

IC 9-32-2

Chapter 2. Definitions

IC 9-32-2-1

Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-2

"Adjusted or net capitalized cost"

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.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-3

"Advisory board"

Sec. 3. "Advisory board" refers to the motor vehicle sales advisory board established by IC 9-32-10-1.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-4

"Automobile auctioneer"

Sec. 4. "Automobile auctioneer" means a person who is engaged in providing a place of business or facilities for the purchase and sale of more than three (3) motor vehicles, on the basis of bids by persons acting for themselves or others, per calendar year. The term includes an auctioneer who, as part of the business of the auctioneer, participates in providing a place of business or facilities for the purchase and sale of motor vehicles on the basis of bids by persons acting for themselves or others. The term does not include a person acting only as an auctioneer under IC 25-6.1-1.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-5

"Automobile salvage rebuilder"

Sec. 5. "Automotive salvage rebuilder" means a person, firm, limited liability company, corporation, or other legal entity engaged in the business:

- (1) of acquiring salvage motor vehicles for the purpose of restoring, reconstructing, or rebuilding the vehicles; and
- (2) of reselling these vehicles for use on the highway.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-6

"Broker"

Sec. 6. "Broker" means a person who, for a fee, a commission, or

other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new or used motor vehicle and who is not:

- (1) a dealer or an employee of a dealer;
- (2) a distributor or an employee of a distributor; or
- (3) at any point in the transaction, the bona fide owner of the vehicle involved in the transaction.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-7

"Capitalized cost"

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.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-8

"Capitalized cost reduction"

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.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-9

"Charge back"

Sec. 9. "Charge back" means a manufacturer induced return of incentive payments to a manufacturer by a dealer. The term includes a manufacturer drawing funds from an account of a dealer.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-10

"Director"

Sec. 10. "Director" refers to the director of the dealer services division within the office of the secretary of state who is appointed under IC 4-5-1-12(b).

As added by P.L.92-2013, SEC.78.

IC 9-32-2-11

"Division"

Sec. 11. "Division" refers to the dealer services division within the office of the secretary of state established by IC 4-5-1-12(a).

As added by P.L.92-2013, SEC.78.

IC 9-32-2-12

"Existing franchise"

Sec. 12. "Existing franchise" means the franchise in effect on the date of a franchisee's death or incapacity.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-13

"Franchise"

Sec. 13. "Franchise" means an oral or a written agreement for a definite or an indefinite period in which a manufacturer or distributor grants to a dealer a right to use a trade name, trade or service mark, or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or related services at retail or otherwise.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-14

"Franchisee"

Sec. 14. "Franchisee" means a dealer to whom a franchise is granted.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-15

"Franchisor"

Sec. 15. "Franchisor" means a manufacturer or distributor who grants a franchise to a dealer.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-16

"Labor rate"

Sec. 16. "Labor rate" means the hourly labor rate charged by a franchisee for service, filed periodically with the division as the division may require, and posted prominently in the franchisee's service department.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-17

"Lease agreement"

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.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-18

"Lease transaction"

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.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-19

"Record"

Sec. 19. "Record" includes, but is not limited to, the following:

- (1) Bills of sale.
- (2) Finance agreements.
- (3) Titles.
- (4) Inventory records.
- (5) Sales receipts from auctions.
- (6) Form ST-108 (department of state revenue certificate of gross retail or use tax paid on the purchase of a motor vehicle or watercraft).
- (7) Interim plate log.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-20

"Relevant market area"

Sec. 20. "Relevant market area" means the following:

- (1) With respect to a new motor vehicle dealer who plans to

relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000), the area within a radius of six (6) miles of the intended site of the relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the relocated new motor vehicle dealer's place of business.

(2) With respect to a:

(A) proposed new motor vehicle dealer; or

(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of not more than one hundred thousand (100,000);

the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer. The ten (10) mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-21

"Retail lessee"

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.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-22

"Retail lessor"

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.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-23

"Sale"

Sec. 23. "Sale" includes every contract of sale, contract to sell, or disposition of a motor vehicle or interest in a motor vehicle for value.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-24

"Secretary"

Sec. 24. "Secretary" refers to the secretary of state holding office as set forth in IC 4-5-1-1.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-25**"Transfer dealer"**

Sec. 25. "Transfer dealer" means a person, other than a dealer, manufacturer, or wholesale dealer, who has the necessity of transferring at least twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-26**"Uniform time standards manual"**

Sec. 26. "Uniform time standards manual" means a schedule established by a manufacturer or distributor setting forth the time allowances for the diagnosis and performance of warranty work and service.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-27**"Used parts dealer"**

Sec. 27. "Used parts dealer" means a person who primarily buys, sells, barter, exchanges, or deals in used major component parts. The term does not include a scrap metal processor.

As added by P.L.92-2013, SEC.78.

IC 9-32-2-28**"Wholesale dealer"**

Sec. 28. "Wholesale dealer" means a person who is engaged in the business of buying or selling motor vehicles for resale to other dealers, wholesale dealers, transfer dealers, or persons other than the general public.

As added by P.L.92-2013, SEC.78.