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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  
evp  
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

## **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regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.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).