



SECRETARY OF STATE
STATE OF INDIANA
AUTO DEALER SERVICES
DIVISION

CONNIE LAWSON
SECRETARY OF STATE

MELISSA REYNOLDS
Division Director

FINES AND ENFORCEMENT ACTIONS POLICY

General

Indiana Code § 9-32-16-2(d) allows the Secretary of State's office to revoke, suspend, or deny an application, impose fines and costs, restrict, condition, limit, bar, suspend or rescind a dealer license for violations of Indiana Code § 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 Ind. Code § 9-32 or 75 Ind. Admin. Code 6.

The Secretary, through the Auto Dealer Services Division ("Division"), administers and enforces Indiana Code § 9-32, Title 75 of the Indiana Administrative Code, and the policies and procedures of the Division.

Relevant Law

Ind. Code § 9-32-17-1
75 Ind. Admin. Code 6

Policy Statement

It shall be the policy of the Division to take the following actions for violations of Ind. Code § 9-32 or 75 Ind. Admin. Code 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.

• **Late delivery of title**

- 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 and can be found at Ind. Code § 9-32-4-1.

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**

- If a dealer does not timely produce title within 10 days after a 10-day demand letter is issued under Ind. Code 9-32-4-1(d), the Division will consider this a failure to deliver title.
- 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, the Division will consider this a failure to deliver title.
- 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.



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- 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**
The Division will fine a dealer \$1,000 for each unpermitted offsite sale.

- **Multiple issuances of interim plates**
The Division will fine a dealer \$500 for each additional interim plate issued to the same consumer for the same vehicle.

- **Misuse of Dealer Plates**
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 the rebuilt status of a vehicle:**
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 the second instance, and \$2,000 for the 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 produce records**
 - The Division will fine \$250 for every whole deal jacket a dealer fails to produce at the request of the Division.
 - If a deal jacket is produced but is incomplete, the Division will fine \$100.
 - This fine may be assessed regardless of whether a fine is assessed for any other violation related to the particular deal. For example, if the deal jacket that is missing or incomplete is related to a deal for which the dealer failed to timely deliver title, the Division may assess a fine for each violation.

- **Lack of bond or insurance**
 - If the Division discovers that there was a lapse in coverage in the dealer's bond or insurance but the dealer currently has a valid bond or insurance policy in place, the Division will fine the dealer \$500.
 - If the Division discovers that the bond or insurance policy has been cancelled or otherwise has lapsed and the dealer cannot provide proof that a new bond or insurance policy has been obtained, the Division will suspend the dealer license until a new bond or insurance policy is in place.

- **Issuing a fake or altered interim plate**
The Division will seek an order revoking the license of a dealer who issued false or altered interim plates.



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- **Cessation of business activity**

The Division will seek an order revoking 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 as required by Ind. Code § 9-32-11-15.

- **Failure to appear for an audit**

- 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.
- If the dealer fails to appear at the second audit, the Division will seek an order revoking the dealer's license.

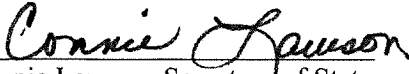
In many instances, the Division will be willing to negotiate a settlement. During these settlement negotiations, the Division will consider several factors in determining whether to reduce the penalty. These factors include, but are not limited to: the severity of the violations found, the history of 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.

If the Division revokes a dealer's license for any reason other than for vacating a licensed location, the dealer will be prohibited from obtaining a new license.

Revision History

1. November 25, 2015: Initial Release
2. April 21, 2017: Revision
3. November 3, 2017: Revision

Approved by:


Connie Lawson, Secretary of State

11-3-17
Date