



DIEGO MORALES
SECRETARY OF STATE

STATE OF INDIANA AUTO DEALER SERVICES DIVISION

FINES AND ENFORCEMENT ACTIONS POLICY

Indiana Code § 9-32-16-2(d) grants the Secretary of State the authority to revoke, suspend, or deny an application, impose fines and costs, restrict, condition, limit, bar, suspend or rescind a dealer license for violations of IC 9-32 and Title 75 of the Indiana Administrative Code. Under Ind. Code § 9-32-17-1 the Secretary of State may impose civil penalties of up to \$10,000 for each violation of IC 9-32 or 75 IAC 6.

The Secretary, through the Auto Dealer Services Division (“Division”) and its Co-Directors, administers and enforces Indiana Code 9-32, Title 75 of the Indiana Administrative Code, and the policies and procedures of the Division pursuant to IC 4-5-1-11 and IC 4-5-1-12.

Relevant Law

IC 9-32	75 IAC 3
75 IAC 5	75 IAC 6

Policy Statement

It shall be the policy of the Division to take the following actions for violations of IC 9-32, 75 IAC 3, 75 IAC 5, and 75 IAC 6. These actions represent the minimum actions to be taken by the Division. The Division reserves the right to deviate from these standards based on factors including, but not limited to, the circumstances surrounding the violation, the number of a particular type of violation found, and the history of all violations found by the Division. Fines may be assessed for multiple violations associated with the same transaction, deal, or audit. For example, if a deal jacket that is missing or incomplete is related to a deal for which the dealer failed to timely deliver title, the Division may separately assess a fine for each violation.

This policy is not intended to be all-encompassing of every scenario in which the Division may impose a fine or suspend or revoke a license issued under IC 9-32. Instead, it is illustrative of common violations identified by the Division. The Division reserves the right to impose a fine or revoke or suspend a license under its generalized authority granted by Indiana law.

Fine Schedule

- **Late delivery of title (IC 9-32-4-1)**
 - The fine for the first violation in a calendar year is \$100.
 - The fine for the second violation in a calendar year is \$250.
 - The fine for each additional violation in a calendar year is \$500.

This fine is set by statute. Title delivery will not be considered late if delivery after 31 days is due solely to the purchaser or transferee’s failure to make all agreed upon initial payments for the motor vehicle or watercraft, including delivery of a trade-in motor vehicle or watercraft without hidden or undisclosed statutory liens. A trade-in motor vehicle or watercraft will generally be considered to be delivered on the date the customer delivers the actual title or assigns power of attorney to the dealer so that the dealer can obtain the title from a lienholder or request a duplicate title from the BMV.

- **Failure to deliver title (IC 9-32-4-1)**

The following are example circumstances in which the Division will consider a dealer to have failed to deliver a title:

- If a dealer does not timely produce title within 10 days after a 10-day demand letter is issued under IC 9-32-4-1(d).
- If a consumer requires intervention by the Attorney General's office and/or the court-order title process in order to obtain title to a vehicle.
- Dealer cannot produce any evidence that title has been delivered and there are no other records or evidence showing that title has been delivered.

The first occasion when a dealer fails to deliver title will be fined in the same manner as late delivery of title, provided the dealer has only failed to deliver title to one consumer. If a dealer fails to deliver title on more than one occasion or for more than one consumer, the Division may seek to revoke the dealer's license.

- **Offsite sale (IC 9-32-11-10)**

Any sale that occurs away from Dealer's licensed location is considered an off-site sale. The Division will fine a dealer \$1,000 for each unpermitted offsite sale.

- **Multiple issuances of interim plates (75 IAC 6-3-8(b)(1))**

The Division will fine a dealer \$500 for each additional interim plate issued to the same purchaser for the same vehicle.

- **Misuse of interim plates (75 IAC 6-3-8)**

The Division will fine a dealer \$500 for each instance of misuse of an interim plate. The following are examples of misuse:

- Issuing an interim plate to a vehicle before or after the date of sale;
- Issuing an interim plate to a vehicle not sold by the dealer;
- Issuing an interim plate to a vehicle not in the dealer's inventory.

- **Issuance of interim to salvage vehicle (75 IAC 6-3-8(b)(5))**

The Division will fine a dealer \$1,000 for issuing an interim plate to vehicle that is a salvage vehicle at the time of sale. The Division will impart knowledge of the salvage status of a vehicle to a dealer unless the dealer can show evidence that at the time they purchased the vehicle, it was not a salvage vehicle.

- **Misuse of dealer plates (IC 9-32-6-10, 75 IAC 6-3-8(b)(5))**

The Division will fine a dealer \$500 for each instance in which a dealer is found to have misused their metal dealer plates.

- **Failure to disclose salvage or rebuilt status of a vehicle (IC 9-32-13-6)**

The Division will fine a dealer \$1,000 for the first instance in which a dealer fails to disclose, in writing, that a vehicle has been rebuilt, \$1,500 for a second instance, and \$2,000 for a third instance. The amount of any fine assessed against a dealer for a fourth or subsequent instance shall be determined by the Division.

- **Failure to maintain complete records (IC 9-32-11-21, IC 9-32-4-1(b)(3), IC 9-32-6-14, IC 9-32-16-6)**

The Division will fine a dealer \$100 for a deal jacket missing any of the documents or records required by Indiana law.

- **Failure to produce records** (IC 9-32-11-21, IC 9-32-4-1(b)(3), IC 9-32-6-14, IC 9-32-16-6)
The Division will fine a dealer \$500 for every deal jacket a dealer fails to produce at the request of the Division.
- **Purchase of detached catalytic converter without law enforcement affidavit** (IC 25-37.5-1-9)
A dealer that is not licensed as a salvage recycler may not purchase a detached catalytic converter without an accompanying affidavit from a law enforcement officer affirming the officer's reasonable belief that the catalytic converter lawfully came into the possession of the person attempting to sell the catalytic converter. The Division will fine a dealer \$1000 for each instance of a dealer purchasing a detached catalytic converter without an affidavit.
- **Failure to pay off trade-in within 10 days** (IC 9-32-4-1(h))
The Division will fine a dealer \$500 for failing to satisfy any obligation secured by a motor vehicle sold by or traded to the dealer within ten days after the motor vehicle is delivered to or sold by the dealer.
- **Failure to collect and remit sales tax** (IC 9-32-13-5; IC 6-2.5-2-1)
A dealer is required to collect sales tax on behalf of the State. Failing to collect sales tax or maintain proof that sales tax was collected is a violation of Indiana law.

Further, it is an unfair practice for a dealer to willingly fail to perform the fiduciary duty imposed on a dealer by IC 6-2.5-2-1 with regard to the collection and remittance of state gross retail tax. This includes any action that would give the appearance that a bona fide trade-in has taken place when in fact the purpose of the scheme is to reduce the purchaser's gross retail tax and thereby deprive the state of revenue.

These violations shall subject dealer to a \$500 fine.

- **Failure to add all dealer owners and/or have all dealer owners submit to a criminal background check** (IC 9-32-16-11(f))
All dealer owners and dealer managers are subject to a criminal background check. If a new dealer owner or dealer manager is added during the period of licensure, the dealer must notify the Division within 10 days after the change and the new owner/manager must undergo a criminal background check. Failing to notify the Division of a change of owner/manager shall subject the dealer to a \$250 fine.
- **Failure to notify Division of change of name/address/entity** (IC 9-32-11-6(b))
If a dealer changes its name, physical address, or legal entity type, or contact information, the dealer must inform the Division within ten days of the change. Failing to notify the Division of any of this information changing shall subject the dealer to a \$250 fine.
- **Unauthorized consignment sale** (75 IAC 6-2-8)
Any consignment transaction must comply with the requirements of 75 IAC 6-2-8. Failure to comply with the documentation and sale requirements shall subject dealer to a \$500 fine.
- **Sunday sale** (IC 24-4-6-1)
A dealer that conducts a sale on a Sunday shall be assessed a fine of \$500.

- **Failure to disclose “not-actual” odometer reading** (49 U.S.C. § 32705, 49 U.S.C. § 32709, IC 9-32-13-26, IC 9-32-2-15.2)

A dealer is required to disclose in writing the cumulative mileage registered on the odometer, and disclose that the actual mileage is unknown, if the transferor knows that the odometer reading is different from the number of miles that the vehicle has actually traveled. The failure to make such disclosure is considered an omission of a material fact necessary to prevent consumers from being misled by the odometer reading of the vehicle being sold. Failure to comply with the disclosure requirement shall subject the dealer to a \$1,000 fine.

Grounds for Suspension of a License

- **Failure to maintain required bond** (IC 9-32-11-2(h))

A dealer is required to maintain a surety bond in the amount set forth at IC 9-32-11-2. Failure to maintain such a bond shall subject dealer to a suspension of its license until the Division is notified that a bond has been instated.

- **Failure to maintain required insurance** (IC 9-32-11-14)

A dealer is required to maintain insurance in the amounts set forth at IC 9-32-11-14. Failure to maintain such insurance shall subject dealer to a suspension of its license until the Division is notified that compliant insurance is in place.

- **Dishonored payment**

If a dealer remits payment for any license application, renewal, interim plate, dealer plate, or any other transaction, and that payment is ultimately dishonored by the dealer’s financial institution, the Division will suspend the dealer’s license until the Division is made whole.

- **Failure of bond to cover unpaid fine** (IC 9-32-11-2(h))

A dealer that is:

- assessed a fine or other civil penalty,
- fails to pay the fine requiring the Division to file a claim against their bond, and
- the value of the bond does not cover the entirety of the fine or civil penalty.

shall have their license suspended until such time as the Division is made whole.

Grounds for Revocation of a License

- **Failure to appear for an audit** (IC 9-32-16-2(c)(5))

If an examiner schedules an audit with a dealer and the dealer fails to appear, the examiner will attempt to conduct a second audit. A dealer will be considered to have failed to appear for an audit if a representative of the dealership with access to the records necessary for an audit is not present for the scheduled audit. A dealer shall also be considered to have failed to appear for an audit if they do not respond to communication from the Division to set up an audit. If a dealer fails to appear for an audit, the Division will revoke the dealer’s license.

- **Failure to maintain business location / failure to notify of cessation of business** (IC 9-32-11-15, IC9-32-11-2.1 75 IAC 6-2-2)

The Division will revoke the license of a dealer who appears to have ceased the business activity for which they were issued a license by the Division if the dealer has not notified the Division. The Division will revoke the license of dealer who has failed to maintain the location requirements listed in 75 IAC 6-2-2. The Division shall further impose a fine of \$500, which shall be waived upon the return of all dealer plates issued to the dealer.

- **Failure to reverse sale following 10-day demand letter (IC 9-32-4-1(e))**
If the conditions of IC 9-32-4-1(e) are met, and a dealer fails to reverse a sale as prescribed by law, their license will be revoked.
- **Issuing a fake or altered interim plate (75 IAC 6-3-8)**
The Division will revoke the license of a dealer who issues false or altered interim plates.
- **Selling/leasing/permitting use of a dealer license by a third party (IC 9-32-16-16)**
A dealer is prohibited from loaning, leasing, or selling their dealer license. This includes permitting any third party not employed by the dealer to purchase vehicles that do not enter dealer's inventory. This also includes the use of a broker (as defined by IC 9-32-2-6) to arrange the sale of or sell vehicles.
- **Failure to comply with an Order of the Division**
If a dealer fails to comply with any Order of the Division within the time frame set forth the Division's Order, the dealer's license will be revoked until they come into compliance.

Restitution

- **Imposing a convenience fee without a signed disclosure (IC 9-14.1-3-3)**
If dealer's records indicate that they collected a convenience fee for partial services as part of the sale, but cannot produce a completed Convenience Fee Disclosure form, the Division will order the dealer to refund the convenience fee to the purchaser.
- **Deal reversal due to failure to disclose salvage or rebuilt status**
If a dealer sells a salvage or rebuilt vehicle without disclosing that status to the purchaser, the Division will order the dealer to reverse the deal in the full amount of the purchase plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

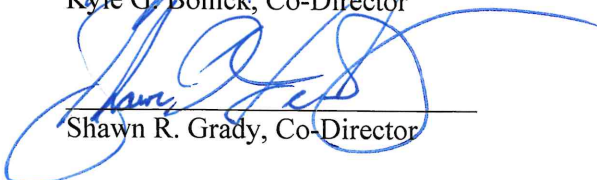
The Division reserves the right to deviate from these standards on a case-by-case basis. The Division may consider several factors in determining whether to reduce a penalty including the severity of the violations found, the history of violations found by the Division, and any evidence provided by the dealer to show either a violation did not occur, or the violation occurred due to extenuating circumstances.

Approved by:



Kyle G. Bonick, Co-Director

9/6/23
Date



Shawn R. Grady, Co-Director

9/6/23
Date

Revision History

1. November 25, 2015: Initial Release
2. April 21, 2017: Revision
3. November 3, 2017: Revision
4. September 14, 2022: Revision
5. September 9, 2023: Revision