

## DEALER LICENSES

- A. No person may engage in the business, either exclusively or in addition to any other occupation, of selling, or may offer to sell, display, or advertise the sale of new or used vehicles or boats, without a license. A violation is a Class 1 misdemeanor. A second or subsequent violation is a Class 6 felony
- B. No person may act as, offer to act as, or hold himself or herself out to be a broker. A violation is a Class 2 misdemeanor.
- C. Exceptions.
  - 1. Any receiver, trustee, administrator, executor, guardian, or other person appointed by or acting under the judgment or order of any court.
  - 2. Any public officer while performing the officer's official duties.
  - 3. Any employee of any person licensed as a dealer if engaged in the specific performance of the employee's duties.
  - 4. Any person not engaged in the sale of vehicles as a business who operates fleets of vehicles and is disposing of vehicles used in the person's business, if the same were acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.
  - 5. Any regulated lenders as that term is defined in § 54-3-14, any insurance company authorized to do business in this state or any financing institution as defined in and licensed pursuant to chapter 54-7 that acquires vehicles/boats as an incident to its regular business.
  - 5A. Any financial institution chartered or licensed in any other jurisdiction that acquires vehicles/boats as an incident to its regular business and sells such vehicles/boats to dealers licensed under this chapter.
  - 6. Any vehicle rental and leasing company that sells its used vehicles to dealers licensed under this chapter.
  - 7. Any nonprofit automobile club if selling automobiles twenty years old or older under the provisions of chapter 32-3.
  - 8. Any person engaged in the business of manufacturing or converting new vehicles/boats if selling such vehicles/boats to a licensed dealer holding a franchise from the original manufacturer of the vehicle/boat.
  - 8A. Any person who sells less than five vehicles/boats in a twelve-month period, unless the person is licensed as a dealer in another state or holds himself or herself out as being in the business of selling vehicles/boats. However, if the vehicles are travel trailers, any person who sells less than three travel trailers in a twelve-month period.
  - 9. Any person acting as an auctioneer if auctioning South Dakota titled vehicles for a licensed dealer or a person who is exempt from the provisions of this chapter.
  - 10. Any towing agency that acquires and sells a vehicle which has been towed at the request of a private landowner under the provision of chapter 32-36 or at the request of a law enforcement officer, if no vehicle is sold for an amount over two hundred dollars.

11. Any person not engaged in the sale of vehicles/boats as a business and is disposing of vehicles/boats used solely for personal use if the vehicles/boats were acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.
- D. Application must be made to the office of the county treasurer of the county in which such dealership is located.
1. All questions on the application form must be fully and accurately assessed for said application to be processed. Incomplete applications will be returned to the applicant.
  2. Licenses will be issued directly from the Department of Revenue. Delays will result in processing an application, unless all of the required documentation accompanies the application.
  3. Dealers may not legally operate until such time as the current license has been issued.
- E. In licensing year 2000, a staggered license renewal system was implemented for all license types. License renewal notices and billings are mailed out to all licensees within 3 months of expiration of a license. (The South Dakota Dealer License Application Form previously used for renewal of a license is now used only for an initial application for a dealer license.) The license renewal notice and billing must be reviewed, updated, and submitted, along with required fees, to the county treasurer's office of the dealership prior to the deadline date shown on the notice. **(Note: If the notice is not submitted by the deadline date, an initial license fee will be assessed.)** The renewal and billing period involves those months that will take the dealer to his assigned staggered registration month. If the assigned staggered registration renewal month is within 6 months of expiration of a current license, fees are assessed into the next licensing year. The renewal fee is prorated according to the number of months in the billing period.
- F. The license renewal notice and billing also include dealer plates that are assigned to the dealership. If the desire is to increase or decrease the number of plates assigned, the change must be noted on the notice and the billing adjusted accordingly.
- G. The actual (paper) dealer license is issued for a five-year period. A license must be renewed yearly by following the procedure noted above (verifying and submitting the license renewal notice and billing, along with the required fees, to the county treasurer of the dealership).
1. On new dealer applications, such firms must be inspected by an authorized dealer inspector before license will be granted.
  2. If the applicant intends to establish a second business in another county, a separate license must be obtained.
- H. The initial/renewal dealer license fees are:
1. Vehicle dealer/used vehicle dealer -- \$300/initial, \$175/renewal.
  2. Mobile home dealer -- \$300/initial, \$150/renewal.
  3. Motorcycle dealer -- \$250/initial, \$150/renewal.
  4. Snowmobile dealer -- \$150/initial, \$125/renewal.
  5. Trailer dealer -- \$125/initial, \$100/renewal.
  6. Boat dealer -- \$250/initial, \$175/renewal.

- I. Before a dealer's license may be issued to any person, firm, or corporation engaged in the business of selling motor vehicles, motorcycles, house trailers, trailers, snowmobiles, or boats, the following must be submitted with the application for dealer license:
1. A corporate bond, issued by a corporate surety which has been authorized to do business in this state, in the amount of \$25,000 for new and used motor vehicles and mobile homes; \$10,000 for trailers (3,000 pounds and over); \$20,000 for boats; and \$5,000 for motorcycles and snowmobiles, for the use and benefit of any purchaser or holder of lien and conditioned to pay all loss, damages and expenses that may result because of failure to title, or because of any fraudulent misrepresentation or breaches of warranty as to freedom of liens. Any such dealer renewing his South Dakota dealer license, and who has already filed such surety bond with the department, need not file any further bond, until such time as the bond may expire, or unless the dealership name changes.
  2. A public liability insurance policy of not less than \$300,000 for vehicle dealers, used vehicle dealers and motorcycle dealers. This is not required of trailer dealers, snowmobile dealers, mobile/manufactured home dealers, and boat dealers.
- J. Principal place of business.
1. All applicants and existing dealerships must have a principal place of business that conforms to the laws and rules under dealer licensing. For vehicle, used vehicle, motorcycle, trailer, and boat dealers, this requires an enclosed permanent structure located within the state, easily accessible and open to the public at all reasonable times. There must be an improved area adjoining the building that is large enough to display five or more vehicles/boats of the type the dealer is licensed to sell.
  2. The principal place of business location must accord to all applicable land use ordinances, building codes and zoning. (Written verification of conformance from the city or county must be submitted with all initial applications for license.) It is the location that all books, records and files necessary to conduct business are kept and maintained. **In no event may rooms in a hotel, motel, apartment house, or any part of a single or multiple unit dwelling house be considered a principal place of business, unless the entire ground floor is devoted principally to, and occupied for, commercial purposes.**
  3. The licensed dealer must be open for business on a continuing basis, with normal business hours posted in a place visible for viewing by the public.
  4. The dealership must maintain a telephone and the telephone number, in the name of the business, must be listed in either the white or yellow pages.
  5. In the event the principal place of business is in a structure which houses more than one business, the dealer's office must be separate from the other business.
  7. A dealer inspector must inspect all principal places of business and certify they are in accordance with the law before a dealer license is issued.
- K. Principal place of business for mobile/manufactured homes.
1. The place of business for mobile/manufactured home dealers may not be a tent, temporary stand or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement.
  2. The licensee may use unimproved lots and premises for sale, storage and display of mobile homes and manufactured homes.

3. A licensee may use a residence located within or adjacent to his mobile home park or a manufactured home park as a principal place of business, unless prohibited by local zoning.
  4. "An auxiliary lot," defined as a physically separate location such as a mobile home park, manufactured housing, rental community, manufactured housing subdivision, or any residential lot, may be used as a supplemental lot. The auxiliary lot may be located outside of the county of the principal place of business of the dealer.
- L. A snowmobile dealer must have a place of business in which the records, books and files necessary to conduct business are maintained and available for inspection.
- M. Any applicant who is moving his dealership to a new location must obtain permission, 30 days in advance of the move, from the Department of Revenue. The applicant must furnish written verification of conformance with building and zoning from the city or county on the new location. The bond and insurance on file with the department may also have to be updated with new certificates or riders.
- N. Licensed motor vehicle dealers may purchase special dealer license plates for use on their vehicles. Each set of dealer license plates shall cost \$63 in July 2011 and \$84 in July 2013. Licensed motorcycle dealers, trailer dealers, and mobile home dealers may purchase dealer metal number plates. The fee for each plate is \$15 in July 2011 and \$20 in July 2013. Licensed boat dealers may purchase dealer plates. The fee for each set of plates is \$20. A mailing fee of \$5 per plate or set of plates and \$1 per decal or set of decals is also assessed.
1. New and used mobile/manufactured homes owned by a dealer may be transported upon the streets and highways to the dealer's place of business and to the purchaser of such a home and between a dealer's place of business and a supplemental lot or a temporary supplemental lot. Any mobile/manufactured home purchased or transported by or for a dealer must have:
    - a. On any used home, an affidavit issued by the county treasurer of the county in which the home is registered, stating that the current year's taxes have been paid.
    - b. A self-issued permit displayed when moving a used or new mobile/manufactured home.
    - c. When a dealer sells a new or used or an out-of-state titled mobile/manufactured home and is transporting it to the purchaser, the dealer must file a Property Tax Assessment (PT6) with the director of equalization in the county of destination.
- O. Effective July 1, 2004, a dealer may purchase "88" dealer commercial plates that can only be used to transport inventory replacement vehicles. The plates cannot be used on a vehicle for lease or hire or on a wrecker or service truck.
1. The fee for the plate is based on the commercial fee schedule. A mailing fee of \$5 per set of plates and \$1 per set of decals is also assessed.
  2. The dealer is exempt from paying the 3% motor vehicle excise tax.
  3. The plates can be transferred from one vehicle to another.
  4. The vehicle must comply with all provisions pertaining to overweight operations.
  5. The maximum license gross weight may not exceed 26,000 pounds.

6. The commercial gross weight tonnage must be paid and the tonnage sticker affixed to the "88" plate prior to operation.
- P. Application for dealer license plate and the license fee are to be submitted to the county treasurer.
1. Dealers must have a valid dealer's license for the year of dealer license plates they are wishing to obtain before such dealer license plates can be issued.
  2. Dealer license plates are to be used only on vehicles/boats owned by the dealer.
  3. Dealer license plates shall not be used for lease, rental, hire, wreckers, tow cars, or service trucks.
  4. Dealer license plates shall not be loaned or left attached to any vehicle/boat sold by dealer.
  5. Dealer license plates may be transferred from one vehicle/boat to another when owned by the dealer.
- Q. All dealer license fees, dealer license plate fees, and appropriate application forms shall be invoiced daily into the department on the noncommercial daily invoice.
- R. Any seller of a motor vehicle/boat shall, on demand by the Secretary of Revenue, make available all books, records and memoranda that relate to the sale of a motor vehicle/boat. The Secretary, in the event of any failure or refusal to produce such records, may conduct or cause to be conducted an audit of the books and records of any licensed dealer.
- S. All books, records and memoranda that relate to the sale of a motor vehicle/boat shall be retained for five years.
- T. Grounds for issuance of a Cease and Desist Order, monetary penalty assessment, denial, suspension or revocation of license. The department may deny any application, apply a cease and desist order, assess a monetary penalty, or suspend or revoke a license for any of the following:
1. Commission of fraud or willful misrepresentation in the application for or in obtaining a license.
  2. Conviction of a felony involving snowmobile/vehicle/boat theft or odometer fraud in the last five years.
  3. A violation of any law of this state which relates to dealing in manufactured homes/mobile homes/snowmobiles/vehicles/boats.
  4. Failure to comply with any administrative rule promulgated by the department.
  5. Perpetration of a fraud upon any person as a result of dealing in manufactured homes/mobile homes/snowmobiles/vehicles/boats.
  6. Failure to apply for transfers of title as required in chapter 32-3 and 32-3A, 32-20A, 42-8.
  7. Failure to allow department inspections, including initial and annual inspections, complaint investigations and necessary follow-up inspections.
  8. Misrepresentation through false, deceptive or misleading statements with regard to the sale or financing of manufactured homes/mobile homes/snowmobiles/ vehicles/boats which a dealer has, or causes to have, advertised, printed, displayed, published, distributed, broadcast, televised or made in any manner with regard to the sale or financing of manufactured homes/mobile homes/snowmobiles/vehicles/boats.

9. Refusal to comply with a licensee's responsibility under the terms of the new manufactured home/mobile home/snowmobile/vehicle/boat warranty issued by its respective manufacturer, unless such refusal is at the direction of the manufacturer.
  10. Failure to comply with the terms of any bona fide written, executed agreement pursuant to the sale of a manufactured home/mobile home/snowmobile/vehicle/boat.
  11. Inability to obtain or renew surety bond or to participate in a dealer asset pool.
  12. Failure to maintain and continuously occupy a principal place of business.
  13. Failure to obtain or renew a public liability insurance policy of not less than three hundred thousand dollars.
  14. Failure to disclose damage to a new snowmobile of which the dealer had knowledge if the dealer's actual cost to repair exceeds five percent of the manufacturer's suggested retail price.
  15. For a dealer of manufactured/mobile homes, a previous manufacturer or dealer license revocation in this or any other state.
  16. Violation by the dealer of an applicable manufactured home building or safety code.
  17. For a manufactured/mobile home dealer, failure to deliver the MSO or title to the county treasurer within 30 days after the date of delivery.
  18. For a manufactured/mobile home dealer, conviction within the previous 5 years of a crime that relates directly to the business of the dealer or manufacturer involving fraud, misrepresentation or misuse of funds.
  19. For a manufactured/mobile home dealer, misuse of the dealers' metal plates and lending for use on manufactured/mobile homes not owned by the manufacturer or dealer.
- U. The department may issue an order directing a dealer to cease and desist from engaging in any act or practice in violation of any of the provisions listed above. A Cease and Desist Order is effective for a period of two years.
1. Within 20 days after service of a Cease and Desist Order, a dealer may request, in writing, a hearing to contest the order. Hearings shall be heard by the Office of Hearing Examiners.
  2. If a dealer fails to comply with a Cease and Desist Order, the department may:
    - a. Impose a monetary penalty on the dealer of \$500 for each violation on the Cease and Desist Order;
    - b. Suspend the dealer's license for not more than 30 days; or
    - c. Revoke the dealer's license.
  3. Within 20 days of service of an order, a dealer may request, in writing, a hearing to contest the order. Hearings shall be heard by the Office of Hearing Examiners.
  4. Upon suspension or revocation, a dealer shall immediately return all dealer metal plates and surrender the license certificate. Failure to do so is a Class 2 misdemeanor.

V. Any person who converts or manufactures authorized emergency vehicles (any vehicle of a fire department or any ambulance and emergency vehicle of a municipal department or public service corporation that are designated or authorized by the Department of Commerce and Regulation) and who, for commission or with intent to make a profit or gain, sells, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale or exchange of new, or new and used authorized emergency vehicles, or who is engaged wholly or in part in the business of selling new, or new and used authorized emergency vehicles, or any out-of-state dealer that includes the submission of a bid proposal for the sale of a vehicle, if the bid proposal is offered in response to a bid request originating in this state, shall obtain an emergency vehicle dealer license.

1. An emergency vehicle dealer must meet all the requirements that vehicle dealers must meet, but is exempt from the requirements of having its principal place of business in South Dakota.
2. For an emergency vehicle dealer whose principal place of business is not located in South Dakota, proof is required that it is a licensed dealer in another state and has no outstanding dealer violations (proof can be in the form of an affidavit from the dealer attesting to no outstanding dealer violations).
3. An emergency vehicle dealer is not required to secure a separate license for each county if the dealer has complied with the other requirements of an emergency vehicle dealer's license.
4. The initial license fee for an emergency vehicle dealer's license is \$250, the renewal fee is \$100.
5. An emergency vehicle dealer must have a surety bond in the amount of \$10,000.

W. A dealer must place a notice on any vehicle/large boat sold or offered for sale that has a damage disclosure, salvage title, recovered theft with damage, or a brand that denotes damage to the vehicle on it, (regardless of the age of the vehicle/boat). The notice must be printed on white NCR paper, measuring 4" x 6". The original is to be retained by the dealer and the copy is to be given to the purchaser. The information is to be printed in 12-point (minimum) Universe - bold - capital letters. **See a sample of the notice in the "Forms Section" for wording on the permit.** The notice must be posted on the inside of a side window with the front of the form facing the outside, or in the case of a large boat on the front window, so that it is clearly visible at all times on each vehicle/large boat that contains a damage disclosure or a brand denoting damage to the vehicle/large boat offered for sale to consumers. The dealer is responsible for keeping the notice posted at all times that a vehicle/large boat is available for sale to consumers. At the time of sale of the vehicle/large boat, the dealer shall remove the notice and shall have the purchaser sign and date it. The dealer shall retain the signed notice, along with copies of the title document, for 5 years from the date of sale.

1. If a dealer fails to display a damage disclosure notice (disclosure must be signed by the purchaser at the time of sale), the purchaser may return the motor vehicle/large boat to the dealer within 10 days after receiving the title and shall receive a full refund.
2. See Damage Disclosure Section for more information on damage disclosure.

## CONSIGNMENT SALES BY DEALERS OR PUBLIC AUCTIONS

- A. Consignment is defined as, “The delivery of a vehicle/boat by the owner into the possession of another without transfer of title for the purpose of sale or where there is any condition that the purchaser does not have an absolute obligation to pay for the vehicle/boat or has a right to return the vehicle/boat to the seller.”
- B. Public auction is defined as, “A business that is open to the public where South Dakota titled motor vehicles/boats are consigned, displayed, and auctioned to the highest bidder by an auctioneer.”
- C. Auctioneer is defined as, “A person who presides over a public auction where following an initial starting price, bids are taken from 2 or more people until a final bid or price is established for a motor vehicle/boat.”
- D. Any vehicle/boat dealer or public auction may sell or offer to sell South Dakota titled vehicles/boats on consignment. **No person may sell or offer to sell on consignment a motor vehicle/boat that the manufacturer's statement of origin has not been transferred.**
1. Any vehicle that is at least 20 years old and any motorcycle that is at least 30 years old may be sold at a public auction as a consignment without a South Dakota title. The vehicle must, however, be titled in the name of the seller.
  2. An out-of-state dealer may sell a vehicle that is at least 20 years old or more or a motorcycle that is at least 30 years old that is titled in the dealer's name (out-of-state title) at public auction if the dealer purchases a permit from DMV. The dealer must provide proof that the dealership is in good standing in the dealer's home state and has no outstanding dealer violations. The permit fee is \$250 if purchased before the auction and \$500 if purchased at or after the auction. A dealer in violation shall be denied a temporary permit for a period of one year from the date of the violation.
- E. A consignment sale, other than a public auction (South Dakota dealers), between dealers is prohibited.
- F. Vehicles/boats sold on consignment cannot display dealer plates or permits.
1. Valid license plates stay on the vehicle until the vehicle is sold.
    - a. Upon sale of the vehicle, the seller must provide the purchaser with a seller's permit.
- G. Any dealer or public auction that sells or offers to sell South Dakota titled vehicles/boats (or those exempt from having a South Dakota title) on consignment shall enter into a contract with the consignor. The contract shall contain, at a minimum, the following information:
1. Name and address of consignor (owner).
  2. Name and address of consignee (dealer or auctioneer).
  3. Vehicle/boat description: title number, year, make serial/hull number.
  4. When applicable, completed odometer disclosure.
  5. Agreed upon price or range.
  6. Agreed upon amount that the owner will pay the dealer or auctioneer.

7. Length of time vehicle/boat will be with the dealer or auctioneer.
  8. Disclosure by dealer or auctioneer that the sale is a consignment sale.
  9. When applicable, completed damage disclosure.
  10. Signature of owner and dealer or auctioneer.
- H. The following documents must be available at the dealership or auction prior to sale of a vehicle/boat:
1. South Dakota title in the name of the consignor.
  2. Completed and signed consignment sales contract containing information set out above.
  3. When applicable, an odometer reading certified by the owner (may be included on contract).
  4. When applicable, a damage disclosure statement signed by the owner (may be included on the contract).
  5. Federal FTC Buyer Guide must be displayed in vehicle being offered for sale on dealer lot.
- I. The following documents must be available at the dealership or auction upon sale of a vehicle/boat:
1. South Dakota title properly assigned by the consignor (owner).
  2. Bill of sale.
  3. Prior disbursement of proceeds if lien is indicated (lien must be satisfied and released).
  4. A violation of these provisions is a Class 2 misdemeanor.
- J. A dealer and auctioneer are required to keep the following records.
1. Dealer or auctioneer must maintain record of consignment sales for 5 years.
  2. Dealer or auctioneer must retain a copy of consignment sales contract for 5 years.
- K. A dealer or an auctioneer may not sell a vehicle/boat that has a title with a lien on it for less than the full amount of the lien, without the advance written consent of the lienholder. A dealer or an auctioneer may not release the proceeds from the sale of a vehicle/boat with a lien until the lienholder signs a release of the lien. A violation of these provisions is a Class 2 misdemeanor.
- L. Every dealer and public auction shall keep books, records and files. A record shall be kept on every vehicle offered for sale, including the serial/hull identification number and a description of the vehicle/boat and the name and address of the owner. If the vehicle/boat is sold, the name and address of the person purchasing the vehicle/boat and the price for which it is sold.
- M. All records must be open and available to inspection by a dealer inspector.
- N. If a dealer takes a vehicle in on consignment and the vehicle does not sell and is returned to the seller, the dealer must charge the customer sales tax, when charging a fee for displaying the vehicle on the dealership lot. Since commissions are not sales taxed, in the event the dealer sells a consigned vehicle, sales tax is not assessed.

- O. If a vehicle is sold at auction, the auctioneer's commission is subject to sales tax (an auctioneer's commission is specifically taxed under statute).

## MANUFACTURER/CUSTOMIZER AND DEALER TEMPORARY PERMITS

### A. Violations

1. Any person found to be in violation of the permitting requirements shall be denied a temporary permit for a period of one year from the date of the violation.

### B. Motor vehicle manufacturer/customizer permit:

1. Any person engaged in the business of manufacturing or customizing motor vehicles may display, but not sell, any motor vehicles at an event.
  - a. The event must last 3 or more days.
  - b. The person must register with and purchase a permit from the department.
  - c. The fee for the permit is \$250 if purchased prior to the event and \$500 if purchased at or after the event.
  - d. A customized motorcycle being built for and displayed during a sponsored event (where the participants had to qualify through competition), is not required to have a permit. A permit is required if any customized motorcycle is being displayed outside the sponsored event.

### C. Licensed dealer's permit:

1. Any licensed dealer may sell trailers or motorcycles at an event.
  - a. The event must last 3 or more days.
  - b. The dealer must register with and purchase a permit from the department.
  - c. The dealer must provide proof he/she is a licensed dealer in his/her own state and that his/her dealership has no outstanding dealer violations.
  - d. A permit to sell **new** trailers or motorcycles can only be issued if the trailers or motorcycles being sold are not franchised in this state.
  - e. The fee for the dealer permit is \$250 if purchased prior to the event or \$500 if purchased at or after the event.
    - (1) A permit may be obtained to display a trailer at an event regardless of whether or not there is a franchise in this state. The fee for the permit is \$250 if purchased prior to the event or \$500 if purchased at or after the permit.

### D. License boat and boat trailer dealer permit:

1. The event must last 2 or more days and must be an organized sponsored event with no less than 3 licensed boat dealers displaying boats.
2. The dealer must register with and purchase a permit from the department at least 5 days before the event.
2. The fee for a boat and boat trailer dealer permit is \$200.

E. Out-of-state dealer auction permit:

1. An out-of-state dealer may sell a vehicle that is at least 20 years old or more or a motorcycle that is at least 30 years old that is titled in the dealer's name (out-of-state title) at public auction if the dealer purchases a permit from DMV.
2. The dealer must provide proof that the dealership is in good standing in the dealer's home state and has no outstanding dealer violations.
3. The permit fee is \$250 if purchased before the auction and \$500 if purchased at or after the auction. A dealer in violation shall be denied a temporary permit for a period of one year from the date of the violation.

## DEALERS CAR AUCTION AGENCY

- A. Dealer's car auction agency includes any person, firm, limited liability company, corporation or association engaged in an auction, as defined by Chapter 59-8, of vehicles. A dealer's car auction agency license is required.
- B. Sales at a dealer's car auction agency shall involve only vehicles owned by dealers and sold to dealers. Exceptions:
  - 1. An auction agency may sell vehicles to dealers that are owned and **titled** (instate or out-of-state) by the following entities, if the vehicles were acquired as an incident to its regular business:
    - a. Any regulated lender as defined in 54-3-14 or any financing institution licensed pursuant to Chapter 54-7.
    - b. Any financial institution chartered or licensed in any other jurisdiction that acquires vehicles as an incident to its regular business.
      - 1) A dealer's car auction agency may accept a vehicle for sale by a financial institution chartered or licensed in another jurisdiction in which the title is not in the name of the entity, provided the title is in the name of the customer and has the proper documentation required substantiating a repossession transaction.
        - a) The out-of-state title must be provided.
        - b) An affidavit form or other such document from the state that allows the lienholder to assign the out-of-state title without obtaining a repossession title must be submitted.
        - c) A lienholder is required to obtain a repossession title, if from a state that requires a lienholder to obtain a repossession title prior to selling a repossessed vehicle.
    - c. Any insurance company authorized to do business in either this state or some other state.
- C. An auction agency may also accept from any manufacturer any vehicle that is owned by the manufacturer and that has a MCO/MSO or a valid title.
  - 1. Any vehicle with a MCO/MSO sold for a manufacturer can only be offered to the manufacturer's franchised dealers with the same-line vehicle make.
- D. An auction agency may also sell vehicles owned by any governmental entity to any member of the public.
  - 1. A sale of these vehicles to the public may not be held on the same day as dealer sales.
- E. It is a Class 1 misdemeanor for any auction agency to accept for sale any unauthorized vehicle.
- F. An auction agency is required to announce, at the time of the sale, if the vehicle being offered has a title (in-state or out-of-state) that has been marked denoting any brand or damage.
  - 1. If the auction fails to announce a title brand or damage notation, the purchaser may return the vehicle to the auction within 10 days after receiving the title and the auction agency must make full refund to the purchaser.

- G. Every auction agency shall keep books, records and files. A record shall be kept of every vehicle offered for sale by or through the agency, including the serial numbers or identification numbers, odometer information, and a description of the vehicle and the name, address and license number of the vehicle dealer who owns the vehicle. If the vehicle is sold, the name, address and license number of the vehicle dealer purchasing the vehicle and the price for which it is sold.
- H. An auction agency shall file a bond in the amount of \$50,000 and shall have a public liability insurance policy of not less than \$300,000.
- I. Auction agency “99” license plates.
  - 1. The plates can be used on any vehicle being transported to or from the auction agency’s place of business for the purpose of transporting a vehicle that will be sold by the auction agency.
    - a. The annual fee for a set of auction plates is \$63 in July 2011 and \$84 in July 2013. A mailing fee of \$5.00 per set of plates and \$1 per set of decals is also assessed.
    - b. The plates are transferable by the auction agency from one vehicle to another vehicle for transporting purposes.