

SENATE BILL No. 282

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-32.

Synopsis: Indiana motor vehicle board. Changes the name of the motor vehicle sales advisory board to the Indiana motor vehicle board (board). Fixes board membership at 11 persons appointed to the board. Provides that four appointed members must represent the general public and must not have any direct interest in the manufacture or sale of motor vehicles, but must have experience with, or knowledge of, the motor vehicle industry. Provides that if there is a vacancy on the board, the governor may appoint upon the recommendation of the secretary a member who represents the general public. Provides that an unfilled vacancy on the board does not impair the right of the board from exercising the powers of the board. Provides that a member of the board may not participate in a vote on a proceeding of the board in which the member has a financial or other vested interest. Provides that a member of the board may participate in and vote only on a proceeding in which the member has general interest in the outcome. Sets forth the powers of the board to enforce certain causes of action. Provides for a private right of action for a consumer or motor vehicle dealer against a manufacturer, a distributor, or a motor vehicle dealer subject to a proceeding of the board.

Effective: July 1, 2023.

Freeman

January 11, 2023, read first time and referred to Committee on Homeland Security and Transportation.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE BILL No. 282

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-13-2-1.6 IS REPEALED [EFFECTIVE JULY 1,
2 2023]. ~~Sec. 1-6: "Advisory board", for purposes of IC 9-32,~~ **has the**
3 **meaning set forth in IC 9-32-2-3.**

4 SECTION 2. IC 9-13-2-14.5 IS ADDED TO THE INDIANA CODE
5 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2023]: **Sec. 14.5. "Board", for purposes of IC 9-32, has the**
7 **meaning set forth in IC 9-32-2-5.5.**

8 SECTION 3. IC 9-32-2-3 IS REPEALED [EFFECTIVE JULY 1,
9 2023]. ~~Sec. 3: "Advisory board" refers to the motor vehicle sales~~
10 ~~advisory board established by IC 9-32-10-1.~~

11 SECTION 4. IC 9-32-2-5.5 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2023]: **Sec. 5.5. "Board" refers to the Indiana motor vehicle**
14 **board established by IC 9-32-10-1.**

15 SECTION 5. IC 9-32-10-1, AS ADDED BY P.L.92-2013,
16 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2023]: **Sec. 1. The Indiana motor vehicle sales advisory board**



1 is established ~~to advise~~ **under** the secretary in the administration of this
 2 article. **The board is subject to continued legislative oversight and**
 3 **authority.**

4 SECTION 6. IC 9-32-10-2, AS AMENDED BY P.L.182-2021,
 5 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2023]: Sec. 2. The advisory board is composed of the
 7 secretary and ~~at least six (6) but less than twelve (12)~~ **eleven (11)**
 8 persons appointed by the governor upon the recommendation of the
 9 secretary as follows:

10 (1) At least two (2) of the appointed members must be franchised
 11 new motor vehicle dealers as follows:

12 (A) At least one (1) member must:

13 (i) have sold fewer than seven hundred fifty (750) new
 14 motor vehicles in the year before the member's appointment;

15 and

16 (ii) be a dealer owner listed on a valid license issued to a
 17 franchised new motor vehicle dealer under IC 9-32.

18 (B) At least one (1) member must:

19 (i) have sold more than seven hundred forty-nine (749) new
 20 motor vehicles in the year before the member's appointment;

21 and

22 (ii) be a dealer owner listed on a valid license issued to a
 23 franchised new motor vehicle dealer under IC 9-32.

24 (2) At least ~~two (2)~~ **one (1)** of the appointed members must:

25 (A) represent the motor vehicle manufacturing industry;

26 (B) have been an Indiana resident for at least two (2) years
 27 immediately preceding the member's appointment; and

28 (C) be employed by a manufacturer that holds a valid
 29 manufacturer license issued under IC 9-32.

30 (3) At least two (2) members must:

31 (A) represent used motor vehicle dealers that are not
 32 franchised new motor vehicle dealers; and

33 (B) be a dealer owner listed on a valid license issued to a used
 34 motor vehicle dealer under IC 9-32.

35 (4) ~~The remaining members~~ **At least two (2) members** may be
 36 appointed from the following:

37 (A) A representative of a used automobile auction validly
 38 licensed under IC 9-32.

39 (B) A representative of an automobile salvage recycler validly
 40 licensed under IC 9-32.

41 ~~(C) A representative of a recreational vehicle dealer validly~~
 42 ~~licensed under IC 9-32.~~



- 1 ~~(D)~~ A representative of a watercraft dealer validly licensed
2 under IC 9-32.
- 3 (5) One (1) appointed member may represent the general public
4 and may not have any direct interest in the manufacture or sale of
5 motor vehicles or watercraft. **Four (4) appointed members must**
6 **represent the general public and must not have any direct**
7 **interest in the manufacture or sale of motor vehicles, but must**
8 **have experience with, or knowledge of, the motor vehicle**
9 **industry.**
- 10 (6) **If a member of the board is not appointed under**
11 **subdivisions (1) through (4), the governor may appoint upon**
12 **the recommendation of the secretary a member who**
13 **represents the general public.**
- 14 SECTION 7. IC 9-32-10-3, AS AMENDED BY P.L.284-2019,
15 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2023]: Sec. 3. (a) A member appointed to the advisory board
17 under section 2 of this chapter serves a three (3) year term and may be
18 reappointed. Each appointed member serves until the member's
19 successor is appointed and qualified.
- 20 (b) A member may be removed for good cause.
- 21 (c) A vacancy shall be filled by appointment of the governor for the
22 unexpired term.
- 23 **(d) An unfilled vacancy does not impair the right of the board**
24 **from exercising the powers of the board under section 8 of this**
25 **chapter.**
- 26 SECTION 8. IC 9-32-10-3.5 IS ADDED TO THE INDIANA CODE
27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
28 1, 2023]: **Sec. 3.5. A member of the board may not participate in a**
29 **vote on a proceeding of the board in which the member has a**
30 **financial or other vested interest. A member of the board may**
31 **participate in and vote on a proceeding in which the member has**
32 **general interest in the outcome.**
- 33 SECTION 9. IC 9-32-10-4, AS ADDED BY P.L.92-2013,
34 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2023]: Sec. 4. Members of the advisory board are entitled to
36 receive the expenses and per diem allowed by law. Membership on the
37 advisory board does not constitute the holding of a public office.
- 38 SECTION 10. IC 9-32-10-5, AS AMENDED BY P.L.174-2016,
39 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2023]: Sec. 5. The secretary shall serve as chairperson of the
41 advisory board. The advisory board shall elect a vice chairperson and
42 secretary from the appointed members during the first meeting of each



1 year. The vice chairperson and secretary serve until their successors are
2 appointed and qualified and may be removed for good cause.

3 SECTION 11. IC 9-32-10-6, AS ADDED BY P.L.92-2013,
4 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2023]: Sec. 6. (a) The ~~advisory~~ board shall meet at least one
6 (1) time during a calendar year. Additional meetings may be convened
7 at the call of the secretary or the written request of any three (3)
8 members.

9 **(b) The board shall maintain records of its meetings, hearings
10 and decisions with the secretary.**

11 SECTION 12. IC 9-32-10-7, AS AMENDED BY P.L.182-2021,
12 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2023]: Sec. 7. A majority of the current members of the
14 ~~advisory~~ board constitutes a quorum for doing business. The majority
15 vote of the members of the quorum, present and voting, is required for
16 the passage of a matter put to a vote of the ~~advisory~~ board.

17 SECTION 13. IC 9-32-10-8, AS ADDED BY P.L.92-2013,
18 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2023]: Sec. 8. (a) The ~~advisory~~ board is vested with the
20 following powers:

21 (1) To consult with and advise the secretary.

22 (2) To ~~suggest rules, including the following:~~

23 ~~(A) The contents of forms.~~

24 ~~(B) Methods and procedures for the investigation and
25 evaluation of the qualifications of applicants for licenses.~~

26 ~~(C) The criteria upon which to issue, deny, suspend, and
27 revoke licenses.~~

28 ~~(D) Procedures for the investigation into and conduct of
29 hearings on unfair practices.~~ **adopt rules and regulations and
30 hold hearings under subdivision (3).**

31 (3) To conduct proceedings under the following:

32 (A) IC 9-32-11-20.

33 (B) IC 9-32-13-1 through IC 9-32-13-30.

34 (C) IC 9-32-15.

35 (D) IC 23-2-2.7.

36 **(b) Proceedings of the board under this section are subject to
37 IC 4-21.5, with the following modifications:**

38 (1) A manufacturer has the burden of proof for a claim
39 brought under subsection (a)(3).

40 (2) The board may adopt a recommendation by an
41 administrative law judge for remedial measures, including
42 restitution or other equitable remedy, for a claim brought



1 **under subsection (a)(3).**
2 SECTION 14. IC 9-32-10-9 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2023]: **Sec. 9. A consumer or motor vehicle dealer has a private**
5 **right of action against a manufacturer, a distributor, or a motor**
6 **vehicle dealer subject to a proceeding under this chapter.**

