

IC 9-32-11

Chapter 11. Regulation of Vehicle Merchandising

IC 9-32-11-1

Persons required to be licensed

Sec. 1. (a) The following persons must be licensed under this article to engage in the business of buying, selling, or manufacturing motor vehicles:

- (1) An automobile auction.
 - (2) A converter manufacturer.
 - (3) A dealer.
 - (4) A distributor.
 - (5) An automotive salvage recycler.
 - (6) A watercraft dealer.
 - (7) A manufacturer.
 - (8) A transfer dealer.
 - (9) 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 motor 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.

As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.26; P.L.217-2014, SEC.172; P.L.62-2014, SEC.27; P.L.151-2015, SEC.64; P.L.174-2016, SEC.82.

IC 9-32-11-2

License application; affidavits; bonds; fees

Sec. 2. (a) An application for a license under this chapter must:

- (1) be accompanied by payment of the applicable fee required under this section;
 - (2) be on a form prescribed by the secretary;
 - (3) contain the information the secretary considers necessary to enable the secretary to determine fully:
 - (A) the qualifications and eligibility of the applicant to receive the license; and
 - (B) the ability of the applicant to conduct properly the business for which the application is submitted; and
 - (4) contain evidence of a bond required in subsection (e).
- (b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.
- (c) An applicant who proposes to use the Internet or another

computer network to facilitate the sale of motor vehicles shall maintain all records at the established place of business in Indiana.

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

- (1) be in favor of the state;
- (2) secure payment of fines, penalties, costs, and fees assessed by the secretary after:
 - (A) notice;
 - (B) opportunity for a hearing; and
 - (C) opportunity for judicial review; and
- (3) secure the payment of damages to a person aggrieved by a violation of this article by the licensee after a judgment has been issued.

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

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

(h) The fee for a license for a dealer or an automobile auction is thirty dollars (\$30).

(i) The fee for a transfer dealer, a converter manufacturer, or an automotive mobility dealer is twenty dollars (\$20).

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

As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.28; P.L.151-2015, SEC.65; P.L.174-2016, SEC.83.

IC 9-32-11-3

Expired

(As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.29. Expired 7-1-2015 by P.L.62-2014, SEC.29.)

IC 9-32-11-4

Expired

(As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.30. Expired 7-1-2015 by P.L.62-2014, SEC.30.)

IC 9-32-11-5

Franchise; filing with secretary of state

Sec. 5. A dealer proposing to sell new motor vehicles shall file and maintain with the secretary:

- (1) a current copy of each franchise to which the dealer is a party; or
- (2) if the 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.

As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.31; P.L.151-2015, SEC.66.

IC 9-32-11-6

Display of license; change of business name or location; application for approval of change

Sec. 6. (a) A license issued to a dealer under this chapter:

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

(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 a fee of five dollars (\$5). The secretary shall retain the fee. 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 that 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 under subsection (b).

(d) A dealer that 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;

that 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.

As added by P.L.92-2013, SEC.78. Amended by P.L.2-2014, SEC.47; P.L.62-2014, SEC.32; P.L.151-2015, SEC.67; P.L.174-2016, SEC.84.

IC 9-32-11-7

Distributor representative; manufacturer representative; certification; expiration

Sec. 7. (a) A distributor representative and a manufacturer representative become certified by:

- (1) the licensed distributor or licensed manufacturer completing an application with the secretary to add the distributor representative or manufacturer representative to the license; and
- (2) paying a nonrefundable fee of twenty dollars (\$20).

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

(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 certification. A representative must have a certification when engaged in business and shall display the certification upon request.

(c) A distributor representative or manufacturer representative certification expires on the earlier of the following dates:

- (1) The date on which the license issued to the distributor or manufacturer that certified the representative expires.
- (2) The date on which the secretary receives notice that the certified distributor representative or manufacturer representative is no longer a representative of the licensed distributor or manufacturer.

As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.33; P.L.151-2015, SEC.68; P.L.174-2016, SEC.85.

IC 9-32-11-8

Application for and renewal of a dealer's license

Sec. 8. The secretary shall, by rules adopted under IC 4-22-2, establish requirements for an initial application for and renewal of a dealer's license. The rules must include a requirement that each initial or renewal application for an automotive mobility dealer's license include proof that the applicant is accredited through the Quality Assurance Program of the National Mobility Equipment Dealers Association.

As added by P.L.92-2013, SEC.78. Amended by P.L.174-2016, SEC.86.

IC 9-32-11-9**Automotive mobility dealers; display, inventory, advertising, and offering for sale adapted vehicles**

Sec. 9. An automotive mobility dealer licensed under this chapter is entitled to:

- (1) display;
- (2) inventory;
- (3) advertise;
- (4) offer for sale; or
- (5) do any combination of subdivisions (1) through (4) concerning;

any adapted vehicle.

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

IC 9-32-11-10**Motor vehicle sales made away from dealer's established place of business without offsite sales permit; exception**

Sec. 10. This section does not apply to sales made at a motor vehicle industry sponsored trade show. A dealer that sells to the general public may not sell or offer to sell a motor vehicle at a location away from the dealer's established place of business without obtaining an offsite sales permit under section 11 of this chapter.

As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.34; P.L.151-2015, SEC.69; P.L.174-2016, SEC.87.

IC 9-32-11-11**Offsite sales permit**

Sec. 11. (a) Except as provided in subsections (b) through (g), the secretary shall issue an offsite sales permit to a dealer licensed under this chapter who submits an application for the permit not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. Permit applications under this section shall be made public upon the request of any person.

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

(c) 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 home 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.
- (5) Dealers of motor vehicles classified as classic, collector, or antique under rules adopted under section 18(a)(2)(B) of this

chapter.

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

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

(f) The secretary may not issue an offsite sales 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 demonstrated with an affidavit from:

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

who has jurisdiction over the real property where the dealer wants to conduct an offsite sale. If there is no person or officer that has jurisdiction over the real property, the application must be accompanied by a statement of authorization from the executive (as defined in IC 36-1-2-5) of the unit in which the real property is located. The secretary may not issue an offsite sales permit until the dealer files an affidavit under this subsection.

(g) The secretary may not issue an offsite sales 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 permit application is being submitted.

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

(i) The fee for an offsite sales permit is twenty-five dollars (\$25). The fee is nonrefundable and shall be deposited as set forth in IC 9-32-7-3.

As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.70; P.L.174-2016, SEC.88.

IC 9-32-11-11.5

Out-of-state dealer special event permit

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 motor vehicle auction conducted by an auctioneer licensed under IC 25-6.1-3.
- (2) The motor vehicles to be auctioned are:
 - (A) at least fifteen (15) years old; or
 - (B) classified as classic, collector, or antique motor vehicles under rules adopted by the secretary.
- (3) At least two hundred (200) motor 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 a fee of five hundred dollars (\$500). The secretary shall retain the fee.

As added by P.L.151-2015, SEC.71. Amended by P.L.174-2016, SEC.89.

IC 9-32-11-12

Repealed

(As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.35; P.L.217-2014, SEC.173; P.L.62-2014, SEC.36. Repealed by P.L.174-2016, SEC.90.)

IC 9-32-11-12.3

Expired

(As added by P.L.62-2014, SEC.37. Expired 1-1-2016 by P.L.62-2014, SEC.37.)

IC 9-32-11-12.5

Duration of license issued after December 31, 2014; violation

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.

(c) A dealer license issued to a person whose business name begins with a nonalpha character expires November 1 of each year.

(d) 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.

(e) A person who violates this section by operating on an expired license issued under this chapter commits a Class A infraction.
As added by P.L.62-2014, SEC.38. Amended by P.L.113-2014, SEC.32; P.L.174-2016, SEC.91.

IC 9-32-11-13

Transfer or assignment of motor vehicle title

Sec. 13. A person licensed under this article may transfer or assign a title for a motor vehicle.
As added by P.L.92-2013, SEC.78.

IC 9-32-11-14

Liability coverage

Sec. 14. (a) At the time of each license application and upon request of the secretary, a person licensed under this article shall furnish evidence that the person:

- (1) has liability insurance or garage liability insurance covering the person's place of business; or
- (2) is a member of a risk retention group that is regulated by the Indiana department of insurance.

(b) A policy described in subsection (a)(1) must have limits of at least the following:

- (1) One hundred thousand dollars (\$100,000) for bodily injury to one (1) person.
- (2) Three hundred thousand dollars (\$300,000) for bodily injury for each accident.
- (3) Fifty thousand dollars (\$50,000) for property damage.

The minimum amounts required by this subsection must be maintained during the time the license is valid.

As added by P.L.92-2013, SEC.78. Amended by P.L.174-2016, SEC.92.

IC 9-32-11-15

Cessation of business activity

Sec. 15. (a) A person who ceases a business activity for which a license was issued under this chapter shall do the following:

- (1) On a form prescribed by the secretary, notify the secretary of the date that the business activity will cease.
- (2) Deliver to the secretary the license and all permanent dealer license plates, including dealer designee 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;
- (2) use of the dealer's license;
- (3) dealer's dealer license plates; or
- (4) use of the dealer's dealer license plates.

(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 license and 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 dealer in its filing. The new organization is a successor to the original dealer 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. *As added by P.L.92-2013, SEC.78. Amended by P.L.151-2015, SEC.72; P.L.174-2016, SEC.93.*

IC 9-32-11-16

Deposit of revenues in motor vehicle highway account

Sec. 16. Except as otherwise provided in this chapter, all revenues accruing to the secretary under this chapter shall be deposited in the motor vehicle highway account under IC 8-14-1.

As added by P.L.92-2013, SEC.78. Amended by P.L.174-2016, SEC.94.

IC 9-32-11-17

Sale of motor vehicle through Internet

Sec. 17. 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.

As added by P.L.92-2013, SEC.78. Amended by P.L.62-2014, SEC.39; P.L.174-2016, SEC.95.

IC 9-32-11-18

Special event permits; fee

Sec. 18. (a) A person licensed under this article shall be issued a special event permit from the secretary for a special event that meets the following conditions:

- (1) The event is a motor vehicle auction conducted by auctioneers licensed under IC 25-6.1-3.
- (2) The motor vehicles to be auctioned are:
 - (A) at least fifteen (15) years old; or
 - (B) classified as classic, collector, or antique motor vehicles under rules adopted by the secretary.
- (3) At least one hundred (100) motor vehicles will be auctioned during the special event.
- (4) The licensee submits to the secretary an application for a special event permit not later than thirty (30) days before the beginning date of the special event.
- (5) The application under subdivision (4) is accompanied by a fee of two hundred fifty dollars (\$250). The fee shall be deposited as set forth in IC 9-32-7-3.

(b) Not more than two (2) special event permits may be issued by

the secretary to the same applicant within a twelve (12) month period.

As added by P.L.92-2013, SEC.78. Amended by P.L.174-2016, SEC.96.

IC 9-32-11-19

Replacement license

Sec. 19. If a license issued under this chapter is lost or destroyed, the person to which the license is issued may apply for a replacement license.

As added by P.L.174-2016, SEC.97.