



DEALER DIGEST



FEATURES

Update from the Director
Legislative Changes
Violations & Enforcement News
Important Reminders

Update from the Director

The Indiana Secretary of State, Auto Dealer Services Division is pleased to announce its new quarterly newsletter! As part of our effort to increase communication from our office and engagement with the industry, we will be releasing an electronic newsletter each quarter. The newsletter will be sent directly to the e-mail address on file with our office, so please make sure you keep this information up-to-date. In these newsletters, we will be communicating office updates, legislative changes, issues, and helpful reminders.

In other exciting news, the Division is currently working with PCC Technology, Inc. to replace our dealer licensing system in an effort to provide better service to dealers and streamline internal processing. Services we are looking to add as part of this project include the ability to apply and renew licenses, license plates (dealer and interim), as well as pay fees online using a credit card. We will provide updates as the project progresses.

Be sure to check our website, www.in.gov/sos/dealers/, regularly to keep up-to-date on Division news. There, we post alerts to bring your attention to changes in policy and/or requirements, direct you to updated forms, and communicate other important issues that may impact your business. Our website also allows visitors to review enforcement actions taken by the Division.

If you have questions or feedback related to newsletter content, past or future, please feel free to contact me at MeReynolds@sos.IN.gov.

Upcoming Legislative Changes

The Division spent a lot of time working with the Motor Vehicle Advisory Board, other agencies, dealers and listening to industry concerns. A concern that was voiced many times related to industry changes in the way certificates of title are held and released. As such, the Division worked with the Indiana Legislature to increase the title delivery timeframe. Current law requires a dealer to deliver title either at the time of sale, or within twenty-one (21) days if certain requirements are met. **As of July 1, 2016, dealers will have thirty-one (31) days in which to deliver title** if certain conditions are met and the dealer is unable to deliver title at the time of sale. In connection with that change, the paper interim license plate issued by a dealer upon the sale of a vehicle will expire after forty-five (45) days, rather than thirty-one (31), giving consumers more time in which to obtain title and registration from the Bureau of Motor Vehicles.

Beginning July 1, 2016, several other changes will take effect that may impact your operations, including:



Courtesy Delivery

New motor vehicle dealers will be permitted to issue an interim license plate for use on a motor vehicle that the dealer delivers to a purchaser under a written courtesy delivery agreement between the dealer and another new motor vehicle dealer or manufacturer with whom the dealer has a franchise. Under current law, only the dealer that sold the motor vehicle may issue an interim license plate. A dealer is still limited to issuing no more than (1) interim license plate.



Spot Delivery

A dealer will be permitted to issue an interim license plate when the dealer allows a purchaser to take delivery of the motor vehicle before the sale of the motor vehicle is fully funded. A dealer is still limited to issuing no more than (1) interim license plate.



Salvage Recordkeeping

Additional recordkeeping requirements for automotive salvage recyclers were added to aid in law enforcement efforts. Keep an eye out for new forms to be added to the Division's website to assist with tracking this information.



VIN Inspections

An employee of a dealer will no longer need to be approved or designated by our office in order to complete VIN inspections for the dealer pursuant to Ind. Code § 9-17-2-12. Also, the restrictions that an inspection can be completed only by a dealer that has been in business for five (5) years and sold at least 150 vehicles in the previous calendar year will also be removed. Any employee of a valid dealer will be authorized to conduct VIN inspections as outlined by Ind. Code § 9-17-2-12.



Violations & Enforcement News

While the Division investigates all kinds of potential violations, there are a handful of violations the Division sees more frequently. The following are a few of the most common violations discovered by our office. The Division takes these violations very seriously. Committing these and other violations subjects the dealer to enforcement action, including but not limited to, fines and/or license revocation. Civil or criminal proceedings may also follow. Violations may not only harm consumers, but also your business. The Division maintains policy and guidance information on our website related to frequent violations and possible enforcement actions dealers face when such violations are committed.

Failure to Deliver Title

Indiana law requires a dealer to deliver a certificate of title to a purchaser at the time of sale. If a dealer is unable to deliver the title at that time, the dealer must complete and deliver to the purchaser an affidavit indicating the location of the title and when it will be delivered. According to current law, the title must be delivered within twenty-one (21) days of purchase. As of July 1, 2016, the timeframe for delivery expands to thirty-one (31) days. If the Division discovers that a dealer failed to properly deliver title to a purchaser, regardless of the reason for the failure, the dealer will be subject to the statutory fine. Indiana law sets the fine for failure to deliver title at \$100 for the first violation in a calendar year, \$250 for a second violation in a calendar year, and \$500 for any subsequent violation in a calendar year. These fines may be imposed in addition to other enforcement actions for particularly egregious or repeat violators.

The Division regularly receives numerous consumer complaints related to a dealer's

failure to deliver title. Title delivery complaints are taken very seriously by our office, and will result in an investigation. Failure to timely deliver title to the purchaser prevents the purchaser from titling and registering their newly purchased motor vehicle. If the title is not delivered within thirty (30) days, the purchaser is unable to continue operating their motor vehicle until title is received and the motor vehicle can be registered. This is because the interim license plate expires in thirty (30) days, or if no interim license plate was issued and the purchaser is utilizing their current license plate, they may only use their current plate for thirty (30) days before being required to transfer it to the new motor vehicle through the Bureau of Motor Vehicles. Again, beginning July 1, 2016, the interim license plate duration expands to forty-five (45) days.

Failure to Issue Affidavit

A related violation is a dealer's failure to issue, or failure to properly complete, the statutorily required affidavit when the dealer is unable to deliver title at the time of sale. Indiana law requires a dealer to issue to a purchaser an affidavit containing certain information and indicating that title will be delivered within twenty-one (21) days when the dealer is unable to deliver title at the time of the sale. Division field examiners will look for a copy of the completed affidavit in deal jackets if there is not proof title was delivered at the time of sale. Even if the affidavit was completed and a copy appears in the deal jacket, a dealer must always keep proof of title delivery in the deal jacket once the title is delivered. Division field examiners will always look for this documentation. The Division has created a form (State Form 46633) dealers may use to satisfy this requirement. The form is available on the Division's website, <http://www.in.gov/sos/dealer/2383.htm>.

Improper Issuance of Interim License Plates

Misuse of interim license plates, including improper issuance of interim license plates, issuance of multiple interim license plates to the same purchaser, issuance of an interim license plate with incorrect information, or the continued use of retired or interim license that are no longer valid, are serious violations. These violations will not only subject the dealer to hefty fines and potential license revocation, but create potential legal issues for the purchasers.

As a reminder, a dealer may issue only one (1) interim license plate per consumer purchase. There are no exceptions to this requirement, and if discovered, the dealer will face enforcement action. If a dealer must reprint an interim license plate for a consumer due to a clerical entry error, the reason must be documented in the "Comment" section of Plates on Demand (or the plate issuance log if a watercraft dealer or the sale relates to a motorcycle), and the voided interim license plate must be kept with the deal jacket. The Division sees dealers improperly issuing multiple interim license plates in a variety of manners when the dealer is having difficulty delivering title in a timely manner. The legislative changes related to title delivery timeframes taking effect July 1, 2016, should alleviate these issues.

Issuance of a retired interim license plate or one that contains incorrect information, such as an incorrect VIN or make/model/color information, can result in the purchaser being stopped by law enforcement and potentially having their newly purchased car impounded.

If a dealer has old and/or retired interim license plates in their possession, these plates must not be used under any circumstances. The stock of plates must be returned to the Division. Please contact us with any questions about how to return these plates.



Improper Use of Dealer License Plates

Your dealer license plates may be used only on motor vehicles in your inventory. Once you sell or deliver a motor vehicle, a dealer license plate may not be used on the motor vehicle. A dealer license plate also may be used on a motor vehicle in your inventory by a prospective purchaser or service customer for up to ten (10) days. A motor vehicle to which a dealer license plate is affixed must have a monroney sticker attached, if new, or a Federal Trade Commission buyer's guide, if used, unless the motor vehicle is being transported to the dealer's place of business from a manufacturer.

Dealer license plates must not be loaned, leased, sold, transferred, copied, altered, or reproduced in any way.

Failure to Maintain or Produce Records

As a dealer, you are subject to an audit at any time during normal business hours. While the Division's field examiners typically contact a dealer prior to an audit, this is not required. Failure to appear for an audit, refusal to allow an examiner to conduct an audit, or failure to produce requested records that a dealer is required to maintain will subject the dealer to enforcement action.

Failure to Disclose Rebuilt Status

As you know, under IC § 9-32-13-6, it is an unfair practice for a dealer to sell a vehicle to a customer without disclosing in writing to the purchaser the fact that the vehicle is rebuilt if the dealer knows or should reasonably know that the vehicle is rebuilt. For your convenience, our office has created a form (State Form 55974) you can use for this disclosure if you wish. Use of this form is not required, but it will be easily recognizable to our examiners and, when filled out correctly, should eliminate any question as to whether you fulfilled your duty of disclosure. This form is available on our website, <http://www.in.gov/sos/dealer/2383.htm>.

Reminders

Automotive Salvage Recyclers

As you may have noticed, letters were included with your renewal invoices beginning with renewals mailed on and after July 1, 2015 informing you of legislative changes that resulted in new requirements for your next renewal. As a refresher, the new requirements are as follows:

Bond

All automotive salvage recyclers must have a \$25,000 bond. For all new applicants for an automotive salvage recycler license, proof of a satisfactory bond must be submitted with the initial application. For all current licensees, proof of bond must be submitted with or in advance of your renewal date beginning with renewals on July 1, 2016. The bond must be on State Form 53966 (revision 5, June 2015), which is available on our website at <http://www.in.gov/sos/dealer/2383.htm>.

Zoning

Zoning approval is required for all automotive salvage recyclers. To comply with this requirement, you must submit a completed Zoning Affidavit (State Form 55936), which is available on our website at <http://www.in.gov/sos/dealer/2383.htm>. The affidavit must state that your location is zoned for the operation of an automotive salvage recycler establishment. If there is no person or officer with jurisdiction over the real property where you are located, a written statement to that effect must be provided by the executive of the unit in which the real property is located.

For all new applicants, zoning approval of the established place of business is required at the time of application. For all current licensees, zoning approval is required in order to renew beginning with renewals on July 1, 2016, or if your location changes before that time.

NMVTIS Reporting

As of July 1, 2015, you are required to report all vehicle purchases to the National Motor Vehicle Title Information System ("NMVTIS") within thirty (30) days of purchase and provide the seller with a valid report identification number. Information about NMVTIS can be found at www.vehiclehistory.org.

Established Place of Business

All automotive salvage recyclers must have an established place of business meeting statutory requirements. Per Indiana law, an "established place of business" means a permanent, enclosed building or structure that is owned or leased. It does not include a residence, tent, temporary stand, or permanent quarters temporarily occupied.

For all new applicants, an established place of business is required at the time of application. For all current licensees, proof of a compliant established place of business is required in order to renew beginning with renewals on July 1, 2016, or if your location changes before that time.

Watercraft Dealers

Letters were also mailed with your invoices that were mailed on and after July 1, 2015 informing you of upcoming requirements for your next renewal. The new requirements for watercraft dealers are as follows:

Bond

All watercraft dealers must have a \$25,000 bond. For all new applicants for a watercraft dealer license, proof of a satisfactory bond must be submitted with the initial application. For all current licensees, proof of bond must be submitted with or in advance of your renewal date beginning with renewals on July 1, 2016. The bond must be on State Form 53966 (revision 5, June 2015), which is available on our website at <http://www.in.gov/sos/dealer/2383.htm>.

One License

As of July 1, 2015, you are able to sell watercrafts and trailers used to haul watercrafts with just a watercraft dealer license. No additional dealer-new or dealer-used license is required in order to sell watercraft trailers.

Bond Requirement for All Licensees. Submission of a bond on the new bond form (State Form 53966 (revision 5, June 2015), which is available on our website at <http://www.in.gov/sos/dealer/2383.htm>) is required with your renewal beginning July 1, 2016. All initial applicants must submit the new bond form at the time of application.

Offsite Sales

With warm weather finally here, many dealers will begin holding offsite sales. Remember that in order to hold a sale away from your licensed established place of business, you must have an offsite sale permit issued by our office. To apply for an offsite sale permit, you must complete State Form 55938 (revision 5, June 2015), which is available on our website at <http://www.in.gov/sos/dealer/2383.htm>. The fee for an offsite sale permit is \$25. The application must be received by our office at least ten (10) days prior to the event, and the proposed offsite sale cannot exceed ten (10) calendar days. A dealer may hold up to three (3) offsite sales during a calendar year.



DEALER DIGEST

Contact us!

Indiana Secretary of State
Auto Dealer Services Division
302 W. Washington St.
Room E-018
Indianapolis, IN 46204
(317)234-7190
dealers@sos.in.gov

Find us on Social Media

Twitter: [@SecretaryLawson](https://twitter.com/SecretaryLawson)
Facebook: [@sosconnielawson](https://www.facebook.com/sosconnielawson)
Instagram: [secretary_lawson](https://www.instagram.com/secretary_lawson)