

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE ENROLLED ACT No. 350

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 9-13-2-42, AS AMENDED BY P.L.259-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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

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(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) a manufacturer;**
- (9) a salvage dealer;**
- (10) a transfer dealer;**
- (11) a watercraft dealer; or**
- (12) a wholesale dealer.**

SECTION 2. IC 9-22-1-19, AS AMENDED BY P.L.125-2012, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19. (a) Within seventy-two (72) hours after removal of a vehicle to a storage yard or towing service under section 13, 14, or 16 of this chapter, the public agency or towing service shall conduct a search of national data bases, including a data base of vehicle identification numbers, to attempt to obtain the last state of record of the vehicle in order to attempt to ascertain the name and address of the person who owns or holds a lien on the vehicle.

(b) A public agency or towing service that obtains the name and address of the owner of or lienholder on a vehicle shall, not later than seventy-two (72) hours after obtaining the name and address, notify the person who owns or holds a lien on the vehicle of the:

- (1) name;
- (2) address; and
- (3) telephone number;

of the public agency or towing service. The notice must be made by certified mail **or a certificate of mailing** or by means of an electronic service approved by the bureau. Notwithstanding section 4 of this chapter, a public agency or towing service that fails to notify the owner of or lienholder on the vehicle as set forth in this subsection may not collect additional storage costs incurred after the date of receipt of the name and address obtained.

SECTION 3. IC 9-29-17-1, AS ADDED BY P.L.92-2013, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) Except as provided in section 3 of this

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chapter, the fee for the first two (2) license plates issued under IC 9-32-6-1 to a manufacturer or dealer is forty dollars (\$40).

(b) The fee for each additional license plate under IC 9-32-6-5 for a manufacturer or dealer is fifteen dollars (\$15).

(c) The fee for a dealer promotional license plate established under IC 9-32-6-2(b) is forty dollars (\$40).

(d) The fee for the first two (2) dealer-wholesale license plates issued to an applicant under IC 9-32-6-2(a)(4) is one hundred twenty-five dollars (\$125). The fee for each additional dealer-wholesale license plate issued to the applicant is fifteen dollars (\$15). **This subsection expires July 1, 2015.**

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

SECTION 4. IC 9-29-17-5, AS ADDED BY P.L.92-2013, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) The fee under IC 9-32-8-2 for a boat dealer license for each full year is thirty dollars (\$30). ~~for the first place of business, plus ten dollars (\$10) for each additional place of business.~~

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

SECTION 5. IC 9-29-17-7, AS ADDED BY P.L.92-2013, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) The fee for an initial license under IC 9-32-9 is ten dollars (\$10).

~~(b) The fee for a supplemental license under IC 9-32-9 is five dollars (\$5).~~

~~(c)~~ (b) The fee for a renewal license under IC 9-32-9 is ten dollars (\$10).

~~(d)~~ (c) A licensing fee that is submitted with an application under IC 9-32-9

~~(1) is nonrefundable; and~~

~~(2) shall be retained by the secretary of state.~~

~~if the application is rejected by the secretary of state.~~

SECTION 6. IC 9-29-17-8, AS ADDED BY P.L.92-2013, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. The fee for a license for a manufacturer or a distributor under IC 9-32-11-1 is thirty-five dollars (\$35). ~~including a factory branch as set forth in IC 9-13-2-97(b)(1).~~ The fees collected shall be deposited as set forth in IC 9-32-7-3.

SECTION 7. IC 9-29-17-9, AS ADDED BY P.L.92-2013, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. The fee for a license for a dealer or an



automobile auctioneer under IC 9-32-11-1 is

- ~~(1) thirty dollars (\$30). for the first place of business. and~~
- ~~(2) an additional ten dollars (\$10) for each place of business not immediately adjacent to the first place of business.~~

The fees collected shall be deposited as set forth in IC 9-32-7-3.

SECTION 8. IC 9-29-17-10, AS ADDED BY P.L.92-2013, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. The fee for a **factory 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 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 9. IC 9-29-17-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 12.5. The fees under sections 5, 7, 8, 9, 10, and 12 of this chapter are nonrefundable.**

SECTION 10. IC 9-29-17-15 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 15. The revenue from the license fees collected under IC 9-32-9 shall be deposited in the motor vehicle highway account under IC 8-14-1.~~

SECTION 11. IC 9-32-6-1, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 12. IC 9-32-6-2, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 dealer promotional license plates.

SECTION 13. IC 9-32-6-5, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. Upon payment of the fee under IC 9-29-17-1(b), an applicant may obtain additional dealer license plates of the same category. The applicant must demonstrate the applicant's need for additional plates by stating the applicant's number of employees, annual sales, and other supporting factors. The secretary shall determine whether the applicant ~~is entitled to~~ **may receive** additional plates.

SECTION 14. IC 9-32-6-6, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. **(a) This section applies to dealer license plates (other than dealer-wholesale license plates) issued before January 1, 2015.**

(b) Dealer license plates issued to licensed dealers under this chapter expire article are valid from the issue date through the expiration date as follows:

- (1) Dealer license plates of a person whose business name begins with the letters A through B inclusive, expire March 1, of each year: 2015.**
- (2) Dealer license plates of a person whose business name begins with the letters C through D inclusive, expire April 1, of each year: 2015.**
- (3) Dealer license plates of a person whose business name begins with the letters E through G inclusive, expire May 1, of each year: 2015.**
- (4) Dealer license plates of a person whose business name begins with the letters H through I inclusive, expire June 1, of each year: 2015.**
- (5) Dealer license plates of a person whose business name begins**

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with the letters J through L ~~inclusive~~, **expire July 1, of each year: 2015.**

(6) **Dealer license plates** of a person whose business name begins with the letters M through O ~~inclusive~~, **expire August 1, of each year: 2015.**

(7) **Dealer license plates** of a person whose business name begins with the letters P through R ~~inclusive~~, **expire September 1, of each year: 2015.**

(8) **Dealer license plates** of a person whose business name begins with the letters S through T ~~inclusive~~, **expire October 1, of each year: 2015.**

(9) **Dealer license plates** of a person whose business name begins with the letters U through Z ~~inclusive~~, **expire November 1, of each year: 2015.**

Dealer license plates issued to a sole proprietor expire based upon the name of the sole proprietorship.

(c) This section expires January 1, 2017.

SECTION 15. IC 9-32-6-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 6.3. (a) This section applies only to dealer-wholesale license plates.**

(b) A dealer-wholesale license plate issued before July 1, 2014, is valid from the issue date through the applicable expiration date set forth in section 6(b) of this chapter.

(c) A dealer-wholesale license plate issued after June 30, 2014, and before July 1, 2015, expires June 30, 2015.

(d) This section expires January 1, 2016.

SECTION 16. IC 9-32-6-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 6.5. (a) This section applies to dealer license plates (other than dealer-wholesale license plates) issued after December 31, 2014.**

(b) Dealer license plates issued to licensed dealers under this article are valid from the issue date through the expiration date as follows:

(1) Dealer license plates of a person whose business name begins with the letters A through B expire February 1 of each year.

(2) Dealer license plates of a person whose business name begins with the letters C through D expire March 1 of each year.

(3) Dealer license plates of a person whose business name



begins with the letters E through F expire April 1 of each year.

(4) Dealer license plates of a person whose business name begins with the letters G through H expire May 1 of each year.

(5) Dealer license plates of a person whose business name begins with the letters I through J expire June 1 of each year.

(6) Dealer license plates of a person whose business name begins with the letters K through L expire July 1 of each year.

(7) Dealer license plates of a person whose business name begins with the letters M through N expire August 1 of each year.

(8) Dealer license plates of a person whose business name begins with the letters O through P expire September 1 of each year.

(9) Dealer license plates of a person whose business name begins with the letters Q through R expire October 1 of each year.

(10) Dealer license plates of a person whose business name begins with the letters S through T expire November 1 of each year.

(11) Dealer license plates of a person whose business name begins with the letters U through V expire December 1 of each year.

(12) Dealer license plates of a person whose business name begins with the letters W through Z expire January 1 of each year.

Dealer license plates issued to a sole proprietor expire based upon the name of the sole proprietorship.

(c) Notwithstanding subsection (b), a dealer license plate issued in 2015 expires as follows:

Plate issued to a person with a business name beginning with:	Plate expiration date:
A through B	February 1, 2016
C through D	March 1, 2016
E through F	April 1, 2016
G through H	May 1, 2016
I through J	June 1, 2016
K through L	July 1, 2016
M through N	August 1, 2016
O through P	September 1, 2016



Q through R	October 1, 2016
S through T	November 1, 2016
U through V	December 1, 2016
W through Z	January 1, 2017

This subsection expires January 2, 2017.

(d) This subsection expires December 31, 2017. For a dealer license plate issued in 2015, the dealer services division shall impose a fee for the dealer license plate under IC 9-29-17 in the amount that bears the same proportion to the annual fee for the dealer license plate as the number of months the dealer license plate is valid bears to twelve (12).

SECTION 17. IC 9-32-6-7, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) Except as provided in sections 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) This subsection expires January 1, 2016. A dealer-wholesale license plate may not be issued or displayed after June 30, 2015.

SECTION 18. IC 9-32-6-8, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. Dealer-new, dealer-used, manufacturer, and ~~wholesale~~ **dealer-wholesale** license plates may be used without restriction by a manufacturer, a dealer, or an employee of a manufacturer or a dealer in compliance with 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 19. IC 9-32-6-9, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 20. IC 9-32-6-10, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. Dealer-new, dealer-used, manufacturer, and ~~wholesale~~ **dealer-wholesale** license plates may not be used on a vehicle that:

- (1) is required to be registered; and
- (2) has a fee charged by dealers to others for the use of the vehicle.

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

SECTION 21. IC 9-32-7-3, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. All money collected by the secretary from manufacturers, ~~factory branches~~, distributors, dealers, automobile auctioneers, factory representatives, distributor representatives, wholesale dealers, transfer dealers, converter manufacturers, or automotive mobility dealers for licenses and permit fees under IC 9-29-17-8 through IC 9-29-17-13 shall be deposited as follows:

- (1) Thirty percent (30%) to the dealer compliance account established by section 1 of this chapter.
- (2) Forty percent (40%) to the motor vehicle highway account under IC 8-14-1.
- (3) Twenty percent (20%) to the state police department, and this amount is continuously appropriated to the department for its use in enforcing odometer laws.
- (4) Ten percent (10%) to the attorney general, and this amount is continuously appropriated to the attorney general for use in



enforcing odometer laws.

SECTION 22. IC 9-32-8-1 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 1. Boat dealers are classified for the purposes of this chapter and IC 9-29-17-5 into two (2) categories as follows:

(1) Class A dealers having more than one (1) business location for the sale of boats:

(2) Class B dealers having only one (1) business location for the sale of boats:

SECTION 23. IC 9-32-8-5, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. A boat dealer license issued under this chapter is valid for one (1) year after the date the **shall be issued and expires based on the business name of the** boat dealer license; is issued as set forth in IC 9-32-11-12 or IC 9-32-11-12.5. All license fees shall be paid at the annual rate under IC 9-29-17-5.

SECTION 24. IC 9-32-9-5, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. Each license under this chapter, except an initial license, shall be issued for a twelve (12) month period beginning March 1 and expiring based on the last day of February of each year. An initial license may be issued for a period of less than twelve (12) months, but the license must expire on the last day of February immediately following the date the license is issued: **business name as set forth in IC 9-32-11-12 or IC 9-32-11-12.5.**

SECTION 25. IC 9-32-9-8, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. If the secretary approves a license application under this chapter, the secretary shall grant the applicant

(1) ~~an initial~~ a license for the applicant's principal place of business. ~~and~~

(2) ~~a supplemental~~ license for each other place of business listed on the application:

SECTION 26. IC 9-32-11-1, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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.

(3) A dealer.

(4) A distributor.

(5) A distributor representative.

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- ~~(6) A factory branch.~~
- ~~(7) A factory representative.~~
- ~~(8) (6) A manufacturer.~~
- (7) A manufacturer representative.**
- ~~(9) (8) A transfer dealer.~~
- ~~(10) (9) Before July 1, 2015, a wholesale dealer.~~
- ~~(11) (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.

SECTION 27. IC 9-32-11-1, AS AMENDED BY SEA 350-2014, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 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.
- (3) A dealer.
- (4) A distributor.
- (5) A distributor representative.
- (6) 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 28. IC 9-32-11-2, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) An application for a license under this

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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) 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.

(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 records outside 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. 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.

(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

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(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;

in addition to securing the payment of damages to a person aggrieved by a violation of this ~~chapter~~ **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 29. IC 9-32-11-3, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. In addition to the requirements of section 2 of this chapter, a license application for a wholesale dealer must contain the following:

- (1) A copy of a written lease that has a term of not less than one (1) year, if the established place of business is not owned by the applicant.
- (2) If the application is the initial application, photographs of the established place of business. The photographs must include but are not limited to the:
 - (A) major exterior advertising sign; and
 - (B) display and office building.

This section expires July 1, 2015.

SECTION 30. IC 9-32-11-4, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. A wholesale dealer that has been issued a license under this chapter must maintain the following standards for the license to remain valid:

- (1) A conspicuous permanent sign with letters at least six (6) inches high bearing:
 - (A) the business name of the wholesale dealer; and
 - (B) the hours of operation of the wholesale dealer;
 must be located on the exterior of the established place of business of the wholesale dealer.
- (2) The office of the wholesale dealer must be:
 - (A) housed at the established place of business of the wholesale dealer;

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(B) at least one hundred (100) square feet; and
 (C) served with utilities such as electricity, lighting, heat, and a business telephone exclusively for the use of the wholesale dealer.

(3) The wholesale dealer or an employee of the wholesale dealer must be present for the purposes of inspection of records at the established place of business of the wholesale dealer during the posted hours of operation of the business of the wholesale dealer.

(4) All business records of the wholesale dealer must be kept at the licensed place of business of the wholesale dealer.

This section expires July 1, 2015.

SECTION 31. IC 9-32-11-5, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. A manufacturer, distributor, ~~factory branch~~, 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 is a party; or
- (2) if the person 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 32. IC 9-32-11-6, AS AMENDED BY SEA 24-2014, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) The license issued to a ~~factory branch~~, ~~an automobile auctioneer~~, ~~a transfer dealer~~, or a dealer under this chapter:

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

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(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. 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.

(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 33. IC 9-32-11-7, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. A license issued to a ~~factory~~ representative ~~or 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 secretary and indicate the name and address of the licensee's new employer. 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. A ~~factory~~ representative ~~distributor representative~~, or, **before July 1, 2015**, wholesale dealer must have a license when engaged in business and shall display the license upon request. A temporary license for a ~~factory~~ representative ~~or distributor 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 34. IC 9-32-11-10, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 under section 11 of this chapter.

SECTION 35. IC 9-32-11-12, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. **(a) This section applies to licenses (other than wholesale dealer licenses) issued before January 1, 2015.**

(b) ~~A~~ An initial or renewed license issued under this ~~chapter~~ article is valid for a ~~one (1) year period~~ **from the issue date through the expiration date in accordance with the following schedule:**

(1) **The license of a person whose business name begins with the letters A through B inclusive, shall register before expires** March



1, of each year: 2015.

(2) **The license of** a person whose business name begins with the letters C through D inclusive; ~~shall register before expires~~ April 1, of each year: 2015.

(3) **The license of** a person whose business name begins with the letters E through G inclusive; ~~shall register before expires~~ May 1, of each year: 2015.

(4) **The license of** a person whose business name begins with the letters H through I inclusive; ~~shall register before expires~~ June 1, of each year: 2015.

(5) **The license of** a person whose business name begins with the letters J through L inclusive; ~~shall register before expires~~ July 1, of each year: 2015.

(6) **The license of** a person whose business name begins with the letters M through O inclusive; ~~shall register before expires~~ August 1, of each year: 2015.

(7) **The license of** a person whose business name begins with the letters P through R inclusive; ~~shall register before expires~~ September 1, of each year: 2015.

(8) **The license of** a person whose business name begins with the letters S through T inclusive; ~~shall register before expires~~ October 1, of each year: 2015.

(9) **The license of** a person whose business name begins with the letters U through Z inclusive; ~~shall register before expires~~ November 1, of each year: 2015.

A sole proprietor shall register based upon the name of the sole proprietorship.

SECTION 36. IC 9-32-11-12, AS AMENDED BY SEA 350, SECTION 34, AND AS AMENDED BY HEA 1279-2014, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015]: Sec. 12. (a) This section applies to licenses (other than wholesale dealer licenses) issued before January 1, 2015.

~~(a)~~ (b) An initial or renewed license issued under this article is valid from the issue date through the expiration date in accordance with the following schedule:

(1) The license of a person whose business name begins with the letters A through B expires March 1, 2015.

(2) The license of a person whose business name begins with the letters C through D expires April 1, 2015.

(3) The license of a person whose business name begins with the letters E through G expires May 1, 2015.

(4) The license of a person whose business name begins with the



letters H through I expires June 1, 2015.

(5) The license of a person whose business name begins with the letters J through L expires July 1, 2015.

(6) The license of a person whose business name begins with the letters M through O expires August 1, 2015.

(7) The license of a person whose business name begins with the letters P through R expires September 1, 2015.

(8) The license of a person whose business name begins with the letters S through T expires October 1, 2015.

(9) The license of a person whose business name begins with the letters U through Z expires November 1, 2015.

~~(b)~~ (c) A sole proprietor shall register based upon the name of the sole proprietorship.

(c) A sole proprietor who does not register based upon the name of the sole proprietorship commits a Class A infraction.

(d) A person **that is** required to **be licensed hold a license described in subsection (a) and** that fails to register in accordance **comply** with the schedule set forth in subsection (a) **that requirement** commits a Class A infraction.

SECTION 37. IC 9-32-11-12.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 12.3 (a) This section applies only to wholesale dealer licenses.**

(b) A wholesale dealer license issued before July 1, 2014, is valid from the issue date through the applicable expiration date set forth in section 12(b) of this chapter.

(c) A wholesale dealer license issued after June 30, 2014, and before July 1, 2015, expires June 30, 2015.

(d) This section expires January 1, 2016.

SECTION 38. IC 9-32-11-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 12.5. (a) This section applies to licenses (other than wholesale dealer licenses) issued after December 31, 2014.**

(b) An initial or renewed license issued under this article is valid from the issue date through the expiration date in accordance with the following schedule:

(1) A license for a person whose business name begins with the letters A through B expires February 1 of each year.

(2) A license for a person whose business name begins with the letters C through D expires March 1 of each year.

(3) A license for a person whose business name begins with the



letters E through F expires April 1 of each year.

(4) A license for a person whose business name begins with the letters G through H expires May 1 of each year.

(5) A license for a person whose business name begins with the letters I through J expires June 1 of each year.

(6) A license for a person whose business name begins with the letters K through L expires July 1 of each year.

(7) A license for a person whose business name begins with the letters M through N expires August 1 of each year.

(8) A license for a person whose business name begins with the letters O through P expires September 1 of each year.

(9) A license for a person whose business name begins with the letters Q through R expires October 1 of each year.

(10) A license for a person whose business name begins with the letters S through T expires November 1 of each year.

(11) A license for a person whose business name begins with the letters U through V expires December 1 of each year.

(12) A license for a person whose business name begins with the letters W through Z expires January 1 of each year.

A sole proprietor shall register based upon the name of the sole proprietorship.

(c) Notwithstanding subsection (b), a license issued in 2015 expires as follows:

License issued to a person with a business name beginning with:	License expiration date:
A through B	February 1, 2016
C through D	March 1, 2016
E through F	April 1, 2016
G through H	May 1, 2016
I through J	June 1, 2016
K through L	July 1, 2016
M through N	August 1, 2016
O through P	September 1, 2016
Q through R	October 1, 2016
S through T	November 1, 2016
U through V	December 1, 2016
W through Z	January 1, 2017

This subsection expires January 2, 2017.

(d) This subsection expires December 31, 2017. For a license issued in 2015, the dealer services division shall impose a fee for the license under IC 9-29-17 in the amount that bears the same



proportion to the annual fee for the license as the number of months the license is valid bears to twelve (12).

SECTION 39. IC 9-32-11-17, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. **This section does not apply to a wholesale dealer.** A dealer who sells a motor vehicle through the use of the Internet or another computer network shall deliver the motor vehicle to the customer, or the customer's representative, at the place of business of the dealer in Indiana.

SECTION 40. IC 9-32-16-1, AS AMENDED BY SEA 24-2014, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 vehicle purchaser's education initiatives to inform dealers and the public about the offer or sale of vehicles, with particular emphasis on the prevention and detection of fraud involving 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

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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) described in IC 9-29-17-14(b)(2), ~~IC 9-29-17-14(c)(2)~~, **IC 9-29-17-14(c)(3)**, ~~IC 9-29-17-15~~, and IC 9-32-7-3(2) 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) described in IC 9-29-1-4(a) shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in the state police building account.

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 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 5-2-4-1(3) and IC 10-13-3-6.

(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 41. IC 9-32-16-2, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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,

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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 ~~subsections (a) and (b)~~ **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; ~~or has been convicted of a~~
 - (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; ~~or~~

(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 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.

~~(e)~~ **(f)** Revocation or suspension of a license of a manufacturer, a distributor, a factory branch, 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.

~~(f)~~ **(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) findings of fact and conclusion of law in a record.~~



(3) reasons for the action.

~~(g)~~ **(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.

~~(h)~~ **(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 42. IC 9-32-16-11, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) All dealers operating as a:

- (1) corporation;
- (2) limited liability company;
- (3) limited partnership; or
- (4) limited liability partnership;

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

(b) The dealer shall provide the secretary:

- (1) the federal tax identification number; and
- (2) the registered retail merchant's certificate number issued under IC 6-2.5-8;

issued to the dealer.

(c) The dealer must, for the entire licensing period, have an established place of business with a physical Indiana address. The dealer may not have a mailing address that differs from the actual location of the business.

(d) The applicant and all corporate officers, partners, and owners must submit to a national criminal history background check (as defined in IC 10-13-3-12) administered by the state police at the expense of the applicant and the corporate officers, partners, and owners. The secretary may deny an application ~~based upon~~ **if the division finds that the applicant, a corporate officer, a partner, or an owner has been convicted of a:**

- (1) felony within the previous ten (10) years;**
- (2) felony or misdemeanor convictions related to dealing in motor vehicles involving theft or fraud; or**
- (3) felony or misdemeanor concerning an aspect of business involving the offer, sale, financing, repair, modification, or manufacture of a vehicle.**

(e) The dealer and the corporation, company, or partnership must be



in good standing with the bureau, the department of state revenue, and the state police department.

SECTION 43. IC 9-32-17-5, AS ADDED BY P.L.92-2013, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. A person who knowingly or intentionally violates:

- (1) IC 9-32-11-1; or
- (2) IC 9-32-11-12 **by operating on an expired license issued under IC 9-32-11; or**
- (3) IC 9-32-11-12.5 **by operating on an expired license issued under IC 9-32-11;**

commits a Class A misdemeanor.

SECTION 44. [EFFECTIVE JULY 1, 2014] **(a) The following rules are void after June 30, 2015:**

- 75 IAC 2-1-23 ("Wholesale dealer" defined).
- 75 IAC 4-1-32 ("Wholesale dealer" defined).

The publisher of the Indiana Administrative Code and Indiana Register shall remove these provisions from the Indiana Administrative Code.

(b) The parts of 75 IAC 4-2-9 concerning wholesale dealer licenses are void after June 30, 2015.

(c) A rule that the secretary of state determines is contrary to this act is void. The secretary of state shall submit a statement to the publisher of the Indiana Administrative Code and Indiana Register under IC 4-22-7-7 indicating which rules the secretary of state determines are contrary to this act and void. These rules, if any, are void effective thirty (30) days after submission of the statement. The secretary of state shall make the determination under this subsection not later than August 31, 2015.

(d) This SECTION expires December 31, 2015.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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