

<b>Regulatory Analysis Form</b>		<b>This space for use by IRRC</b> 2004 JUN -8 11:11:40 Revenue Commission
(1) Agency  <b>Department of State, Bureau of Professional and Occupational Affairs, State Board of Vehicle Manufacturers, Dealers and Salespersons</b>		IRRC Number: 2309
(2) I.D. Number (Governor's Office Use)  16A-603		
(3) Short Title  <b>Auction</b>		
(4) PA Code Cite  49 Pa. Code §§ 19.19, 19.20	(5) Agency Contacts & Telephone Numbers Primary Contact: <b>Thomas A. Blackburn, Counsel, State Board of Vehicle Manufacturers, Dealers and Salespersons (717) 783-7200</b> Secondary Contact: <b>Joyce McKeever, Deputy Chief Counsel, Department of State (717) 783-7200</b>	
(6) Type of Rulemaking (check one)  <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Policy Statement	(7) Is a 120-Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language.  <b>The final rulemaking establishes facility requirements for Pennsylvania vehicle auctions and clarifies activities that may be conducted by persons holding a vehicle auction license.</b>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  <b>The rulemaking is adopted under Sections 2 and 4(9) of the Board of Vehicles Act (63 P.S. §§ 818.2, 818.4(9)).</b>		

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

**Yes. The 1996 amendments to the Board of Vehicles Act (Act 27) created a new class of licensure for vehicle auctions. The General Assembly left the specific requirements for licensure to the expertise of the Board. This rulemaking specifies the requirements for public or retail and wholesale auctions, consistent with requirements for dealers.**

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

**The regulation sets forth licensure requirements for public or retail and wholesale auction. The requirements protect public safety by mandating compliance with land-use ordinances and construction code. The requirements also promote the interest of consumers by aiding, for example, the identification and hours of the business. Finally, the regulation promotes consumer protection by clarifying that the auction license does not permit the licensee to engage in other aspects of the vehicle business.**

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

**Lack of facility requirements could endanger public health and safety and inhibit consumer protection by permitting "fly-by-night" operations.**

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

**The general public will benefit by having Pennsylvania vehicle auction licensees subject to physical and consumer safety regulations.**

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

**Persons wishing to conduct telephonic or on-line auction of vehicles in the Commonwealth, without having an established place of business in the Commonwealth, will be adversely affected by the facilities requirements, but the public welfare benefits outweigh these adverse effects. The Board has identified no other individual or group who will be adversely affected by the rulemaking.**

## Regulatory Analysis Form

(15) List the persons, groups or entities that will be required to comply with the regulation.  
(Approximate the number of people who will be required to comply.)

**All person holding or wishing to hold a vehicle auction license will be required to conform to the regulation. The Board currently licenses 67 vehicle auctions in the Commonwealth.**

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

**Pursuant to Executive Order 1996-1, the Board sent an exposure draft to various dealer and industry groups for comment.**

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

**The Board believes that the vast majority of vehicle auctions currently operating in the Commonwealth are already in compliance with the regulation. The requirements, if not currently met, should require minimal financial investment.**

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

**There are no costs or savings to local governments associated with compliance with the rulemaking.**

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

**There are no costs or savings to state government associated with implementation of the rulemaking.**

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY	FY+1	FY+2	FY+3	FY+4	FY+5
<b>SAVINGS:</b>	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Regulated Community						
Local Government						
State Government						
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(20a) Explain how the cost estimates listed above were derived.

**The Board anticipates only minimal costs to persons holding vehicle auction licenses to comply with the regulation.**

**The Board also anticipates a minimal increase in its law enforcement budget, based on complaints that may be filed against vehicle auctions that would require investigation.**

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3 (FY 00-01)	FY-2 (FY 01-02)	FY-1 (FY 02-03)	Current FY (FY 03-04)
Pa. State Board of Vehicle Manufacturers, Dealers and Salespersons	\$1,379,000	\$1,364,000	\$1,437,000	\$1,587,000

## Regulatory Analysis Form

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

**The minimal costs imposed by compliance with the regulations, compared with their public safety and consumer protection functions, indicate that adoption of the regulations would be prudent.**

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

**Because the regulation effectuates amendments to the Board of Vehicles Act that include delegating to the Board rulemaking concerning a licensee's established place of business, the Board considered no nonregulatory alternatives.**

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

**The Board did not consider any alternative regulatory schemes.**

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

**The rulemaking does not overlap or conflict with any federal requirements.**

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

**The rulemaking will not put Pennsylvania at a competitive disadvantage. The states of Ohio, West Virginia, Delaware and New Jersey all impose similar requirements upon vehicle auctions. Maryland does not license vehicle auction facilities.**

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

**This regulation will have no effect on other regulations of the Board or other state agencies.**

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

**The Board reviews its regulatory proposals at regularly scheduled public meetings, generally the second Thursday of each month, at 2601 North Third Street in Harrisburg. More information can be found on the Board's website (professional licensing link from the Department of State page, <http://www.dos.state.pa/bpoa>), or by calling the Board office at (717) 783-1697.**

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

**This rulemaking requires no change to reporting, recordkeeping or other paperwork.**

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

**The Board has determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.**

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

**The regulation will be effective upon publication in final form in the *Pennsylvania Bulletin*.**

(31) Provide the schedule for continual review of the regulation.

**The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1.**



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

2004 JUN -9 10:11:45

(Pursuant to Commonwealth Documents Law)

REVIEW COMMISSION

# 2309

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive of Independent Agency

State Board of Vehicle Manufacturers,  
Dealers and Salespersons  
(AGENCY)

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

DOCUMENT/FISCAL NOTE NO. 16A-603

BY: \_\_\_\_\_

\_\_\_\_\_  
DATE OF APPROVAL

DATE OF ADOPTION: \_\_\_\_\_

5/24/04  
DATE OF APPROVAL

BY: Edwin K. Galbreath, Jr.  
Edwin K. Galbreath, Jr.

(Deputy General Counsel  
~~Chief Counsel~~  
Independent Agency  
(Strike inapplicable title)

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

BY: \_\_\_\_\_

[ ] Check if applicable  
Copy not approved.  
Objections attached.

[ ] Check if applicable.  
No Attorney General approval  
or objection within 30 day  
after submission.

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

49 Pa. Code § 19.19  
Standards of Licensure for Retail or Public Auction

49 Pa. Code § 19.20  
Standards of Licensure for Wholesale Auction

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) adds to its regulations §§ 19.19 and 19.20 (relating to standards of licensure for retail or public auctions; and standards of licensure for wholesale auctions) to read as set forth in Annex A.

#### Description and Need for Rulemaking

The rulemaking adds §§ 19.19 and 19.20 to set forth standards of licensure and operation of retail or public auctions and wholesale auctions, respectively.

#### Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 32 Pa.B. 5418 (November 2, 2002) with a 30-day public comment period. The Board received public comment from a representative of a public auction and a wholesale auction that auctions salvage vehicles. The Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1-745.12). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The public commenter and IRRC questioned whether subsections 19.19(a)(2) and 19.20(a)(2) that prohibit an auction from conducting auction activities from other than its established place of business prohibit an auction from receiving bids by telephone or the internet. In response, the Board has revised both regulations to make clear that an auction may receive bids by telephone, internet or some other electronic means. However, in order to protect purchasers – both retail and wholesale – from the possibility of phantom vehicles being offered for auction, the Board also will require an auction to have each vehicle physically present at the auction’s established place of business.

Because subsections 19.19(b)(1) and 19.20(b)(1) require the established place of business of an auction to include a permanent enclosed building for use as an auction facility, both the public commenter and IRRC questioned whether the proposed regulation would permit the auction sale to be conducted outside of the permanent enclosed building. In response, the Board has revised these subsections to state that “[their provisions do] not require that all auction activities be conducted within the permanent enclosed building.”

The public commenter and IRRC also commented on the Board’s reference in subsections 19.19(b)(5) and 19.20(b)(5) to the Fire and Panic Act (formerly 35 P.S. §§ 1221-1235). Because the pertinent sections of this law were repealed by enactment of the Pennsylvania Construction Code Act (35 P.S. § 7210.101-7210.1103), both suggested that the regulations be updated to reference current law. Accordingly, the Board has revised these subsections to refer only to the Pennsylvania Construction Code Act.

Subsection 19.19(b)(8) sets forth the requirement that a public or retail auction have a display area where potential buyers are permitted to inspect vehicles for auction. Because § 19.18(a)(3)(ii) requires that the display area of a dealership be properly graded and surfaced, HPLC and IRRC questioned whether this requirement should also be applied to a public or retail auction. The Board

believes that the display area of a public or retail auction should be properly graded and surfaced to ensure public protection and safety. The Board has revised § 19.19(b)(8) to set forth this requirement.

Finally, the public commenter noted that Act 152 of 2002 amended the Motor Vehicle Code, including those provisions regarding salvage sales, and suggested that the Board review its proposed regulations for consistency with these amendments. The Board has reviewed these amendments and has found no need to further revise its regulations.

#### Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

#### Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

#### Statutory Authority

The rulemaking is promulgated under Sections 2 and 4(9) of the Board of Vehicles Act (63 P.S. §§ 818.2, 818.4(9)).

#### Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on November 2, 2002, the Board submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 5418, to IRRC and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under Section 5(c) of the Regulatory Review Act, IRRC, the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC, and the public.

Under Section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on \_\_\_\_\_, the final-form rulemaking was approved by HPLC. On \_\_\_\_\_, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on \_\_\_\_\_, and approved the final-form rulemaking.

### Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Teresa Woodall, Board Administrator, State Board of Vehicle Manufacturers, Dealers and Salespersons, by mail to P.O. Box 2649, Harrisburg, PA 17105-2649, by telephone at (717) 783-1697, or by e-mail at [vehicle@pados.dos.state.pa.us](mailto:vehicle@pados.dos.state.pa.us).

### Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under Sections 201 and 202 of the Commonwealth Documents Law and regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law, and all comments were considered.
- (3) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Board of Vehicles Act.
- (4) The final form regulation does not enlarge the scope of proposed rulemaking published at 32 Pa.B. 5418.

### Order

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board at 49 Pa. Code §§ 19.19 and 19.20 are amended to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

Edwin K. Galbreath, Jr., Chairman  
State Board of Vehicle Manufacturers,  
Dealers and Salespersons

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. Professional and Occupational Affairs

CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS,  
DEALERS AND SALESPERSONS

\* \* \*

AUCTION LICENSE

§ 19.19. Standards of licensure for retail or public auction.

(a) Auction activities.

(1) Every public or retail auction shall have a business identity separate from other businesses owned or operated by the public or retail auction.

(2) A public or retail auction shall not conduct auction activities other than from its established place of business. A RETAIL OR PUBLIC AUCTION MAY AUCTION ONLY THOSE VEHICLES THAT ARE PHYSICALLY LOCATED AT THE ESTABLISHED PLACE OF BUSINESS OF THE PUBLIC OR RETAIL AUCTION. A RETAIL OR PUBLIC AUCTION MAY ACCEPT BIDS BY TELEPHONE, INTERNET OR OTHER REMOTE MEANS.

(3) An auction license does not permit a public or retail auction to broker, other than the auctioning of vehicles.

(b) Established place of business.

(1) The established place of business for a public or retail auction shall include a permanent enclosed building for use as an auction facility within this Commonwealth.

THIS PARAGRAPH DOES NOT REQUIRE THAT ALL AUCTIONING OF VEHICLES BE CONDUCTED WITHIN THE PERMANENT ENCLOSED BUILDING.

(2) The established place of business shall include a private office, located within the permanent enclosed building, separate from display areas and auctioning areas, that has space for the storage of books and records.

(3) The established place of business shall have a single business line telephone, located within the permanent enclosed building, that is used for the public or retail auction. The telephone number shall be listed under the public or retail auction's licensed name.

(4) The established place of business shall be in full compliance with applicable building codes, zoning ordinances and other land-use ordinances.

(5) A public or retail auction that is located in Pittsburgh, Philadelphia or Scranton shall possess a certificate of compliance with fire safety requirements issued by the appropriate fire safety authority of that city. A public or retail auction that is located somewhere other than in Pittsburgh, Philadelphia or Scranton shall possess a Certificate of Occupancy issued by the Department of Labor and Industry under the Act of April 27, 1927 (P.L. 465, No. 299) (35 P.S. §§ 1221 - 1235), known as the Fire and Panic Act. A

PUBLIC OR RETAIL AUCTION SHALL POSSESS A CERTIFICATE OF OCCUPANCY ISSUED BY A BUILDING CODE OFFICIAL IN ACCORDANCE WITH THE PENNSYLVANIA CONSTRUCTION CODE ACT (35 P.S. §§ 7210.101-7210.1103).

(6) A public or retail auction shall post a sign indicating the days and hours that the public may attend for either inspection or auctioning of vehicles.

(7) A public or retail auction shall exhibit a sign, either permanently affixed to the building or erected outdoors in the display area, that shows the licensed name of the auction and that is visible to the public.

(8) A public or retail auction shall have a display area where potential buyers are permitted and invited in the regular course of business to inspect or test drive the vehicles that are being offered for sale by the auction. The display area shall be at or adjacent to the auction's established place of business. The display area may be indoors, outdoors or partly indoors and partly outdoors. ALL OUTDOOR PORTIONS OF A DISPLAY AREA MUST BE PROPERLY GRADED AND SURFACED WITH CONCRETE, ASPHALT, SLAG, BRICK, STONE, AGGREGATE, GRAVEL, CINDER OR SIMILAR MATERIAL.

**§ 19.20. Standards of licensure for wholesale auction.**

**(a) Auction activities.**

(1) Every wholesale auction shall have a business identity separate from other businesses owned or operated by the wholesale auction.

(2) A wholesale auction shall not conduct auction activities other than from its established place of business. A WHOLESALE AUCTION MAY AUCTION ONLY THOSE VEHICLES THAT ARE PHYSICALLY LOCATED AT THE ESTABLISHED PLACE OF BUSINESS OF THE WHOLESALE AUCTION. A WHOLESALE AUCTION MAY ACCEPT BIDS BY TELEPHONE, INTERNET OR OTHER REMOTE MEANS.

(3) An auction license does not permit a wholesale auction to broker, other than the auctioning of vehicles.

(b) Established place of business.

(1) The established place of business for a wholesale auction shall include a permanent enclosed building for use as an auction facility within this Commonwealth. THIS PARAGRAPH DOES NOT REQUIRE THAT ALL AUCTIONING BE CONDUCTED WITHIN THE PERMANENT ENCLOSED BUILDING.

(2) The established place of business shall include a private office, located within the permanent enclosed building, separate from display areas and auctioning areas, that has space for the storage of books and records.

(3) The established place of business shall have a single business line telephone, located within the permanent enclosed building, that is used for the wholesale auction. The telephone number shall be listed under the wholesale auction's licensed name.

(4) The established place of business shall be in full compliance with applicable building codes, zoning ordinances and other land-use ordinances.

(5) ~~A wholesale auction that is located in Pittsburgh, Philadelphia or Scranton shall possess a certificate of compliance with fire safety requirements issued by the appropriate fire safety authority of that city. A wholesale auction that is located somewhere other than in Pittsburgh, Philadelphia or Scranton shall possess a Certificate of Occupancy issued by the Department of Labor and Industry under the Act of April 27, 1927 (P.L. 465, No. 299) (35 P.S. §§ 1221 - 1235), known as the Fire and Panic Act. A~~ WHOLESALE AUCTION SHALL POSSESS A CERTIFICATE OF OCCUPANCY ISSUED BY A BUILDING CODE OFFICIAL IN ACCORDANCE WITH THE PENNSYLVANIA CONSTRUCTION CODE ACT (35 P.S. §§ 7210.101-7210.1103).

(6) A wholesale auction shall post a sign indicating the auction's licensed name and that

the auction is not open to the general public.

*Sunset Date*

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 17, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of objections raised.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Teresa Woodall, Board Administrator, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649, [www.dos.state.pa.us](http://www.dos.state.pa.us) within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

EDWARD J. CERNIC, Jr.,  
Chairperson

**Fiscal Note:** 16A-604. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND  
VOCATIONAL STANDARDS  
PART I. DEPARTMENT OF STATE  
Subpart A. PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS  
CHAPTER 19. STATE BOARD OF  
VEHICLE MANUFACTURERS, DEALERS  
AND SALESPERSONS  
DEALERSHIP LICENSE**

**§ 19.18. Established place of business for dealers.**

A licensed dealer shall maintain an established place of business that meets the following criteria:

\* \* \* \* \*

(3) *Display area.* The dealership shall have a display area—whether indoors, outdoors or partly indoors and partly outdoors—where the public is permitted and invited in the regular course of business to inspect or test drive the vehicles that are being offered for sale, purchase or exchange by the dealership. The display area may not include areas of the dealership premises on which are placed vehicles that are wrecked or damaged, that are awaiting reconditioning or preparation for sale, purchase or exchange, that are being serviced or repaired, that are

part of general inventory, or that are otherwise not being offered for sale, purchase or exchange to the public. The display area shall meet the following requirements:

\* \* \* \* \*

(ii) *Grading and surfacing.* An outdoor display area shall be properly graded. The outdoor display area of a dealership that buys, sells or exchanges vehicles shall be surfaced with concrete, asphalt, slag, brick, stone, aggregate, gravel, cinder or similar material. A dealership that otherwise complies with this paragraph may display up to five vehicles without regard for the grading or surfacing where those vehicles are displayed, so long as customers are not permitted to be present in the nonconforming area.

\* \* \* \* \*

[Pa.B. Doc. No. 02-1948. Filed for public inspection November 1, 2002, 9:00 a.m.]

**[49 PA. CODE CH. 19]****Vehicle Auction License**

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) proposes to add §§ 19.19 and 19.20 (relating to standards of licensure for retail or public auction; and standards of licensure for wholesale auction) to read as set forth in Annex A. The proposed rulemaking would establish requirements for retail or public vehicle auctions and wholesale vehicle auctions.

*Effective Date*

The proposed rulemaking will be effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*.

*Statutory Authority*

The rulemaking is proposed under section 4(9) of the Board of Vehicles Act (act) (63 P. S. § 818.4(a)(9)).

*Background and Need for the Proposed Rulemaking*

The proposed rulemaking would establish requirements for retail or public vehicle auctions and wholesale vehicle auctions and would clarify the statutory restrictions on activities that may be engaged in by persons holding an auction license. The proposed rulemaking is necessary to bring the Board's regulations into conformity with changes made to the act by the act of April 19, 1996 (P. L. 104, No. 27) (Act 27).

Brokering activity became prohibited under Act 27. Section 5(a)(3) of the act (63 P. S. § 818.5(a)(3)) was amended to eliminate licensure for activities that had previously been lawful for persons holding a broker license.

Under the definition of "broker" in section 2 of the act (63 P. S. § 818.2), the activities which constituted brokering were very broad and included auctioning vehicles, selling vehicles on consignment (acting as a seller's agent) and acting as a buyer's agent. Prior to Act 27, the Board issued a broker license to a person engaged in these activities.

Under Act 27, the General Assembly substantially amended the act. Act 27 prohibited brokering (section 5(a)(3) of the act) but permitted some of what had previously been defined as brokering activity to be performed by other licensees. This change was accomplished

by redefining broker and dealer and creating two new classes of licensees, public or retail vehicle auctions and wholesale vehicle auctions. See section 2 of the act. Activities that had formerly been considered brokering were divided between dealers (consignment sales) and public or retail vehicle auctions and wholesale vehicle auctions (auctioning). Other broker activity remains prohibited by the general prohibition against brokering in section 5(a)(3) of the act (acting as a buyer's agent).

Under Act 27, the term "broker" was redefined. In addition, Act 27 redefined the term "vehicle dealer" to permit a dealer to engage in consignment sales, which previously was an activity limited to vehicle brokers. See section 2 of the act. Thus, under the act, only a licensed vehicle dealer may act as a seller's agent by engaging in consignment sales.

Act 27 also created a new class of licensure for vehicle auctions. Vehicle auctions were divided into two categories, wholesale auctions and public or retail auctions. Under Act 27, public or retail auction licensees are permitted to engage in auction activities that, under the prior act, could only be performed by brokers. See section 2 of the act.

Act 27 eliminated the class of licensees known as brokers and prohibited brokering activities. Two exceptions to the prohibition were created. First, vehicle dealers' lawful activities were expanded to include consignment sales. Second, new classes of licensees were created to permit auctioning of vehicles.

#### *Additional Statutory Changes Requiring Regulatory Amendments*

It is apparent in section 5(e)(1)(i) of act that the General Assembly never intended the same facility requirements to apply to auctions as to dealers. Act 27 did not specify facility requirements for vehicle auctions. However, public safety considerations demand that the Board provide minimum requirements for auction facilities.

In addition, the General Assembly, in Act 27, deviated from the prior act by eliminating licensure for persons acting as a buyer's agent. Under the prior act, a vehicle broker was permitted to act as a buyer's agent. See section 2 of the act. However, under section 5(a)(3) of act, acting as a broker, which would include acting as a buyer's agent, is prohibited. Section 2 of the act creates exceptions to this general rule for certain licensed persons. Some confusion may exist regarding whether a person licensed under one of the enumerated categories in the current definition of broker may perform any type of brokering, such as acting as a buyer's agent. The proposed rulemaking clarifies the Board's interpretation that only those brokering activities authorized by Act 27 are permitted. Act 27 provides that the holder of a public or retail vehicle auction license or wholesale vehicle auction license is not permitted to engage in all the types of activities formerly permitted of a broker, including acting as a buyer's agent; rather, the holder of a public or retail vehicle auction license or wholesale vehicle license may only auction vehicles.

#### *Description of Proposed Rulemaking*

The proposed rulemaking conforms the Board's regulations to Act 27. Act 27 created new classes of licensure for auctions. The proposed rulemaking to the Board's regulations set forth facility requirements designed to protect the public, consistent with facility requirements for vehicle dealers. See § 19.18 (relating to established place of business for dealers).

Under § 19.19, retail or public vehicle auctions shall maintain a business identity separate from other businesses owned or operated by the auction, may not conduct auction activities other than from the established place of business and may only broker, other than conducting auctions, if the auction also holds a dealer license. In addition, a retail or public auction shall meet the following requirements at its established place of business: (1) have a permanent enclosed building for use as an auction facility within this Commonwealth; (2) include a private office within the permanent enclosed building, separate from display and auction areas and suitable for storing books and records; (3) have a single business line telephone listed in the auction's licensed name; (4) be in compliance with applicable building codes, zoning ordinances and other land-use restrictions; (5) comply with fire-safety and occupancy requirements relevant to the area in which the auction is located; (6) post a sign indicating the days and hours that the public may attend; (7) exhibit a visible sign that shows the licensed name of the auction; and (8) have a display area where potential buyers may inspect or test drive the vehicles that is adjacent to the auction's established place of business.

Public safety and welfare are promoted by ensuring a private room in which to consummate the sale and by providing for an area in which the public may view vehicles prior to the auction. Consumers are assisted by the provision requiring a sign to identify and locate the auction. Public safety is protected by requiring auctions to comply with local building codes, zoning ordinances and fire safety restrictions.

The provision regarding business identity protects the consumer who should be able to determine with whom the consumer is conducting business. The provision prohibiting the auction from conducting activities other than from its established place of business protects consumers by allowing for the Board's inspection and control over auction facilities. This restriction parallels the restriction on licensed vehicle dealers, who are not permitted to conduct business from a location other than their licensed location without obtaining a branch lot license that meets all the facilities requirements imposed on the primary location. Finally, the provision regarding brokering simply restates the prohibition in the act, but should be repeated in the Board's regulations because auctions may look only to the regulations when determining their scope of conduct.

Under § 19.20, wholesale vehicle auctions must maintain a business identity separate from other businesses owned or operated by the auction, may not conduct auction activities other than from the established place of business and may only broker, other than conducting auctions, if the auction also holds a dealer license. In addition, a retail or public auction shall meet the following requirements at its established place of business: (1) have a permanent enclosed building for use as an auction facility within this Commonwealth; (2) include a private office within the permanent enclosed building, separate from display and auction areas and suitable for storing books and records; (3) have a single business line telephone listed in the auction's licensed name; (4) be in compliance with applicable building codes, zoning ordinances and other land-use restrictions; (5) comply with fire-safety and occupancy requirements relevant to the area in which the auction is located; and (6) post a sign indicating the licensed name and that the auction is not open to the general public.

The provisions related to the facility promotes public safety and welfare by requiring a private room in which

to consummate the sale, a dedicated telephone number so the licensee may be reached by telephone and compliance with local building codes, zoning ordinances and fire safety restrictions. Finally, the wholesale auction shall be clearly identified so that the general public knows that the wholesale auction is not open to the public, but rather, is restricted to dealers.

The provisions relating to auction activities that prohibit the auction from conducting activities other than from its established place of business protects consumers by allowing for the Board's inspection and control over auction facilities. This restriction parallels the restriction on licensed vehicle dealers, who are not permitted to conduct business from a location other than their licensed location without obtaining a branch lot license that meets all the facilities requirements imposed on the primary location. Finally, the provision regarding brokering simply restates the prohibition in the act, but should be repeated in the Board's regulations because auctions may look only to the regulations when determining their scope of conduct.

*Compliance with Executive Order 1996-1, "Regulatory Review and Promulgation"*

The Board sent this proposed rulemaking to dealer organizations, including the Pennsylvania Automobile Dealers Association and Pennsylvania Independent Automobile Dealers Association, as required under the directives of Executive Order 1996-1. In addition, the Board considered the impact the proposed rulemaking would have on the regulated community and on public safety and welfare. The Board finds that the proposed rulemaking addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

*Fiscal Impact and Paperwork Requirements*

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

*Sunset Date*

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 17, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final

publication of the rulemaking, by the Board, the General Assembly and the Governor of objections raised.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Board Administrator, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

EDWARD J. CERNIC, Jr.,  
*Chairperson*

Fiscal Note 16A-603. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

AUCTION LICENSE

§ 19.19. Standards of licensure for retail or public auction.

(a) *Auction activities.*

(1) Every public or retail auction shall have a business identity separate from other businesses owned or operated by the public or retail auction.

(2) A public or retail auction may not conduct auction activities other than from its established place of business.

(3) An auction license does not permit a public or retail auction to broker, other than the auctioning of vehicles.

(b) *Established place of business.*

(1) The established place of business for a public or retail auction shall include a permanent enclosed building for use as an auction facility within this Commonwealth.

(2) The established place of business shall include a private office, located within the permanent enclosed building, separate from display areas and auctioning areas, that has space for the storage of books and records.

(3) The established place of business shall have a single business line telephone, located within the permanent enclosed building, that is used for the public or retail auction. The telephone number shall be listed under the public or retail auction's licensed name.

(4) The established place of business shall be in full compliance with applicable building codes, zoning ordinances and other land-use ordinances.

(5) A public or retail auction that is located in Pittsburgh, Philadelphia or Scranton shall possess a certificate of compliance with fire-safety requirements issued by the appropriate fire-safety authority of that city. A public or retail auction that is located somewhere other than in Pittsburgh, Philadelphia or Scranton shall possess a Certificate of Occupancy issued by the Department of Labor and Industry under the act of April 27, 1927 (P. L. 465, No. 299) (35 P. S. §§ 1221—1235), known as the Fire and Panic Act.

(6) A public or retail auction shall post a sign indicating the days and hours that the public may attend for either inspection or auctioning of vehicles.

(7) A public or retail auction shall exhibit a sign, either permanently affixed to the building or erected outdoors in the display area, that shows the licensed name of the auction and that is visible to the public.

(8) A public or retail auction shall have a display area where potential buyers are permitted and invited in the regular course of business to inspect or test drive the vehicles that are being offered for sale by the auction. The display area shall be at or adjacent to the auction's established place of business. The display area may be indoors, outdoors or partly indoors and partly outdoors.

§ 19.20. Standards of licensure for wholesale auction.

(a) *Auction activities.*

(1) Every wholesale auction shall have a business identity separate from other businesses owned or operated by the wholesale auction.

(2) A wholesale auction may not conduct auction activities other than from its established place of business.

(3) An auction license does not permit a wholesale auction to broker, other than the auctioning of vehicles.

(b) *Established place of business.*

(1) The established place of business for a wholesale auction shall include a permanent enclosed building for use as an auction facility within this Commonwealth.

(2) The established place of business shall include a private office, located within the permanent enclosed building, separate from display areas and auctioning areas, that has space for the storage of books and records.

(3) The established place of business shall have a single business line telephone, located within the permanent enclosed building, that is used for the wholesale auction. The telephone number shall be listed under the wholesale auction's licensed name.

(4) The established place of business shall be in full compliance with applicable building codes, zoning ordinances and other land-use ordinances.

(5) A wholesale auction that is located in Pittsburgh, Philadelphia or Scranton shall possess a certificate of compliance with fire-safety requirements issued by the appropriate fire-safety authority of that city. A wholesale auction that is located somewhere other than in Pittsburgh, Philadelphia or Scranton shall possess a Certificate of Occupancy issued by the Department of Labor and Industry under the act of April 27, 1927 (P. L. 465, No. 299) (35 P. S. §§ 1221—1235), known as the Fire and Panic Act.

(6) A wholesale auction shall post a sign indicating the auction's licensed name and that the auction is not open to the general public.

[P.A.B. Doc. No. 02-1949. Filed for public inspection November 1, 2002, 9:00 a.m.]

**Comments of the Independent Regulatory Review Commission**

on

**State Board of Vehicle Manufacturers, Dealers and Salespersons  
Regulation No. 16A-603****Vehicle Auction License****March 6, 2003**

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

- 1. Section 19.19. Standards of licensure for retail or public auction.  
Section 19.20. Standards of licensure for wholesale auction. – Consistency with existing statutes; Reasonableness; Clarity.**

Sections 19.19 and 19.20 both contain subsections that are virtually identical in structure and language. The following paragraphs outline questions and concerns with subsections that are in both sections.

*Subsections (a)(2) Auction activities from an established place of business*

This provision prohibits a business from conducting auction related activities other than from its established place of business. A commentator stated that it accepts bids on vehicle auctions from remote bidders via the Internet and requests that the regulation specifically allow for this type of bidding. The Board should clearly indicate in the final-form regulation whether vehicle auctions with established places of business in Pennsylvania can conduct business via the Internet and other electronic or telephonic methods.

*Subsections (b)(1) Permanent enclosed building*

This provision requires an established place of business for a public or retail auction to include a permanent enclosed building "for use as an auction facility." A commentator has questioned the feasibility of this provision since salvage vehicles typically are not operable and cannot be driven into an enclosed building. Is it the Board's intent to require the sale to take place within the enclosed building?

*Subsections (b)(5) Certificate of occupancy*

The proposed regulation directs auctions to possess a certificate of occupancy issued pursuant to the Fire and Panic Act. Because pertinent provisions of the Fire and Panic Act were repealed by enactment of the Pennsylvania Construction Code (35 P.S. §§ 7210.101-7210.1103), the regulation should be updated to reference current law.

**2. Section 19.19. Standards of licensure or public auction. – Public safety; Reasonableness; Need; Clarity.**

*Subsection (b)(8)*

This subsection describes the requirements for a public or retail auction vehicle display area. In comments dated February 25, 2003, the House Professional Licensure Committee questioned whether a display area open to the public for auctions should be required to abide by the same safety requirements mandated for dealer display areas.

In the Preamble of this proposed regulation, the Board indicates that Act 27 was not intended to apply the same facility requirements to auctions that apply to dealers. However, the Board adds in the Preamble that "public safety considerations demand that the Board provide minimum requirements for auction facilities." The Board should review and justify the minimum requirements that it intends to place on public or retail auctions including the grading and surfacing requirements for dealers at 49 Pa. Code § 19.18(3).

**RECEIVED**

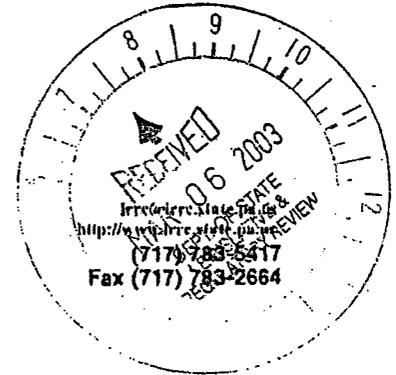
**MAR 17 2003**

**DOS LEGAL COUNSEL**



JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN  
ALVIN C. BISH, VICE CHAIRMAN  
ARTHUR COCCODINI II  
ROBERT J. HARDISON, III  
MURRAY UEBERG, ESQ.  
ROBERT E. NYCE, EXECUTIVE DIRECTOR  
MARY S. WYATTE, CHIEF COUNSEL

**INDEPENDENT REGULATORY REVIEW COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
333 MARKET STREET  
14TH FLOOR  
HARRISBURG, PA 17101**



March 6, 2003

Edward J. Cernic, Jr., Chairperson  
State Board of Vehicle Manufacturers, Dealers  
and Salespersons  
124 Pine Street  
Harrisburg, PA 17101

Re: Regulation #16A-603 (IRRC #2309)  
State Board of Vehicle Manufacturers, Dealers and Salespersons  
Vehicle Auction License

Dear Chairman Cernic:

Enclosed are the Commission's Comments which list objections and suggestions for consideration when you prepare the final version of this regulation. These Comments are not a formal approval or disapproval; however, they specify the regulatory criteria which have not been met.

The Comments will soon be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce  
Executive Director

cvp  
Enclosure

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee  
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee  
Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Benjamin Ramos, Acting Secretary, Department of State

**Regulation 16A-603****State Board of Vehicle Manufacturers, Dealers and Salespersons**

**PROPOSAL:** Regulation 16A-603 amends 49 PA Code, Chapter 19, regulations of the State Board of Vehicle Manufacturers, Dealers and Salespersons. The amendment implements 1996 amendments to the Board of Vehicles Act relating to vehicle auctions.

The proposed Rulemaking was published in the Pennsylvania Bulletin on November 2, 2002, and resubmitted to the Professional Licensure Committee on February 5, 2003. The Professional Licensure Committee has until February 25, 2003 to submit comments on the regulation.

**ANALYSIS:** The Board of Vehicles Act, (P.L. 306, No. 84), was amended by Act 27 of 1996 to create a new class of licensure for vehicle auctions. Vehicle auctions were divided into two categories, wholesale auctions and public or retail auctions. Vehicle auctions had previously been conducted by licensed brokers, however, Act 27 eliminated the broker license and made brokering activity illegal.

Proposed Sec. 19.19 sets forth the standards for licensure for retail or public auction, and proposed Sec. 19.20 sets forth the standards for licensure for wholesale auction. Both kinds of auctions would be required to have a business identity separate from other businesses owned or operated by the auction. Auction activities would be permitted only at the auction's established place of business, and brokering activities other than the auctioning of vehicles would be prohibited.

Even though Act 27 expressly provides that auctions are not subject to the same premises requirements as dealerships, in the interest of public safety the Board proposes minimum requirements for auction facilities. These requirements would include a permanent enclosed building, a private office separate from the display and auctioning areas, a single business line telephone listed under the auction's licensed name, and compliance with all applicable building codes, zoning ordinances and other land-use ordinances. Public or retail auctions must display a sign that shows the licensed name of the auction and have a display area for potential buyers. Public and retail auctions must post a sign indicating the days and hours that the public may attend for either inspection or auctioning of vehicles, while wholesale auctions must post a sign indicating that the auction is not open to the public.

**RECOMMENDATIONS:** It is recommended that the Professional Licensure Committee take no formal action until final form regulations are promulgated, however, the Committee submits the following comment:

1. In requiring a display area that is open to the public for public or retail auctions, should the Board not require the same safety measures in regard to grading, surfacing, etc. that are required for dealership display areas?

House of Representatives  
Professional Licensure Committee  
February 19, 2003

# ECKERT SEAMANS CHERIN & MELLOTT, LLC

213 Market Street  
Eighth Floor  
Harrisburg, PA 17101

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Harrisburg

Morgantown, WV

Philadelphia

Pittsburgh

Washington, D.C.

December 2, 2002

*Via facsimile 717-787-0250  
& first-class mail*

Teresa A. Woodall  
Board Administrator  
State Board of Vehicle Manufacturers,  
Dealers and Salespersons  
P. O. Box 2649  
Harrisburg, PA 17105-2649

**FILE COPY**

Re: Proposed Vehicle Auction License Regulations

Dear Ms. Woodall:

I am providing comments on behalf of my clients, Copart, Inc. and Motors Auction Group, regarding the State Board of Vehicle Manufacturers, Dealers and Salespersons' proposed regulations regarding vehicle auction licenses. These proposed regulations were published in the November 2, 2002, edition of the *Pennsylvania Bulletin*.

Copart is engaged in salvage vehicle auctions at four locations in Pennsylvania and over 90 locations throughout the United States. Its subsidiary, Motors Auction Group, operates public auctions for undamaged vehicles at two locations throughout Pennsylvania.

Proposed regulation sections 19.19(b)(1) and 19.20(b)(1) require that an established place of business shall include a permanent enclosed building "for use as an auction facility" within this Commonwealth. Salvage vehicles typically are not operable and cannot be driven through an enclosed building. Salvage vehicles are auctioned outside because the vehicles usually must be towed or transported by a forklift. Although we do understand that the Board does not intend to require that the actual sale take place within the enclosed building, we suggest that these regulations be clarified to provide that the auction itself need not be conducted within the required enclosed building.

Sections 19.19(a)(2) and 19.20(a)(2) prohibit an auction from conducting activities other than from its established place of business. These regulations should be modified to specifically allow conducting interstate commerce by Internet auctions in circumstances where either a buyer, who is bidding remotely by Internet, and/or the vehicle is not actually at the established place of business. Copart, Inc. and Motors Auction Group presently offer Internet bidding on a nationwide basis to qualified bidders. We would like to personally meet with representatives of the

**ECKERT SEAMANS**  
ATTORNEYS AT LAW

(10258385.1)  
Loudon L. Campbell  
(717) 237-6028  
llc@escm.com

Terresa Woodall  
December 2, 2002  
Page 2

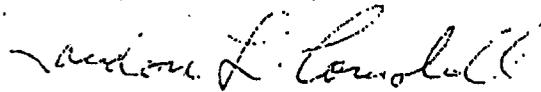
Board to further explain this issue. Regulation of Internet activities may constitute an impermissible regulation of interstate commerce.

Sections 19.19(b)(5) and 19.20(b)(5) indicate that auctions shall possess a certificate of occupancy issued by the Department of Labor and Industry under the Fire and Panic Act. The Uniform Construction Code (UCC) has been enacted and includes provisions which repeal the Fire and Panic Act. Upon publication of final regulations, the UCC will become effective. We understand that the Department of Labor and Industry will soon publish final regulations implementing the UCC. The UCC allows the Act, including the issuance of certificates of occupancy, to be administered by municipalities at their option, or, if municipalities do not so elect, the Act will be administered by the Department of Labor and Industry. The regulations should soon be finalized, and due to the confusion that may arise by referencing the Fire and Panic Act, we suggest that these regulations omit reference to the Fire and Panic Act and certificates of occupancy. The Board should wait until the UCC has been fully implemented by regulation of the Department of Labor and Industry before it regulates on the certificate of occupancy requirement.

We wish to bring to the attention of the Board the recent passage by the legislature of House Bill 152, printer's number 4693, which amends the Vehicle Code. That Bill provides additional statutory provisions regarding salvage sales. We suggest that the proposed regulations should be reviewed for consistency with House Bill 152 assuming it is approved by the Governor.

We would be happy to meet with you or your staff to further discuss these regulations at your convenience.

Very truly yours,



✓ Loudon L. Campbell

c: Paul Styer  
Greg DePasquale  
Independent Regulatory Review Commission *via fax 717-783-2664*  
Thomas Blackburn *via fax 717-787-0251*  
LLC/ink 285037-00001



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
**STATE BOARD OF VEHICLE MANUFACTURERS,  
DEALERS AND SALESPERSONS**

Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-1697

June 8, 2004

The Honorable John R. McGinley, Jr., Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Final Regulation  
State Board of Vehicle Manufacturers, Dealers and Salespersons  
16A-603: Auction

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Vehicle Manufacturers, Dealers and Salespersons pertaining to facility requirements for Pennsylvania vehicle auctions and clarifies activities that may be conducted by persons holding a vehicle auction license.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

  
Edwin K. Galbreath Jr., Chairperson  
State Board of Vehicle Manufacturers,  
Dealers and Salespersons

EKG/TAB:law

Enclosure

cc: Basil L. Merenda, Commissioner  
Bureau of Professional and Occupational Affairs  
Linda C. Barrett, Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Herbert Abramson, Senior Counsel in Charge  
Department of State  
Thomas A. Blackburn, Counsel  
State Board of Vehicle Manufacturers, Dealers and Salespersons  
State Board of Vehicle Manufacturers, Dealers and Salespersons

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

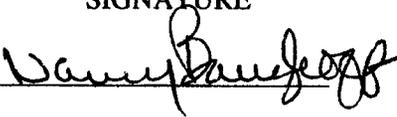
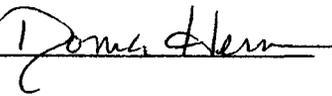
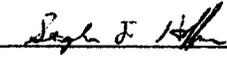
**I.D. NUMBER:** 16A-603  
**SUBJECT:** Standards of Licensure for Retail or Public Auction and  
Standards of Licensure for Wholesale Auction  
**AGENCY:** DEPARTMENT OF STATE # 2309

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

RECEIVED  
 REGULATORY COMMISSION  
 2004 JUN 9 11:14 AM

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
6/8/04		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
6/8/04		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
6/8/04		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

May 24, 2004