavit from:**

(i) **the person charged with enforcing a zoning ordinance, if the person exists; or**

(ii) **the zoning enforcement officer under IC 36-7-4, if a zoning enforcement officer exists;**

who has jurisdiction over the real property where the applicant wants to operate as an automotive salvage recycler.

If there is no person or officer that has jurisdiction over the real property as described in subdivision (3)(C), the application must be accompanied by a statement to that effect from the executive of the unit in which the real property is located. The affidavit must state that the proposed location is zoned for the operation of an establishment of an automotive salvage recycler. The applicant may file the affidavit 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.

SECTION 55. IC 9-32-9-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.5. **An automotive salvage recycler licensed under this chapter that buys vehicles must:**

(1) **report the purchase of a vehicle to the National Motor Vehicle Title Information System not later than thirty (30) days after the vehicle is purchased; and**

(2) **provide to the seller a valid National Motor Vehicle Title**



Information System report identification number.

SECTION 56. IC 9-32-9-4 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 4: The secretary shall prescribe an application form to be used by persons applying for a license under this chapter. The application must include the following information:

- (1) The applicant's name.
- (2) The applicant's type of business organization and the following as appropriate:
 - (A) If the applicant is a corporation, the name and address of each officer and director of the corporation.
 - (B) If the applicant is a sole proprietorship, the name and address of the sole proprietor.
 - (C) If the applicant is a partnership, the name and address of each partner.
 - (D) If the applicant is an unincorporated association or similar form of business organization, the name and address of each member, trustee, or manager.
- (3) The applicant's principal place of business.
- (4) The types of activities specified in section † of this chapter that the applicant proposes to conduct.

SECTION 57. IC 9-32-9-5 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 5: Each license under this chapter, except an initial license, shall be issued based on the business name as set forth in IC 9-32-11-12 or IC 9-32-11-12.5.

SECTION 58. IC 9-32-9-6 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 6: Within a reasonable time, the secretary shall do the following:

- (1) Review all license applications submitted under this chapter.
- (2) Approve a submitted license application unless any of the following apply:
 - (A) The application does not conform with this chapter.
 - (B) The applicant has made a material fact misrepresentation on the application.
 - (C) The applicant has been convicted of committing a fraudulent act in connection with one (†) of the activities specified in section † of this chapter.

SECTION 59. IC 9-32-9-7 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 7: A person denied a license under section 6 of this chapter is entitled to a hearing under IC 9-32-16.

SECTION 60. IC 9-32-9-8 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 8: If the secretary approves a license application under this chapter, the secretary shall grant the applicant a license for the



applicant's principal place of business:

SECTION 61. IC 9-32-9-9 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 9: The secretary shall prescribe the form of the licenses granted under section 8 of this chapter. A license granted under section 8 of this chapter must include the following information:

- (1) The licensee's name:
- (2) The licensee's type of business organization and the following as appropriate:
 - (A) If a corporation, the name and address of each officer:
 - (B) If a sole proprietorship, the name and address of the proprietor:
 - (C) If a partnership, the name and address of each managing partner:
 - (D) If an unincorporated association or similar form of business organization, the name and address of the manager or other chief administrative official:
- (3) The licensee's principal place of business:
- (4) A listing of the types of business activities specified in section 1 of this chapter that the licensee may conduct:
- (5) The date the license expires:

SECTION 62. IC 9-32-9-10, AS AMENDED BY P.L.217-2014, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A license shall post a license granted to the licensee under this chapter in a conspicuous place at the licensee's **established** place of business.

(b) A licensee that violates this section commits a Class A infraction.

SECTION 63. IC 9-32-9-11, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. If the secretary receives a written complaint from a local zoning body that a ~~disposal~~ **recycling** facility or automotive salvage rebuilder, subject to this chapter, is operating in violation of a local zoning ordinance, the secretary shall delay the issuance or renewal of the facility's or rebuilder's license under this chapter until the local zoning complaints have been satisfied.

SECTION 64. IC 9-32-11-1, AS AMENDED BY P.L.62-2014, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) The following persons must be licensed under this article to engage in the business of buying or selling motor vehicles or semitrailers:

- (1) An automobile auctioneer.
- (2) A converter manufacturer.

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- (3) A dealer.
- (4) A distributor.
- (5) ~~A distributor representative.~~ **An automotive salvage recycler.**
- (6) A watercraft dealer.**
- ~~(6) (7) A manufacturer.~~
- ~~(7) A manufacturer representative.~~
- (8) A transfer dealer.
- (9) Before July 1, 2015, a wholesale dealer.
- (10) An automotive mobility dealer.
- (b) An automotive mobility dealer who engages in the business of:
 - (1) selling, installing, or servicing;
 - (2) offering to sell, install, or service; or
 - (3) soliciting or advertising the sale, installation, or servicing of; equipment or modifications specifically designed to facilitate use or operation of a vehicle by an individual who is disabled or aged must be licensed under this article.
- (c) An automotive mobility dealer that fails to be licensed under this article and engages in the businesses described in subsection (b) commits a Class A infraction.

SECTION 65. IC 9-32-11-2, AS AMENDED BY P.L.62-2014, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) An application for a license under this chapter must:

- (1) be accompanied by payment of the applicable fee required under IC 9-29-17;
- (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;
 - ~~(B) the location of each of the applicant's places of business in Indiana;~~ and
 - ~~(C)~~ **(B)** the ability of the applicant to conduct properly the business for which the application is submitted; and
- (4) contain evidence of a bond required in subsection (e).

An application for a wholesale dealer license must contain the additional information required in section 3 of this chapter. The secretary of state may not accept an application for a wholesale dealer license after June 30, 2015.

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

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(c) An applicant who proposes to use the Internet or another computer network to facilitate the sale of motor vehicles to consumers in Indiana shall ~~if the applicant's activities may result in the creation of business~~ **maintain all records outside at the established place of business in Indiana.** ~~provide the division with the name, address, and telephone number of the person who has control of those business records. The secretary may not issue a license to a dealer who transacts business in this manner and does not have an established place of business in Indiana, except as proved under section 11(h) of this chapter.~~

(d) 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, if one exists; who has jurisdiction over the real property where the applicant wants to operate as a dealer. **If there is no person or officer that has jurisdiction over the real property, the application must be accompanied by a statement to that effect from the executive of the unit in which the real property is located.** The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The applicant may file the affidavit 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.**

(e) Except as provided in subsection (g), 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; ~~and~~

(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**

in addition to securing (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.

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

(g) Instead of meeting the requirement in subsection (e), a licensee may submit to the secretary evidence that the licensee is a member of a risk retention group that is regulated by the Indiana department of insurance.

SECTION 66. IC 9-32-11-5, AS AMENDED BY P.L.62-2014,

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SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. A ~~manufacturer, distributor, or~~ dealer proposing to sell new motor vehicles shall file and maintain with the secretary:

- (1) a current copy of each franchise to which the ~~person dealer~~ is a party; or
- (2) if the ~~person dealer~~ is a party to multiple franchises that are identical except for stated items, a copy of the franchise form with supplemental schedules of variations from the form.

SECTION 67. IC 9-32-11-6, AS AMENDED BY P.L.62-2014, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) The license issued to a dealer under this chapter:

- (1) must specify the ~~location of each~~ **established** place of business; and
- (2) shall be conspicuously displayed at ~~each the established place of~~ **business. location:**

(b) If a licensee's business name or location is changed, the licensee shall notify the secretary not later than ten (10) days after the change and remit the fee required under IC 9-29-17. The secretary shall endorse the change on the license if the secretary determines that the change is not subject to other provisions of this article.

(c) A dealer who uses the Internet or another computer network to facilitate the sale of motor vehicles as set forth in section 2(c) of this chapter shall notify the secretary not later than ten (10) days after any change in a name, address, or telephone number documented in business records located outside Indiana that have been created in transactions made in Indiana by the dealer. A report made under this subsection is not subject to the fee required under IC 9-29-17.

(d) A dealer who wants to change a location must submit to the secretary an application for approval of the change. The application must be accompanied by an affidavit from:

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

who has jurisdiction over the real property where the applicant wants to operate as a dealer. **If there is no person or officer that has jurisdiction over the real property, the application must be accompanied by a statement to that effect from the executive of the unit in which the real property is located.** The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The secretary may not approve a change of location or endorse a change of location on the dealer's license until the dealer



provides the affidavit **or the statement.**

(e) For the purpose of this section, an offsite sales license issued under section 11 of this chapter does not constitute a change of location.

SECTION 68. IC 9-32-11-7, AS AMENDED BY P.L.62-2014, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. **(a)** A license issued to a distributor representative must state the name of the representative's employer. ~~Within ten (10) days after a change of employer, the licensee shall mail the license to the~~ **and a manufacturer representative become certified by:**

(1) the licensed distributor or licensed manufacturer completing an application with the secretary and indicate the name and address of the licensee's new employer: to add the distributor representative or manufacturer representative to the license; and

(2) paying the applicable fee required under IC 9-29-17.

(b) Any change to the certification of the distributor representative or manufacturer representative must be submitted to the secretary not later than ten (10) days after the change. The secretary shall endorse the change on the license and return the license to the licensee in care of the new employer of the licensee. **certification.** A representative ~~or, before July 1, 2015, wholesale dealer~~ must have a license **certification** when engaged in business and shall display the license **certification** upon request. ~~A temporary license for a representative may be issued for a period of not more than one hundred twenty (120) days pending investigation by the secretary of the representative's qualification for a license.~~

SECTION 69. IC 9-32-11-10, AS AMENDED BY P.L.62-2014, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. This section does not apply to sales made at a motor vehicle industry sponsored trade show. A dealer who sells to the general public may not sell or offer to sell a vehicle at a location away from the dealer's established place of business without obtaining an offsite sales license **permit** under section 11 of this chapter.

SECTION 70. IC 9-32-11-11, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) Except as provided in subsections (b) through (g), the secretary shall issue an offsite sales license **permit** to a dealer licensed under this chapter who submits an application for the license **permit** not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. ~~License Permit~~ applications under



this section shall be made public upon the request of any person.

(b) The secretary may not issue an offsite sales ~~license~~ **permit** to a dealer who does not have an established place of business within Indiana.

(c) ~~This subsection does not apply to:~~ **The secretary may not issue an offsite sales permit to a licensed dealer proposing to conduct a sale outside a radius of twenty (20) miles from the established place of business of the licensed dealer. The following may conduct an offsite sale with an offsite sales permit outside a radius of twenty (20) miles from the established place of business of the licensed dealer:**

- (1) New manufactured housing dealers.
- (2) Recreational vehicle dealers.
- (3) A rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates.
- (4) Off-road vehicle dealers. ~~or~~
- (5) Dealers of vehicles classified as classic, collector, or antique under rules adopted under section 18(a)(2)(B) of this chapter.

~~The secretary may not issue an offsite sales license to a licensed dealer proposing to conduct a sale outside a radius of twenty (20) miles from the established place of business of the licensed dealer:~~

(d) A vehicle display is not considered an offsite sale if it is conducted by a new vehicle franchised dealer in an open area where no sales personnel and no sales material are present.

(e) The secretary may not issue an offsite sales ~~license~~ **permit** to a licensed dealer proposing to conduct an offsite sale for more than ten (10) calendar days.

(f) As used in this subsection, "executive" has the meaning set forth in IC 36-1-2-5. The secretary may not issue an offsite sales ~~license~~ **permit** to a licensed dealer if the dealer does not have certification that the offsite sale would be in compliance with local zoning ordinances or other local ordinances. Authorization under this subsection may be obtained only from the following:

- (1) If the offsite sale would be located within the corporate boundaries of a city or town, the executive of the city or town.
- (2) If the offsite sale would be located outside the corporate boundaries of a city or town:
 - (A) except as provided in clause (B), the executive of the county; or
 - (B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.



(g) The secretary may not issue an offsite sales **license permit** to a licensed dealer who has held more than three (3) nonconsecutive offsite sales in the year ending on the date of the offsite sale for which the **license permit** application is being submitted.

(h) Section 2(c) of this chapter does not apply to the application or issuance of an offsite sales **license permit** under this section.

SECTION 71. IC 9-32-11-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.5. (a) A person that is a licensed dealer in a state other than Indiana may apply for an out-of-state dealer special event permit from the secretary for a special event auction if the following conditions are met:**

- (1) The event is a vehicle auction conducted by an auctioneer licensed under IC 25-6.1-3.**
- (2) The vehicles to be auctioned are:**
 - (A) at least fifteen (15) years old; or**
 - (B) classified as classic, collector, or antique vehicles under rules adopted by the secretary.**
- (3) At least two hundred (200) vehicles will be auctioned during the special event.**
- (4) The person submits an application for a special event permit to the secretary not later than thirty (30) days prior to the beginning date of the special event auction.**
- (5) The application for the special event permit includes the following:**
 - (A) Copies of licenses for all auctioneers for the special event auction.**
 - (B) A copy of a valid dealer's license from the other state.**
 - (C) An affidavit from:**
 - (i) the person charged with enforcing a zoning ordinance, if the person exists; or**
 - (ii) the zoning enforcement officer under IC 36-7-4, if a zoning enforcement officer exists;****who has jurisdiction over the real property where the applicant wants to operate the special event auction. If there is no person or officer that has jurisdiction over the real property as described in this clause, the application must be accompanied by a statement to that effect from the executive of the unit in which the real property is located. The affidavit must state that the proposed location is zoned for the operation of a special event auction. The applicant may file the affidavit at any time after the filing of the**



application. However, the secretary may not issue a special event auction permit until the applicant files the affidavit or the statement.

(b) Not more than one (1) special event auction permit may be issued by the secretary to the same applicant within a twelve (12) month period.

(c) If the application for the special event permit is approved, the dealer must submit the permit fee required by IC 9-29-17-17.

SECTION 72. IC 9-32-11-15, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) A person who ceases a business activity for which a license was issued under this chapter shall do the following:

(1) Notify the secretary of the date that the business activity will cease.

(2) Deliver to the secretary all permanent dealer license plates ~~and interim license plates~~ issued to the person not later than ten (10) days after the date the business activity will cease.

(b) A dealer may not transfer or sell the:

(1) dealer's license; or

(2) use of the dealer's license.

(c) A dealer that changes its form of organization or state of incorporation may continue the dealer's licensure by filing an amendment to the registration if the change does not involve a material fact in the financial condition or management of the dealer. The amendment becomes effective when filed or on the date designated by the registrant in its filing. The new organization is a successor to the original registrant for the purposes of this article.

(d) If there is a change in the dealer's ownership, the successive owner shall file a new application for a license under this chapter.

SECTION 73. IC 9-32-12 IS REPEALED [EFFECTIVE JULY 1, 2015]. (Disclosures Required in Motor Vehicle Leases).

SECTION 74. IC 9-32-13-18, AS ADDED BY P.L.152-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 18. (a) It is an unfair practice for a ~~manufacturer~~ ~~or~~ distributor to sell a motor vehicle for resale to a person not licensed under this article.

(b) This subsection applies if a dealer sells or leases a motor vehicle to a customer that resells the motor vehicle or exports the motor vehicle to a foreign country. A manufacturer or distributor may not take or threaten to take adverse action or otherwise discriminate against the dealer unless the dealer knew or reasonably should have known before the dealer sold or leased the motor vehicle to the customer that the



customer intended to resell or export the motor vehicle. Titling and registering a motor vehicle in any state in the name of the customer to whom the dealer sold or leased the motor vehicle establishes a rebuttable presumption that the dealer did not know or should not reasonably have known that the customer intended to resell or export the motor vehicle.

(c) For purposes of subsection (b), adverse actions by a manufacturer or distributor include the following conduct by a manufacturer or distributor, whether actual or threatened:

- (1) Failing or refusing to allocate, sell, or deliver a motor vehicle to the dealer.
- (2) Discriminating against the dealer in the allocation of motor vehicles.
- (3) Charging back or withholding payments or other consideration for which a dealer is eligible under a warranty reimbursement, sales promotion, incentive program, or contest.
- (4) Disqualifying a dealer from participating in a sales promotion, incentive program, or contest.
- (5) Terminating a franchise.

SECTION 75. IC 9-32-13-20, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 20. It is an unfair practice for ~~an automobile auctioneer, a wholesale dealer, or a transfer dealer,~~ **any person required to be licensed under this article,** in connection with the ~~auctioneer's or dealer's~~ **person's** business, to use false, deceptive, or misleading advertising or to engage in deceptive acts or practices.

SECTION 76. IC 9-32-16-2, AS AMENDED BY P.L.62-2014, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) An order issued under this article may deny a dealer license application for registration if the secretary finds that the order is in the public interest and subsection (c) authorizes the action. An order may condition or limit the license of an applicant to be a dealer and, if the applicant for a dealer license is a partner, officer, director, or person having similar status or performing similar functions, or a person directly or indirectly in control of the dealership, the order may condition or limit the license.

(b) If the secretary finds that an order is in the public interest and subsection (c) authorizes the action, an order issued under this article may deny, revoke, suspend, condition, limit, or permanently bar the granting of a license to or an application for a license from a dealer, or a partner, an officer, a director, or a person having a similar status or performing similar functions as a dealer, or a person directly or



indirectly in control of the dealer. However, the secretary may not:

- (1) institute a revocation or suspension proceeding under this subsection based on an order issued under the law of another state that is reported to the secretary or a designee of the secretary more than one (1) year after the date of the order on which it is based; or
 - (2) issue an order on the basis of an order issued under the dealer services laws of another state unless the other order was based on conduct for which subsection (c) would authorize the action had the conduct occurred in Indiana.
- (c) A person may be disciplined under this section if the person:
- (1) has filed an application for a dealer license in Indiana under this article, or its predecessor, within the previous ten (10) years, which, as of the effective date of license or registration or as of any date after filing in the case of an order denying effectiveness, was incomplete as to a material fact or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;
 - (2) knowingly violated or knowingly failed to comply with this article, or its predecessor, within the previous ten (10) years;
 - (3) has been convicted of a:
 - (A) felony within the previous ten (10) years;
 - (B) felony or misdemeanor involving theft or fraud; or
 - (C) felony or misdemeanor concerning an aspect of business involving the offer, sale, financing, repair, modification, or manufacture of a vehicle;
 - (4) is enjoined or restrained by a court with jurisdiction in an action instituted by a state or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving the offer, barter, sale, purchase, transfer, financing, repair, or manufacture of a vehicle;
 - (5) refuses to allow or otherwise impedes the secretary from conducting an audit or inspection;
 - (6) has engaged in dishonest or unethical practices in a business involving the offer, barter, sale, purchase, transfer, financing, repair, or manufacture of a vehicle within the previous ten (10) years;
 - (7) is engaging in unfair practices as set forth in this article;
 - (8) is on the most recent tax warrant list supplied to the secretary by the department of state revenue;
 - (9) violates IC 23-2-2.7;
 - (10) violates IC 9-19-9;



(11) willfully violates federal or state law relating to the sale, distribution, financing, or insuring of motor vehicles; or

(12) is not compliant with local, state, or federal laws and regulations regarding a dealer license or dealer business.

(d) The secretary may **revoke**, suspend, or deny an application, impose fines and costs, restrict, condition, limit, bar, suspend, or rescind a dealer license, or order restitution, or do any combination of these actions before final determination of an administrative proceeding. Upon the issuance of an order, the secretary shall promptly notify each person subject to the order:

(1) that the order has been issued;

(2) the reasons for the action; and

(3) that within fifteen (15) days after the receipt of a request in a record from the person the matter will be scheduled for a hearing.

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

(e) After a hearing, the secretary may suspend or deny an application, impose fines and costs, restrict, condition, limit, bar, suspend, or rescind a dealer license, or order restitution, or do any combination of these actions.

(f) Revocation or suspension of a license of a manufacturer, a distributor, a dealer, or an automobile auctioneer may be limited to one (1) or more locations, to one (1) or more defined areas, or only to certain aspects of the business.

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

(1) appropriate notice to the applicant or registrant;

(2) an opportunity for a hearing; and

(3) reasons for the action.

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

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



SECTION 77. IC 9-32-17-1, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. ~~Except as provided in section 8 of this chapter,~~ A person who violates this article, a rule established under this article, or an order issued by the secretary under this article is subject to a civil penalty of up to ten thousand dollars (\$10,000) for each act of violation. Civil penalties recovered under this section shall be paid to the state and deposited into the dealer enforcement account established by IC 9-32-7-2.

SECTION 78. IC 9-32-17-8 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 8. ~~A retail lessor who fails to comply with IC 9-32-12, as set forth in IC 9-32-12-4, is liable to the retail lessee for:~~

- ~~(1) actual damages sustained;~~
- ~~(2) a civil penalty of not more than one thousand dollars (\$1,000) per lease transaction; and~~
- ~~(3) reasonable attorney's fees and costs.~~

SECTION 79. IC 13-20-25-10, AS ADDED BY P.L.126-2014, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A person:

- (1) who:
 - (A) is not required to submit a recycling activity report under section 9 of this chapter; but
 - (B) recycled recyclable materials during a fiscal year;
- (2) who:
 - (A) meets the definition of "scrap metal processing facility" set forth in IC 8-23-1-36;
 - (B) meets the definition of "automotive salvage recycler" set forth in IC 9-13-2-10;
 - (C) meets the definition of ~~"disposal "~~**"recycling facility"** set forth in ~~IC 9-13-2-44;~~ **IC 9-13-2-150.3;**
 - (D) is engaged in business subject to IC 9-22-3;
 - (E) meets the definition of "automotive salvage rebuilder" set forth in IC 9-32-2-5;
 - (F) meets the definition of "scrap metal processor" set forth in IC 13-11-2-196.5;
 - (G) meets the definition of "core buyer" set forth in IC 25-37.5-1-0.2; or
 - (H) meets the definition of "valuable metal dealer" set forth in IC 25-37.5-1-1(b); or
- (3) who:
 - (A) is not required to submit a recycling activity report under section 9 of this chapter; but



(B) took action during a fiscal year to recover, from the solid waste stream, for purposes of:

- (i) use or reuse;
- (ii) conversion into raw materials; or
- (iii) use in the production of new products;

materials that were not municipal waste;

may voluntarily submit a recycling activity report to the commissioner concerning the person's recycling activity during the fiscal year.

(b) The commissioner shall include information reported to the commissioner under this section in the annual reports that the commissioner is required to submit under section 14 of this chapter.

SECTION 80. IC 24-5-16.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 16.5. Disclosures Required in Motor Vehicle Leases

Sec. 1. As used in this chapter, "adjusted or net capitalized cost" means the capitalized cost, less any capitalized cost reduction payments made by a retail lessee at the inception of a lease agreement. The adjusted or net capitalized cost is the basis for calculating the amount of a retail lessee's periodic payment under a lease agreement.

Sec. 2. (a) As used in this chapter, "capitalized cost" means the amount that, after deducting any capitalized cost reduction, serves as the basis for determining the base lease payment, which is the part of the periodic lease payment that is the sum of:

- (1) the average periodic lease charge; plus**
- (2) the average periodic depreciation.**

(b) For a single payment lease, the base lease payment is the sum of:

- (1) the average periodic lease charge multiplied by the number of months in the term of the lease; plus**
- (2) the average periodic depreciation multiplied by the number of months in the term of the lease.**

(c) The capitalized cost may include any of the following:

- (1) Taxes.**
- (2) Registration fees.**
- (3) License fees.**
- (4) Insurance charges.**
- (5) Charges for guaranteed auto protection or GAP coverage.**
- (6) Charges for service contracts and extended warranties.**
- (7) Fees and charges for accessories and for installing accessories.**



- (8) Charges for delivery, service, and repair.**
- (9) Administrative fees, acquisition fees, and all fees or charges for providing services incidental to the lease agreement.**
- (10) The unpaid balance of an amount financed under an outstanding motor vehicle loan agreement or motor vehicle retail installment contract with respect to a motor vehicle used as a trade-in vehicle.**
- (11) The unpaid part of the early termination obligation under an outstanding lease agreement.**
- (12) The first periodic payment due at the inception of the lease agreement, if not otherwise paid by the retail lessee.**

Sec. 3. As used in this chapter, "capitalized cost reduction" means a payment made by cash, check, credit card, debit card, net vehicle trade-in, rebate, or other similar means in the nature of a down payment or credit, made by a retail lessee at the inception of a lease agreement, for the purpose of reducing the capitalized cost and does not include any periodic payments received by the retail lessor at the inception of the lease agreement.

Sec. 4. As used in this chapter, "lease agreement" means a written agreement entered into in Indiana for the transfer from a retail lessor to a retail lessee of the right to possess and use a motor vehicle in exchange for consideration for a scheduled term exceeding four (4) months, whether or not the retail lessee has the option to purchase or otherwise become the owner of the motor vehicle upon expiration of the agreement. The term does not include an agreement that covers an absolute sale, a sale pending approval, or a retail installment sale.

Sec. 5. As used in this chapter, "lease transaction" means a presentation made to a retail lessee concerning a motor vehicle, including a sales presentation or a document presented to the retail lessee, resulting in the execution of a lease agreement.

Sec. 6. As used in this chapter, "retail lessee" means an individual who executes a lease agreement for a motor vehicle from a retail lessor primarily for personal, family, or household purposes.

Sec. 7. As used in this chapter, "retail lessor" means a person who regularly engages in the business of selling or leasing motor vehicles and who offers or arranges a lease agreement for a motor vehicle. The term includes an agent or affiliate who acts on behalf of the retail lessor and excludes any assignee of the lease agreement.



Sec. 8. As used in this chapter, "vehicle" has the meaning set forth in IC 9-13-2-196.

Sec. 9. A retail lessor shall do the following:

- (1) Comply with the requirements of Regulation M (12 CFR 213) for disclosure of gross capitalized cost, capitalized cost reduction, and adjusted capitalized cost adopted under the federal Truth in Lending Act (15 U.S.C. 1601 et seq.).
- (2) Disclose to a retail lessee in a separate blocked section in a lease agreement, in capital letters in at least 10 point bold type the following:

THIS IS A LEASE AGREEMENT. THIS IS NOT A PURCHASE AGREEMENT. PLEASE REVIEW THESE MATTERS CAREFULLY AND SEEK INDEPENDENT PROFESSIONAL ADVICE IF YOU HAVE ANY QUESTIONS CONCERNING THIS TRANSACTION. YOU ARE ENTITLED TO AN EXACT COPY OF THE AGREEMENT YOU SIGN.

- (3) Provide the retail lessee with a copy of each document signed by the retail lessee during the course of the lease transaction.

Sec. 10. A trade-in vehicle used, in whole or in part, to pay amounts due at lease signing or delivery of a leased vehicle must be identified:

- (1) as a trade-in vehicle in the lease agreement; and
- (2) by year, make, and model.

The lease agreement must state the net credit of the trade-in vehicle used to pay amounts due at lease signing or delivery of the leased vehicle.

Sec. 11. A bona fide printing error identified on the face of the lease agreement does not constitute a violation of this chapter.

Sec. 12. (a) A retail lessor who fails to comply with the requirements of this chapter is liable to the retail lessee for:

- (1) actual damages sustained;
- (2) a civil penalty of not more than one thousand dollars (\$1,000) per lease transaction; and
- (3) reasonable attorney's fees and costs.

(b) In addition to any other remedies provided by law, a retail lessee may bring an action in circuit court to recover the damages, penalties, and fees described in subsection (a).

(c) The total recovery of damages, penalties, and fees in a class action civil suit brought under this section may not exceed one hundred thousand dollars (\$100,000).



Sec. 13. A civil suit described under section 12 of this chapter may be brought on behalf of a consumer by the attorney general.

Sec. 14. An action authorized by sections 12 and 13 of this chapter must be brought not later than three (3) years after the date the lease agreement is signed.

SECTION 81. IC 25-37.5-1-0.4, AS ADDED BY P.L.224-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 0.4. As used in this chapter, "disposal facility" has the meaning set forth for "recycling facility" in ~~IC 9-13-2-44~~. **IC 9-13-2-150.3.**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1396 — Concur

