

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Vehicle Manufacturers, Dealers and Salespersons

(2) I.D. Number (Governor's Office Use)

16A-603

IRRC Number: 2309

(3) Short Title

Vehicle Auction License

(4) PA Code Cite

49 Pa. Code § 19.19

(5) Agency Contacts & Telephone Numbers

**Primary Contact: Teresa Lazo-Miller, Counsel
State Board of Vehicle Manufacturers,
Dealers and Salespersons (717) 783-7200
Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Department of State (717) 783-7200**

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation establishes facility requirements for Pennsylvania vehicle auctions and clarifies activities that may be conducted by persons holding a vehicle auction license.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The amendments are authorized by Sections 4(9) of the Board of Vehicle Act, Act of December 22, 1983 (P.L. 306, No. 84), as amended, 63 P.S. §§ 818.4(a)(9).

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, Act 27 of 1996, to the Board of Vehicles Act 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 proposed regulation seeks to specify 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 auctions. The requirements protect public safety by mandating compliance with land-use ordinances and fire codes. 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.

Regulatory Analysis Form

(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.

(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 persons holding or wishing to hold vehicle auction licenses will be required to comply with 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.

The Board sent a copy of the proposed regulation to interested parties, including all persons holding a vehicle auction license in Pennsylvania. These persons were instructed to mail in any comments to the Board Administrator at the pre-draft stage or after publication as proposed.

(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 majority of vehicle auctions in the Commonwealth are already in compliance with the proposed regulations. The requirements, if not currently met, should require minimal financial investment.

Regulatory Analysis Form

(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 terms of the proposed amendments.

(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 compliance with the terms of the proposed amendments.

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
SAVINGS:						
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Savings	N/A					
COSTS:						
Regulated Community	Minimal					
Local Government	N/A					
State Government	Minimal					
Total Costs	Minimal					
REVENUE LOSSES:						
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Revenue Losses	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.

Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY
Board expenditures	\$1,069,418.64	\$1,191,000.00	(projected) \$1,272,000.00	(projected) \$1,379,000.00
Board Revenues	\$444,252.98	\$1,978,228.43	\$621,292.28	(projected) \$1,530,923.54

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

The minimal costs of the regulations, compared with their public safety and consumer protection functions, indicate 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 proposed regulation effectuates amendments to the Board of Vehicles Act, the Board considered no non-regulatory alternatives.

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

No alternative regulatory schemes were considered.

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.

The regulation will not change existing reporting, record keeping, or other paperwork requirements.

(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 identified no particularly affected groups.

(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 final publication in the Pennsylvania Bulletin. Persons holding vehicle auction licenses will be expected to comply with the facilities requirements within three months and with the activities requirements immediately. Persons seeking vehicle auction licenses will have to comply with the regulation prior to being issued a license.

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

The Board continuously monitors its regulations at its monthly meetings.

Regulatory Analysis Form

(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 federal government does not regulate state vehicle auctions.

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

The proposed regulatory requirements are consistent with requirements placed on licensed vehicle auctions in states surrounding Pennsylvania. Ohio requires vehicle auctions to operate from an established place of business with a permanent office, telephone, heating, and to conspicuously post hours of operation. See OHIO REV. CODE ANN. §§ 4517.07, .12, .19 and .21 and OHIO ADMIN. CODE ANN. § 4501:1-3-33. West Virginia requires the auction to operate from only an established place of business with specified telephone, heating, electrical service, records, parking spaces, signs, and the like. See W. Va. Code § 17A-6C-3 and W. VA. CODE STATE R. tit. 91, §91-6-5.2-5.6. Delaware requires auctions to conduct sales only from approved locations; locations must meet the same criteria as licensed dealers. See DEL. CODE ANN. tit. 21, § 6308. Maryland licenses auctioneers, but not vehicle auction facilities. New Jersey requires vehicle auctions to be licensed under the same requirements as vehicle dealers if the auction takes title to the vehicle. See N.J. STAT. ANN. § 39-10:19; N.J. ADMIN. CODE tit. 13, § 13:21-15.1

The proposed regulation will not put Pennsylvania at a competitive disadvantage with surrounding states.

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

The Board's rulemaking numbered 16A-601, relating to consignment sales, should be published as proposed this summer. This regulation takes the other part of previously broker activities which the 1996 statutory amendments gave to dealers (that is, consignment sales), and provides further detail, just as this proposed rulemaking does for auctions.

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

The Board holds public meetings on a monthly basis. The Board's next meetings are scheduled for October 17, November 14, and December 12, 2002.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED
LEGISLATIVE REFERENCE BUREAU
AUG 14 2002 12:12

#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: Executive or Independent Agencies.

Copy below is approved as to form and legality.

Cristina J. Caproni
BY: Cristina J. Caproni
(DEPUTY ATTORNEY GENERAL)

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

John V. Tom
BY: John V. Tom

DOCUMENT/FISCAL NOTE NO. 16A-603

AUG 28 2002

DATE OF APPROVAL

DATE OF ADOPTION: _____

BY: *Edward J. Cernig, Jr.*
Edward J. Cernig, Jr.

DATE OF APPROVAL

7/31/02

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

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

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

PROPOSED 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 and 19.20
Vehicle Auction License

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) proposes to amend its regulations by adding two new sections addressing vehicle auctions at 49 Pa. Code §§ 19.19 and 19.20, as set forth in Annex A. The proposed regulation would establish requirements for retail or public vehicle auctions and wholesale vehicle auctions.

Effective Date

The amendments will be effective upon publication of final-form regulations in the Pennsylvania Bulletin.

Statutory Authority

The amendments are authorized under Section 4(9) of the Board of Vehicles Act (Act), Act of December 22, 1983 (P.L. 306, No. 84) as amended, 63 P.S. § 818.4(a)(9).

Background and Need for the Amendment

Definition Changes Requiring Regulatory Amendments

The proposed amendments 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 amendment is necessary to bring the Board's regulations into conformity with the 1996 amendments to the Act, Act of April 19, 1996 (P.L. 104, No. 27) (Act 27).

Brokering activity became prohibited under the amended Act. Section 5(a) of the Act, 63 P.S. § 818.5(a), was amended to eliminate licensure for activities that had previously been lawful for persons holding a broker license. Section 5(a), after the 1996 amendments, provides, in pertinent part, as follows:

§ 818.5. License to engage in business

(a) License required. –

- (3) A person shall not act as, offer to act as or hold himself out to be a broker in the advertising, buying or selling of any new or used vehicle.

63 P.S. § 818.5(a)(3) (2000).

Under the prior Act, a broker was defined as follows:

§ 818.2. Definitions

“Broker.” Any person who, for a commission, compensation or other valuable consideration, engages or participates in the wholesale or retail sale in one calendar year of five or more used vehicles or any new vehicle as the agent for the buyer or seller. For the purposes of this definition, the broker need not have custody or control of the subject vehicle but shall have the authority of the buyer or seller to negotiate or conduct a transaction on behalf of the buyer or seller. This definition shall specifically include car auctions: Provided, however, that a person licensed as a broker who is solely engaged in the business of conducting a car auction shall not be required to meet the facilities requirements as noted herein.

63 P.S. § 818.2 (1995). Under this definition, 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 the 1996 amendments, the Board issued a broker license to a person engaged in any of these activities.

By Act 27, the General Assembly substantially amended the Act. The amendments prohibited brokering (Section 5(a)(3), *supra*), 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 Act 27, 63 P.S. § 818.2. 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) (acting as a buyer’s agent).

Pursuant to the 1996 amendments, broker was redefined, in pertinent part, as follows:

§ 818.2. Definitions

“Broker.”

- (1) Any person who, for any direct or indirect commission, compensation or other consideration, arranges or offers to

arrange a transaction involving the sale of a new or used vehicle or establishes or offers to establish a plan or program involving the sale of a new or used vehicle and who is not:

- (i) a licensed dealer or a licensed employee of a new or used vehicle dealer;
- (ii) a licensed representative or a licensed employee of a manufacturer, factory branch or factory representative of new vehicles;
- (iii) a licensed representative or a licensed employee of a distributor, distributor representative or distributor branch of new vehicles;
- (iv) at any point in the transaction the owner of the vehicle involved in the transaction; or
- (v) a licensed wholesale vehicle auction or public or retail vehicle auction.

63 P.S. § 818.2 (2000). In addition, the 1996 amendments to the Act redefined a vehicle dealer to permit a dealer to engage in consignment sales, which previously was an activity limited to vehicle brokers. This definition provides, in pertinent part, as follows:

§ 818.2. Definitions

“Dealer.” A person required to be licensed under this act who is engaged in the business of buying, selling or exchanging new or used vehicles or an interest in new or used vehicles, regardless of whether the vehicles are owned by that person. The term includes persons engaged in consignment sales for a seller, but does not include a person issued an identification number by the Department of Transportation, unless the board has also issued a dealer license to the person. ...

63 P.S. § 818.2 (2000). Thus, under the current Act, only a licensed vehicle dealer may act as a seller’s agent by engaging in consignment sales.

The 1996 amendments to the Act also created a new class of licensure for vehicle auctions. Vehicle auctions were divided into two categories, wholesale auctions and public or retail auctions. Pursuant to 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. The new definition provides as follows:

§ 818.2. Definitions

“Public or retail vehicle auction.” Any person required to be licensed under this act who for commission, compensation or other consideration is engaging in the business of providing retail vehicle auction services at an established place of business in which the auction acts as an agent as to vehicles which are sold to buyers, including individual retail buyers and the general public.

63 P.S. § 818.2 (2000).

These changes to the Act 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, a 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 27 (63 P.S. § 818.5(e)(1)(i)) 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. (Section 2 of the Act (63 P.S. § 818.2 (1995) “Broker”). However, under section 5(a)(3) of Act 27 (63 P.S. § 818.5(a)(3)), acting as a broker, which would include acting as a buyer's agent, is prohibited. Section 2 of the Act (63 P.S. § 818.2), 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 regulatory amendment 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 Amendments

The proposed amendment conforms the Board's regulations to Act 27. Act 27 created new classes of licensure for auctions. The proposed amendments to the Board's regulations set forth facility requirements designed to protect the public, consistent with facility requirements for vehicle dealers. (See 49 Pa. Code § 19.18).

Under § 19.19 of the proposed amendments, retail or public 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 must meet the following requirements at its established place of business: (1) must have a permanent enclosed building for use as an auction facility within the Commonwealth; (2) must include a private office within the permanent enclosed building, separate from display and auction areas and suitable for storing books and records; (3) must have a single business line telephone listed in the auction's licensed name; (4) must be in compliance with applicable building codes, zoning ordinances and other land-use restrictions; (5) must comply with fire-safety and occupancy requirements relevant to the area in which the auction is located; (6) must post a sign indicating the days and hours that the public may attend; (7) must exhibit a visible sign that shows the licensed name of the auction and (8) must 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 he or she 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 of the proposed amendments, 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 must meet the following requirements at its established place of business: (1) must have a permanent enclosed building for use as an auction facility within the Commonwealth; (2) must include a private office within the permanent enclosed building, separate from display and auction areas and suitable for storing books and records; (3) must have a single business line telephone listed in the auction's licensed name; (4) must be in compliance with applicable building codes, zoning ordinances and other land-use restrictions; (5) must comply with fire-safety and occupancy requirements relevant to the area in which the auction is located; (6) must post a sign indicating the licensed name and that the auction is not open to the general public.

These provisions related to the facility promote 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 must be clearly identified such 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

The Board sent this proposed amendment 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 regulation would have on the regulated community and on public safety and welfare. The Board finds that the proposed amendment addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Fiscal Impact and Paperwork Requirements

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments 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

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

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the SCP/PLC and HPLC review period. The notification shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review of objections by the Board, the General Assembly, and the Governor prior to publication of the regulations.

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., 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.
- (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 shall 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.



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

October 17, 2002

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

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

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Vehicle Manufacturers, Dealers and Salespersons pertaining to 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,

A handwritten signature in black ink, appearing to read "Edward J. Cernic, Jr." with a stylized flourish at the end.

Edward J. Cernic, Jr., Chairperson
State Board of Vehicle Manufacturers,
Dealers and Salespersons

EJC/TLM:kmh

Enclosure

cc: David M. Williams, Acting Commissioner
Bureau of Professional and Occupational Affairs
John T. Henderson, Jr., 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
Teresa Lazo-Miller, 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: Vehicle Auction License
AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

- X 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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/17/02	Lori A. Clark	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
OCT 17 2002	Janet Zuley	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
10/17/02	Diana Pagan	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
10/16/02	C. La-Barre	LEGISLATIVE REFERENCE BUREAU

October 16, 2002