

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

Repealed

(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.30.)

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 auction"

Sec. 4. "Automobile auction" means a person that, as part of the person's business, arranges, manages, sponsors, advertises, hosts, carries out, or otherwise facilitates the auction of more than three (3) motor vehicles, on the basis of bids by persons acting for themselves or others, within a twelve (12) month period. The term includes a place of business or facilities provided by an auctioneer as part of the business of the auctioneer 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. Amended by P.L.174-2016, SEC.22.

IC 9-32-2-5

"Automobile salvage rebuilder"

Sec. 5. "Automotive salvage rebuilder" means a person that:

- (1) acquires salvage vehicles for the purpose of restoring, reconstructing, or rebuilding the vehicles; and
- (2) resells, offers to resell, or advertises for resale the vehicles for use on the highway.

As added by P.L.92-2013, SEC.78. Amended by P.L.174-2016, SEC.23.

IC 9-32-2-6

"Broker"

Sec. 6. "Broker" means a person that, 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 motor vehicle involved in the transaction.

As added by P.L.92-2013, SEC.78. Amended by P.L.174-2016, SEC.24.

IC 9-32-2-7

Repealed

(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.31.)

IC 9-32-2-8

Repealed

(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.32.)

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 9-32-2-9.5

"Converter manufacturer"

Sec. 9.5. "Converter manufacturer" means a person that adds to, subtracts from, or modifies a previously assembled or manufactured motor vehicle. The term does not include a person that manufactures recreational vehicles.

As added by P.L.174-2016, SEC.25.

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 9-32-2-10.3

"Disclose"

Sec. 10.3. "Disclose" means to engage in a practice or conduct to make available and make known personal information contained in an individual record about an individual to a person by any means of communication.

As added by P.L.174-2016, SEC.26.

IC 9-32-2-10.5

"Distributor representative"

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.

As added by P.L.151-2015, SEC.33.

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 9-32-2-11.5

"Electronic record"

Sec. 11.5. "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

As added by P.L.174-2016, SEC.27.

IC 9-32-2-11.6

"Electronic signature"

Sec. 11.6. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

As added by P.L.174-2016, SEC.28.

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 9-32-2-15.2

"Fraud"

Sec. 15.2. "Fraud" means:

- (1) a misrepresentation of a material fact, promise, representation, or prediction not made honestly or in good faith; or
- (2) the failure to disclose a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

As added by P.L.174-2016, SEC.29.

IC 9-32-2-15.4

"Highly restricted personal information"

Sec. 15.4. "Highly restricted personal information" means the following information that identifies an individual:

- (1) Digital photograph or image.
- (2) Social Security number.
- (3) Medical or disability information.

As added by P.L.174-2016, SEC.30.

IC 9-32-2-15.5

"Individual record"

Sec. 15.5. "Individual record" refers to a record created or maintained by the division that contains personal information or highly restricted personal information about an individual who is the subject of the record identified in a request. The term includes records created by a dealer related to the issuance of interim license plates.

As added by P.L.174-2016, SEC.31.

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

Repealed

(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.34.)

IC 9-32-2-18

(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.35.)

IC 9-32-2-18.4

"Manufacturer of a vehicle subcomponent system"

Sec. 18.4. "Manufacturer of a vehicle subcomponent system" means a manufacturer of a vehicle subcomponent system essential to the operation of a motor vehicle. The term includes a public or private university that is engaged in the:

- (1) research;
- (2) development; or
- (3) manufacture;

of a vehicle subcomponent system.

As added by P.L.174-2016, SEC.32.

IC 9-32-2-18.5

"Manufacturer representative"

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.

As added by P.L.151-2015, SEC.36.

IC 9-32-2-18.6

"Person"

Sec. 18.6. "Person" does not include the state, an agency of the state, or a municipal corporation.

As added by P.L.198-2016, SEC.624.

IC 9-32-2-18.7

"Personal information"

Sec. 18.7. "Personal information" means information that identifies a person, including an individual's:

- (1) digital photograph or image;
- (2) Social Security number;
- (3) driver's license or identification document number;
- (4) name;
- (5) address;
- (6) telephone number; or
- (7) medical or disability information.

The term does not include the name of an owner, an officer, or a partner of a dealer, or the name, address, or telephone number of a business or of a dealer's established place of business.

As added by P.L.174-2016, SEC.33.

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**Repealed**

(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.37.)

IC 9-32-2-22**Repealed**

(As added by P.L.92-2013, SEC.78. Repealed by P.L.151-2015, SEC.38.)

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 9-32-2-24.5

"Sign" or "signature"

Sec. 24.5. "Sign" or "signature" includes a manual, facsimile, or conformed signature, or an electronic signature.
As added by P.L.174-2016, SEC.34.

IC 9-32-2-25

"Transfer dealer"

Sec. 25. "Transfer dealer" means a person, other than a manufacturer, distributor, converter manufacturer, new motor vehicle dealer, used motor vehicle dealer, automotive salvage recycler, watercraft dealer, automotive mobility dealer, or automobile auction that has the necessity of transferring at least twelve (12) motor vehicles during a twelve (12) month period as part of the transfer dealer's primary business function.
As added by P.L.92-2013, SEC.78. Amended by P.L.174-2016, SEC.35.

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

Repealed

(As added by P.L.92-2013, SEC.78. Repealed by P.L.174-2016, SEC.36.)