

## Chapter RL 120

### AUTHORITY AND DEFINITIONS

RL 120.01 Authority

RL 120.02 Definitions

**RL 120.01 Authority.** The rules in this chapter are adopted under authority of s. 227.11 (2), Stats., and ch. 480, Stats.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 120.02 Definitions.** As used in chs. RL 120 to 128:

(1) "Absolute auction" means an auction in which:

(a) The goods or real estate are sold to the highest bidder.

(b) No minimum price will limit the bid.

(c) The seller may not withdraw the goods or real estate from the auction after the first bid is received.

(d) The seller may not nullify the sale by bidding himself or herself or through an agent.

*Note:* An "absolute auction" is also known as an "auction without reserve". The department will construe written statements of an auctioneer or auction company in advertising or in other written materials relating to an auction, such as "everything will be sold" or "everything goes," as being indicative of the auctioneer's intent to conduct an absolute auction.

(2) "Auction with reserve" means an auction where the seller or his or her agent reserves the right to establish a minimum bid, to accept or reject any and all bids or to withdraw the goods or real estate from sale at any time prior to the announcement of the completion of the sale by the auctioneer.

(3) "Board" means the auctioneer board.

(4) "Buyer's premium or surcharge" means an amount of money, usually based on a percentage of the successful bid, charged to the successful bidder and either added to the successful bid to determine the final selling price or paid separately by the successful bidder in addition to the successful bid.

(5) "Consignor" means the owner or representative of the owner who places goods or real estate with a registrant for sale at auction.

(6) "Department" means the department of regulation and licensing.

(7) "False bid" means a non-existent bid acknowledged by an auctioneer in an attempt to escalate bidding.

(8) "Minimum bid" means the lowest acceptable price at which the seller agrees to complete the sale.

(9) "Registrant" means a person registered as an auctioneer or auction company by the department.

(10) "Shill" means an employe or agent of the registrant who bids against legitimate bidders at an auction to escalate bidding.

(11) "State registration number" means the number issued to a registrant by the department, as indicated upon the certificate of registration.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95; am. Register, November, 1996, No. 491, eff. 12-1-96.

## Chapter RL 121

## APPLICATIONS

RL 121.01 Authority  
 RL 121.02 Initial registration  
 RL 121.03 Consent by nonresident for service of process  
 RL 121.04 Renewal of registration

RL 121.05 Cause for denial of registration  
 RL 121.06 Change of name  
 RL 121.07 Use of trade name

**RL 121.01 Authority.** The rules in this chapter are adopted pursuant to ss. 227.11 (2), 440.03, 440.05, 440.08, 480.06, 480.08 and 480.10, Stats.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 121.02 Initial registration. (1) AUCTIONEER.** The department may register as an auctioneer an applicant who satisfies the requirements in s. 480.08 (2) or (2m), Stats. The department shall consider s. 480.08 (2) (d), Stats., as having been satisfied, if the applicant has either received a seller's permit from the department of revenue under s. 77.52 (9), Stats., or the applicant has determined that he or she is not required to have a seller's permit and is, therefore, not eligible to obtain a permit.

**(2) AUCTION COMPANY.** The department may register as an auction company an applicant who satisfies the requirements in s. 480.08 (3), Stats. The department shall consider s. 480.08 (3) (d), Stats., as having been satisfied, if the applicant has either received a seller's permit from the department of revenue under s. 77.52 (9), Stats., or the applicant has determined that it is not required to have a seller's permit and is, therefore, not eligible to obtain a permit. An auction company is not required to have any of its officers, partners or directors registered as an auctioneer unless such officers, partners or directors engage in acts specified in s. 480.08 (1) (a), Stats.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 121.03 Consent by nonresident for service of process.** The application of a nonresident person for registration as an auctioneer or auction company constitutes the appointment of the secretary of the department as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of a transaction or operation connected with or incidental to the business of an auctioneer or auction company.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 121.04 Renewal of registration. (1) AUCTIONEER. (a)** Except as provided in s. RL 121.05, the department shall renew the credential of an auctioneer who files a completed application for renewal of registration before the renewal date, as defined in s. 440.01 (1) (dm), Stats., if all of the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14r., Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (2) (a) to (d), Stats.

(b) Except as provided in s. RL 121.05, the department shall renew the credential of an auctioneer who files a

completed application for renewal of registration after the renewal date, as defined in s. 440.01 (1) (dm), Stats., but less than 5 years after the renewal date, if all of the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14r., Stats., and the late renewal fee specified in s. 440.08 (3), Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (2) (a) to (d), Stats.

(c) The department shall renew the credential of an auctioneer who files a completed application for renewal of registration 5 years or more after the renewal date, as defined in s. 440.01 (1) (dm), Stats., if the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14r., Stats., and the late renewal fee specified in s. 440.08 (3), Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (2) (a) to (d), Stats.

3. The applicant has retaken and passed the licensing examination.

**(2) AUCTION COMPANY. (a)** Except as provided in s. RL 121.05, the department shall renew the credential of an auction company which files a completed application for renewal of registration before the renewal date, as defined in s. 440.01 (1) (dm), Stats., if all of the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14g., Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (3) (a) to (d), Stats.

(b) Except as provided in s. RL 121.05, the department shall renew the credential of an auction company which files a completed application for renewal of registration at any time after the renewal date, as defined in s. 440.01 (1) (dm), Stats., if all of the following conditions are satisfied:

1. The applicant has paid the renewal fee specified in s. 440.08 (2) (a) 14g., Stats., and the late renewal fee specified in s. 440.08 (3), Stats.

2. The applicant continues to meet the registration criteria in s. 480.08 (3) (a) to (d), Stats.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 121.05 Cause for denial of registration.** The department may deny an application for registration as an auc-

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tioner or auction company submitted by a person or entity who or which has committed fraud or misrepresentation in the application or who or which has done any acts which are grounds for discipline under s. 480.24, Stats.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 121.06 Change of name.** If the name of a registered auctioneer or auction company appearing on the current registration certificate changes, written notice of the name change shall be sent to the department within 30 days after the name change.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 121.07 Use of trade name.** (1) In this section, "trade name" means a name other than the name appearing on an auctioneer's or auction company's registration certificate, under which an auctioneer or an auction company advertises or does business.

(2) A registered auctioneer or auction company, before doing business under any trade name, shall notify the department in writing of the trade name.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

## Chapter RL 122

## EXAMINATIONS

RL 122.01 Authority  
 RL 122.02 Public notice  
 RL 122.03 Subjects tested  
 RL 122.04 Unauthorized assistance

RL 122.05 Passing score  
 RL 122.06 Examination review  
 RL 122.07 Claim of examination error  
 RL 122.08 Examination retakes

**RL 122.01 Authority.** The rules in this chapter are adopted pursuant to ss. 227.11 (2), 480.06, 480.08 (2) (e) and (2m), and 480.10, Stats.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 122.02 Public notice.** The department shall prepare an examination application form and informational materials which list the examination dates which have been scheduled by the department for no less than the 6 months following publication.

**Note:** Applications may be obtained from the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 122.03 Subjects tested.** The department shall prepare examinations as required under s. 480.10, Stats. The examination shall be a written examination that tests the applicant's knowledge or competence in all of the following areas:

- (1) Solicitation.
- (2) Contracts.
- (3) Pre-auction preparation.
- (4) Conducting an auction.
- (5) Closing and sales records.
- (6) Statutes and administrative rules substantially related to conducting an auction.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 122.04 Unauthorized assistance.** An applicant may not give or receive unauthorized assistance during the examination. The action taken by the department when unauthorized assistance occurs shall be related to the seriousness of the offense. These actions may include withholding the score of the applicant, entering a failing grade for the applicant, and suspending the ability of the applicant to sit for the next scheduled examination after the examination in which the unauthorized assistance occurred.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 122.05 Passing score.** The score required to pass the examination shall be based on the department's determination of the level of examination performance required for minimum acceptable competence in the profession. The department shall make the determination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set

the passing score for the examination at that point which represents minimum acceptable competence in the profession.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 122.06 Examination review.** (1) An applicant who fails the examination may request a review of that examination by filing a written request to the department within 30 days after the date on which the examination results were mailed to the applicant.

(2) An examination review shall be conducted under the following conditions:

- (a) The time for review shall be limited to one hour.
- (b) The examination shall be reviewed only by the applicant and in the presence of a proctor.
- (c) The proctor may not respond to inquiries by the applicant regarding allegations of examination error.
- (d) Any comments or claims of error regarding specific questions or procedures in the examination may be placed in writing by the applicant on the form provided for this purpose. The request shall be reviewed by the department in consultation with a subject matter expert. The applicant shall be notified in writing of the department's decision. If the decision does not result in a passing grade, the applicant may retake the examination.

(e) An applicant shall be permitted only one review of the failed examination each time it is taken and failed.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 122.07 Claim of examination error.** (1) An applicant wishing to claim examination error must file a written request for department review in the department office within 30 days after the date the examination was reviewed. The request shall include:

- (a) The applicant's name and address.
- (b) The type of registration applied for.
- (c) A description of the perceived error, including reference text citations or other supporting evidence for the applicant's claim.

(2) The request shall be reviewed by the department in consultation with a subject matter expert. The applicant shall be notified in writing of the department's decision. If the decision does not result in a passing grade, the applicant may retake the examination.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

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**RL 122.08 Examination retakes.** (1) There is no limit to the number of times any applicant may retake the examination.

(2) An applicant who passes the examination and remains unregistered for one year or more after the date of the examination shall again take and pass the examination before being registered.

(3) An applicant who reviews an examination pursuant to s. RL 122.06 may not retake the examination within 30 days after the date on which the examination was reviewed.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

## Chapter RL 123

## ADVERTISING

RL 123.01 Authority  
RL 123.02 False advertising

RL 123.03 Contents of advertising

**RL 123.01 Authority.** The rules in this chapter are adopted under authority of ss. 227.11 (2), 480.06, 480.20 and 480.24 (2) (d), Stats.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 123.02 False advertising.** No registrant may advertise in a manner which is false, deceptive or misleading.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 123.03 Contents of advertising.** All advertisements that an auction will be conducted shall contain the following information:

(1) If the auction is to be conducted by an auctioneer and managed by an auction company, then the name and state registration number of the auctioneer who will conduct the auction, and the name, address, telephone number and state registration number of the auction company that is managing the auction.

(2) If the auction is to be conducted by an auctioneer, but not managed by an auction company, then the name, address, telephone number and state registration number of the auctioneer who will conduct the auction.

(3) A statement that the auctioneer is a 'registered Wisconsin auctioneer.'

(4) A statement of the terms and conditions under which the registrant will accept payment by buyers at the auction.

(5) The percentage or other amount of any buyer's premium or surcharge which is a condition to sale.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

## Chapter RL 124

## WRITTEN CONTRACTS

RL 124.01 Authority  
 RL 124.02 Written contracts; terms

RL 124.03 Written contracts; copies

**RL 124.01 Authority.** The rules in this chapter are adopted under authority in ss. 227.11 (2), 480.06 and 480.14, Stats.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 124.02 Written contracts; terms.** No auctioneer may conduct an auction unless the auctioneer or the auction company that is managing the auction has entered into a prior written contract with each owner or consignor of goods or real estate that may be sold at the auction. The contract shall specify the terms and conditions upon which the auctioneer or auction company accepts the goods or real estate for sale and must contain:

(1) The registrant's name, trade or business name, state registration number, business address and business telephone number.

(2) The name and address of the owner or consignor.

(3) A general description of the property to be sold at auction, any restrictions relating to conducting the auction and a statement indicating whether the registrant is authorized to purchase at the auction.

(4) A description of the services to be provided and the consideration for the services. The description must state

which party is responsible for advertising and other expenses.

(5) A statement of whether a buyer's premium or surcharge will be assessed and, if so, the percentage or other amount to be charged to the successful bidder.

(6) The date, dates or time period during which the items will be sold at auction.

(7) A statement by the seller that he or she has title and right to sell all property to be sold at auction free of encumbrances and liens; or, if some or all of the property to be sold is subject to encumbrances or liens, a specific itemization of such property.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 124.03 Written contracts; copies.** An auctioneer or auction company shall give the owner or consignor a legible copy of the contract referred to in s. RL 124.02 at the time of signing.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

## Chapter RL 125

## TRUST ACCOUNTS

RL 125.01	Authority
RL 125.02	Definition
RL 125.03	Receipt of trust funds
RL 125.04	Type of accounts
RL 125.05	Time of deposit
RL 125.06	Opening and closing accounts

RL 125.07	Account designation
RL 125.08	Notification of the department
RL 125.09	Withdrawal of trust funds
RL 125.10	Commingle prohibited
RL 125.11	Bookkeeping system
RL 125.12	Use of computers

**RL 125.01 Authority.** The rules in this chapter are adopted pursuant to ss. 227.11 (2), 480.06, 480.14, 480.16 and 480.18, Stats.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.02 Definition.** In this chapter, "trust funds" means cash, checks, share drafts, drafts or notes received by an auctioneer or an auction company on behalf of a principal or any other person while acting as an auctioneer or auction company for an auction of goods. "Trust funds" does not include proceeds received by an auctioneer or an auction company on behalf of a principal or any other person pursuant to an auction in which the written contract under s. 480.14, Stats., requires the registrant to pay the owner or consignor within 24 hours after the auction.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.03 Receipt of trust funds.** This chapter applies to trust funds received by a registrant, but does not apply to money paid to one of the parties pursuant to an agreement between the parties under s. 480.16, Stats.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.04 Type of account.** An auctioneer or auction company may place trust funds in an interest-bearing or non-interest-bearing account, provided that none of the interest inures to the benefit of the auctioneer or auction company.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.05 Time of deposit.** An auctioneer or auction company shall deposit trust funds in a trust account within 48 hours after receipt by the auctioneer or auction company.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.06 Opening and closing accounts.** (1) The department may not require an auctioneer or auction company to open a trust account before the auctioneer or auction company receives trust funds which must be deposited, unless the department finds, in a specific case, that an earlier opening of an account is needed in order to assure compliance with this chapter.

(2) An auctioneer or auction company may close a trust account when no trust funds remain in the auctioneer's or auction company's possession.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.07 Account designation.** An auctioneer or auction company shall:

(1) Include the words "trust account" in the name of the trust account maintained by the auctioneer or auction company.

(2) Imprint the name of the auctioneer or auction company on the trust account checks, share drafts or drafts.

(3) Designate the account with the name appearing on the auctioneer's or auction company's registration certificate or with a trade name submitted to the department under s. RL 121.07.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.08 Notification of the department.** (1) An auctioneer or an auction company shall provide the department with the name and number of every trust account maintained by the auctioneer or auction company and the name of the depository institution in which the auctioneer or auction company holds each trust account. The auctioneer or auction company shall provide this notification to the department on a form prepared by the department no later than 10 days after opening a trust account. The auctioneer or auction company shall authorize representatives of the department to examine and audit all of the auctioneer's or auction company's trust accounts.

(2) An auctioneer or an auction company shall obtain the certification of every depository institution in which the auctioneer or auction company maintains a trust account, in which the depository institution attests to the existence of the account and consents to the examination and audit of the account by a duly authorized representative of the department.

*Note:* A Consent to Examine and Audit Auctioneer Trust Account form may be obtained from the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.09 Withdrawal of trust funds.** An auctioneer or auction company shall withdraw funds to reimburse the auctioneer or auction company for expenses incurred and commissions and fees earned by the auctioneer or auction company within the 30 days specified in s. 480.14 (3), Stats., or as otherwise provided by the terms of a contract.

*History:* Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.10 Commingle prohibited.** (1) Except as provided in subs. (2) and (3), an auctioneer or an auction company may not commingle the auctioneer's or auction company's personal or company funds which are not trust

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funds in a trust account maintained pursuant to this chapter.

(2) An auctioneer or auction company may place personal or company funds in a trust account under the following conditions:

(a) Funds equal to the amount of any checks received by the auctioneer or auction company on behalf of an owner or consignor when such funds are deposited by the auctioneer to cover potential or actual "non-sufficient funds" checks received from purchasers.

(b) Funds sufficient to cover service charges relating to the trust account.

(3) An auctioneer or an auction company shall deposit additional personal or other funds in the trust account within 10 business days following receipt of a statement or other notification from a depository institution that the trust account is overdrawn.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.11 Bookkeeping system.** An auctioneer or an auction company shall maintain a bookkeeping system that

enables the auctioneer or auction company to adequately account for all trust funds in a trust account, to maintain an accurate and sufficient balance in the account and to account for all trust funds received from specified buyers and paid to specified sellers for specified purchases.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 125.12 Use of computers.** An auctioneer or an auction company may maintain trust account records in a computerized system, provided that:

(1) A backup copy of the bookkeeping records is made on any day on which entries are made in the computerized bookkeeping system. The backup copy shall be made on a disk or other medium which is separate and distinct from that on which the source documents reside.

(2) All records which are not maintained as written paper records are capable of being immediately converted to written paper records and immediately made available without charge to the department for the purposes of department audit or investigation.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

## Chapter RL 126

## CONDUCT

RL 126.01 Authority

RL 126.02 Unprofessional conduct

**RL 126.01 Authority.** The rules in this chapter are adopted under authority in ss. 227.11 (2), 480.06 and 480.24 (2) (b), Stats.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

**RL 126.02 Unprofessional conduct.** Conduct evidencing a lack of knowledge or ability to apply professional principles or skills, within the meaning of s. 480.24 (2) (b), Stats., includes, but is not limited to, engaging in or aiding or abetting the following conduct:

(1) Performing or offering to perform services for which the registrant is not qualified by education, training or experience.

(2) Violating a law or rule of any jurisdiction, the circumstances of which substantially relate to the practice under the registration.

(3) Advertising an auction as an absolute auction if any item or items are to be sold with reserve or with minimum bids.

(4) Engaging in false, fraudulent, deceptive or misleading billing practices.

(5) Obtaining or attempting to obtain compensation by fraud or deceit.

(6) Reporting distorted, false or misleading information or making false statements in practice.

(7) Discriminating on the basis of age, race, color, sex, religion, creed, national origin, ancestry, disability or sexual orientation by means of service provided or denied.

(8) Knowingly escalating or attempting to escalate bidding through false bids, shills or through collusion with another.

(9) Violating or attempting to violate any formal disciplinary order of the auctioneer board.

(10) Knowingly providing false information to the board, the department or their agents.

**History:** Cr. Register, June, 1995, No. 474, eff. 7-1-95.

## Chapter RL 127

## SALE OF REAL ESTATE AT AUCTION

RL 127.01 Authority  
 RL 127.02 Auction of real estate  
 RL 127.03 Limitations

RL 127.04 Contract  
 RL 127.05 Real estate subject to exclusive listing contract  
 RL 127.06 Solicitation of owners with exclusive listing contract prohibited.

**RL 127.01 Authority.** The rules in this chapter are adopted under authority in ss. 227.11 (2), 480.01, 480.14 and 480.16, Stats.

History: Cr. Register, June, 1996, No. 486, eff. 7-1-96.

**RL 127.02 Auction of real estate. (1) AUCTIONEER.** An auctioneer may engage in, or advertise or otherwise hold himself or herself out as being available to engage in, the calling for and the recognition and acceptance of offers for the purchase of real estate at an auction, and may handle sales proceeds, down payments, earnest money deposits or other trust funds received by the auctioneer on behalf of the auctioneer's principal or any other person at or as a result of an auction of real estate.

**(2) AUCTION COMPANY.** An auction company may manage an auction of real estate and may have primary responsibility for handling sales proceeds, down payments, earnest money deposits or other trust funds received by the auction company on behalf of the auction company's principal or any other person at or as a result of an auction of real estate.

History: Cr. Register, June, 1996, No. 486, eff. 7-1-96.

**RL 127.03 Limitations. (1) REGISTRANT LICENSED AS A REAL ESTATE BROKER OR SALESPERSON.** A registrant who is licensed as a real estate broker and who conducts an auction of real estate listed for sale with the registrant, or a registrant who is licensed as a real estate broker or salesperson and who conducts an auction of real estate listed for sale with the registrant's real estate broker-employer, may prepare contracts or other documents necessary to transfer title to the real estate or conduct any other activities requiring a real estate license under ch. 452, Stats., and chs. RL 11 to 26.

**(2) REGISTRANT NOT LICENSED AS A REAL ESTATE BROKER OR SALESPERSON. (a)** A registrant who is not licensed as a real estate broker or salesperson may, in connection with an auction of real estate:

1. Distribute written information describing real estate or the condition of the real estate to be auctioned, if the information has been made available by the owner of the real estate or a real estate licensee.

2. Provide access to real estate for the purpose of permitting prospective buyers to view the real estate.

3. Conduct inquiries in person, by telephone or by other media to determine whether the person being contacted is interested in bidding upon the real estate to be auctioned.

4. Perform other tasks relating to conducting an auction which do not require a real estate license under ch. 452, Stats.

**(b)** A registrant who is not licensed as a real estate broker or salesperson may not perform activities which require a real estate license under ch. 452, Stats., including but not limited to:

1. Preparing any contracts or other documents necessary to transfer title to real estate.

2. Distributing to prospective buyers written information about the real estate or conditions affecting the real estate which has not been provided by the owner of the real estate or the owner's agent.

3. Negotiating with a prospective buyer within the meaning of s. 452.01 (5m), Stats., other than by conducting an auction.

History: Cr. Register, June, 1996, No. 486, eff. 7-1-96.

**RL 127.04 Contract.** A registrant shall have a written contract with the owner of real estate to be sold at an auction, or the owner's agent, which specifies the terms and conditions upon which the auctioneer or auction company accepts the real estate for sale at auction. The following conditions apply to the contract:

**(1)** A registrant who is licensed as a real estate broker under ch. 452, Stats., shall use the appropriate approved listing contract form required under s. RL 16.03, when contracting with the owner to conduct an auction of real estate, and shall include provisions which comply with s. RL 124.02.

**(2)** A registrant who is licensed as a real estate salesperson shall use the appropriate approved listing contract form required under ch. RL 16, when contracting with the owner to conduct an auction of real estate if the salesperson is employed by a real estate broker, and shall include provisions which comply with s. RL 124.02.

**(3)** A registrant who is not licensed as a real estate broker or salesperson under ch. 452, Stats., shall use a contract that complies with s. RL 124.02.

History: Cr. Register, June, 1996, No. 486, eff. 7-1-96.

**RL 127.05 Real estate subject to exclusive listing contract.** Prior to entering into any contract for the sale of real estate at an auction, the registrant shall determine whether the real estate is subject to an exclusive real estate listing contract. If the real estate to be sold at an auction is subject to an exclusive real estate listing contract between the seller and a real estate broker other than the registrant, the registrant:

**(1)** May only enter into a contract under s. RL 127.04, with the real estate broker holding the exclusive real estate listing contract on the real estate.

**(2)** May not receive any sales proceeds, down payments, earnest money deposits or other trust funds as a result of an auction of the real estate, unless the contract under sub. (1) authorizes the registrant to do so.

History: Cr. Register, June, 1996, No. 486, eff. 7-1-96.

**RL 127.06 Solicitation of owners with exclusive listing contract prohibited.** A registrant may not solicit an owner of real estate to sell the real estate at an auction if the registrant knows that the real estate is subject to an exclusive real estate listing contract.

History: Cr. Register, June, 1996, No. 486, eff. 7-1-96.

## Chapter RL 128

## EDUCATIONAL PROGRAM

RL 128.01	Authority
RL 128.02	Educational requirements prior to first renewal
RL 128.03	Courses
RL 128.04	Approval of educational programs: courses and instructors

RL 128.05	Certification of completion of courses
RL 128.06	Education examination
RL 128.07	Sunset provision

**RL 128.01 Authority.** This chapter is adopted pursuant to ss. 227.11 (2) and 480.08 (6), Stats.

History: Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**RL 128.02 Education requirements prior to first renewal.** (1) Except as provided in s. RL 128.06, every registered auctioneer applying to renew a registration for the January 1, 1999-December 31, 2000 biennium shall complete at least 9 hours in an educational program prior to January 1, 1999.

(2) An hour consists of a period of 50 minutes of actual classroom instruction.

(3) A registered auctioneer may attend approved courses of one or more program providers in order to complete the courses which are part of the educational program.

(4) A registered auctioneer who acts as an instructor of an approved educational program or course shall receive credit toward satisfaction of the registered auctioneer's educational requirement. An instructor shall receive 1 hour of credit for each 50 minutes of instruction. The registered auctioneer may not receive credit for teaching a specific course more than one time.

(5) The department may grant an extension of time for completion of the educational program by a registered auctioneer and the registered auctioneer may obtain a renewal registration for the extension period granted for one of the following:

(a) Health reasons which prevented attendance at the educational program or course.

(b) Active duty in the military service with assignment to a duty station outside Wisconsin.

(6) The department may either require a registered auctioneer to certify on a renewal application form that he or she has met the educational requirements when applying for renewal of the registration or the department may require a registered auctioneer to submit a certificate of completion which a registered auctioneer received from a program provider pursuant to s. RL 128.05. The department shall deny the renewal application until the certificate or certification is provided.

History: Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**RL 128.03 Courses.** The educational program shall consist of 3 courses and shall cover all of the topics under each subsection title, be presented during no less than the number of hours stated after each subsection title, and include:

(1) COURSE A. 3 hours.

(a) Auction contracts.

(b) Trust accounts.

(c) Conduct.

(2) COURSE B. 3 hours.

(a) Registration requirements.

(b) Advertising.

(3) COURSE C. 3 hours.

(a) Real estate auctions.

(b) Federal and state laws related to auctions.

History: Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**RL 128.04 Approval of educational programs; courses and instructors.** (1) A program provider seeking

initial approval from the department of an educational program or a course shall submit its application on a form provided by the department prior to the first date the program or course is offered. The program provider shall include a designation of the courses to be provided, the name and outline of the courses, the name and qualifications of the instructors, and the date, time segments, and location of the courses. The department shall notify the provider whether the program or course has been approved or denied within 20 business days from the date the application is received. The department shall approve an educational program or course if the program provider submits to the department the information required by this subsection and agrees to comply with the provisions in subs. (2) to (6).

Note: Applications for educational program and course approval are available from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(2) The educational program and courses shall be available to all registered auctioneers regardless of membership in any organization.

(3) Program providers shall agree to monitor attendance at the beginning and end of each course and to furnish each participant an individual certificate of completion. Program providers shall retain copies of attendance records and evidence of completion of the courses by registered auctioneers for at least 5 years from the date the courses were presented.

(4) Program providers shall agree to distribute course evaluation survey forms to registered auctioneers who attend the courses offered by the providers. Program providers shall retain the originals of the completed forms for at least 12 months after the date of completion of the course and, upon request from the department, make them available to the department.

(5) Program providers shall make arrangements so that when instruction is provided by some means without the instructor physically present in the classroom and the students are unable to interact with the person doing the instructing another approved instructor will be present in the classroom. If the students are able to interact with the person doing the instructing, then a monitor, but not necessarily an approved instructor, shall be present.

(6) Course instructors shall be approved by the department. An instructor whose auctioneer registration has been limited, suspended or revoked in Wisconsin or any other jurisdiction may not instruct in approved courses while the disciplinary action is in effect. An approved instructor shall possess at least one of the following qualifications:

(a) Be an auctioneer registered in this state who is currently practicing auctioneering, and who has engaged in such practice for at least 5 years.

(b) Be an attorney who is engaged in the field of auctioneering-related law.

Note: Applications for approval of instructors are available from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

History: Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**RL 128.05 Certification of completion of courses.** (1) COMPLETION REQUIREMENTS. A registered auctioneer shall

attend all the required hours before the program provider may give a certificate of completion to the registered auctioneer.

(2) **CERTIFICATION OF COMPLETION.** Program providers shall provide an individual certificate of completion to all registered auctioneers upon satisfactory completion of courses.

History: Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**RL 128.06 Education examination.** (1) The department shall conduct an education examination. A registered auctioneer may take the education examination conducted by the department in lieu of the educational program set forth in s. RL 128.03. A registered auctioneer who passes the education examination shall not be required to complete the educational program.

(2) The education examination shall cover the courses required for the educational program approved by the department under s. RL 128.03, and shall have no less than 5 questions for each hour of instruction in the approved education program or courses.

(3) The department shall permit a registered auctioneer to retake the education examination one time. If the registrant fails the examination a second time, the registrant shall attend an approved educational program or courses.

(4) The department shall require a minimum passing score of 70 on the education examination.

(5) The department shall permit registrants who take the education examination to review the examination and the examination results, as provided in s. RL 122.06.

(6) Passing the examination for original registration as an auctioneer under s. 480.10, Stats., does not satisfy the requirements under this section.

History: Cr. Register, November, 1996, No. 491, eff. 12-1-96.

**RL 128.07 Sunset provision.** This chapter only applies to registered auctioneers when renewing a registration as an auctioneer pursuant to s. 440.08 (2) (a), Stats., for the January 1, 1999-December 31, 2000 biennium. The education requirements for renewal in this chapter do not apply thereafter.

History: Cr. Register, November, 1996, No. 491, eff. 12-1-96.

## Chapter ATCP 11

### ANIMAL MOVEMENT

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ATCP 11.01 Definitions

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ATCP 11.72 Prohibited conduct.

Note: Chapter Ag 11 as it existed in December 31, 1990 was repealed and a new ch. Ag 11 was created effective January 1, 1991; Chapter Ag 11 was renumbered ch. ATCP 11 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 478.

#### Subchapter I

##### Definitions

**ATCP 11.01 Definitions.** As used in this chapter:

(1) "Accredited tuberculosis-free herd" means a herd of bovine animals, cervidae or goats which is certified as tuberculosis-free by one of the following:

- (a) The department under s. ATCP 10.17, 10.62 or 10.67 (1).
- (b) The authorized animal health agency of the state in which the herd is located, under standards comparable to s. ATCP 10.17, 10.62 or 10.67 (1).

(2) "Accredited veterinarian" means a veterinarian who is both of the following:

- (a) Licensed to practice veterinary medicine.
- (b) Specifically authorized by the federal bureau and responsible state agency, pursuant to 9 CFR 160 to 162, to perform animal disease eradication and control functions under state and federal animal health laws.

(3) "Anaplasmosis" means the infectious disease of cattle caused by *Anaplasma marginale*.

(4) "Anaplasmosis-free herd" means a herd of cattle which is certified as anaplasmosis-free by one of the following:

- (a) The department under s. ATCP 10.18.
- (b) The authorized animal health agency of the state in which the herd is located, under standards comparable to s. ATCP 10.18.

(5) "Anaplasmosis test" means the complement fixation test or other anaplasmosis diagnostic test which is approved by the department and conducted at a laboratory approved by the department or the federal bureau.

(6) "Approved equine quarantine station" means a facility approved by the department under s. ATCP 11.32 to receive equine animals imported from foreign countries in which contagious equine metritis has been reported.

(7) "Approved feed lot" means a feedlot which holds an approved feedlot permit under s. ATCP 11.14.

(8) "Approved veal lot" means a veal lot which holds an approved veal lot permit under s. ATCP 11.13.

(8m) "Axillary tuberculosis test" means a test under s. ATCP 11.54 (3) (c) that is used to detect tuberculosis in south american camelidae.

(9) "Bison" means American bison of any age or sex, commonly known as buffalo.

(10) "Boar" means an uncastrated male swine that is sexually mature.

(11) "Bovine animal" means cattle or American bison of any age or sex.

(12) "Brucellosis" means the contagious, infectious and communicable disease caused by bacteria of the genus *Brucella*.

Note: Brucellosis is also known as Bang's disease, undulant fever and contagious abortion.

(13) "Brucellosis test" means a test, approved by the federal bureau and the department, that is used to determine whether an animal is infected with brucellosis.

(14) "Bull" means an uncastrated sexually mature male bovine animal.

(15) "Calf" means a sexually immature bovine animal of either sex.

(16) "Cattle" means any of the various animals of the domesticated genus *Bos*.

(16m) "Caudal fold tuberculin test" means a test under s. ATCP 10.15 (1) that is used to detect tuberculosis in bovine animals.

(17) "Certificate of veterinary inspection" means a written certificate prepared by an accredited veterinarian in compliance with s. ATCP 11.02 (2).

(18) "Certified brucellosis-free herd" means a herd of cattle or goats which is certified as brucellosis-free by one of the following:

- (a) The department under s. ATCP 10.14 or 10.61.

(b) The authorized animal health agency in the state where the herd is located, under standards comparable to s. ATCP 10.14 or 10.61.

**(18m)** "Cervid" is the singular form of the plural "Cervidae". "Cervidae" means members of the family of animals which includes deer, elk, moose, caribou, reindeer and the subfamily musk deer. "Cervidae" includes all "farm-raised deer".

**(19)** "Commingled" means kept or brought together with other animals in any environment which permits direct physical contact between the animals.

**(20)** "Communicable" means transmissible either directly or indirectly.

**(20m)** "Comparative cervical tuberculin test" means one of the following, as applicable:

(a) A test under s. ATCP 10.15 (2) that is used to detect tuberculosis in bovine animals.

(b) A test under s. ATCP 10.66 (5) that is used to detect tuberculosis in cervidae.

**(21)** "Contagious" means spread by contact, body secretions or fomites.

**(22)** "Cow" means a female bovine animal after first calving.

**(23)** "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

**(24)** "Equine animal" means a horse, mule, zebra, donkey or ass.

**(24p)** "Equine infectious anemia," otherwise known as EIA or swamp fever, means the contagious and infectious disease of equine animals caused by a non-oncogenic retrovirus.

**(24q)** "Equine infectious anemia test" means a test approved by the department, and conducted at a department laboratory or a laboratory approved by the federal bureau, to determine whether an animal is infected with equine infectious anemia.

**(25)** "Equine market" has the meaning specified under s. 95.68 (1) (b), Stats.

**(26)** "Exotic disease" means any communicable, contagious or infectious disease of livestock or poultry not known to exist in Wisconsin.

**(27)** "Exotic ruminant" means a ruminant not indigenous to Wisconsin. "Exotic ruminant" includes llamas and other camelids, but does not include bovine animals and cervidae.

**(28)** "Exposed" means subjected to a causative agent which may cause the exposed animal to contract a contagious, infectious or communicable disease.

**(29)** "Fair" means a state fair, county or district fair, exhibition, show, exposition, rodeo or trail ride.

**(29m)** "Farm-raised deer" has the meaning given in s. 95.001(1)(a), Stats., but does not include cervidae kept by an institution accredited by the American Association of Zoological Parks and Aquariums.

**(30)** "Federal bureau" means the animal and plant health inspection service of the United States department of agriculture, or any other unit of that department which may be vested with authority to administer federal laws and regulations relating to animal disease control.

**(31)** "Feeder cattle" means bovine animals, kept for the sole purpose of feeding prior to slaughter, which are not more than 18 months old as evidenced by the absence of permanent teeth, and whose sexual status is one of the following:

(a) Non-spayed female that is not parturient or post-parturient.

(b) Spayed heifer.

(c) Steer.

**(32)** "Feeder swine" means swine, excluding boars, weighing less than 175 pounds and kept for the sole purpose of feeding for slaughter.

**(33)** "Flock" means one of the following, as the context requires:

(a) All of the poultry on one farm, except that any group of poultry which has been segregated from other poultry for a period of at least 21 days may, at the discretion of the department, be considered a separate flock.

(b) Any group of sheep maintained on common ground for any purpose; or 2 or more groups of sheep, under common ownership or supervision, whose members intermingle between groups even if the groups are geographically separated.

**(34)** "Foreign disease" means any communicable, contagious or infectious disease of livestock and poultry not known to exist in the United States.

**(35)** "Hatchery" means premises used to hatch poultry, including buildings, incubators, hatchers and auxiliary equipment.

**(36)** "Heifer" means a female bovine animal up to first calving.

**(37)** "Herd" means either of the following:

(a) A group of animals maintained on common ground for any purpose.

(b) Two or more groups of animals of the same species, under common ownership or supervision, whose members intermingle between groups even if the groups are geographically separated.

**(38)** "Infectious" means caused by a pathogenic agent.

**(39)** "Interstate health certificate" means a written health certificate prepared by an accredited veterinarian in compliance with s. ATCP 11.02 (1).

**(40)** "Keep farm-raised deer" means to own, rent, lease or serve as the custodian of farm-raised deer.

**(40e)** "Keeper of farm-raised deer" means a person who keeps farm-raised deer.

**(41)** "Livestock" means farm animals including bovine animals, sheep, goats, swine, farm-raised deer and equine animals.

**(42)** "Livestock dealer" has the meaning specified under s. 95.69 (1) (c), Stats., and includes any person who leases livestock to others.

**(43)** "Livestock dealer premises" means any location where a livestock dealer keeps, receives or sells livestock, or conducts livestock transactions, and which is owned, leased, or controlled by the livestock dealer.

**(44)** "Livestock market" has the meaning specified under s. 95.68 (1) (e), Stats.

**(45)** "Livestock trucker" has the meaning specified under s. 95.71 (1) (e), Stats.

**(46)** "Mare" means a female equine animal over 731 days of age.

**(47)** "Mastitis" means a contagious and infectious disease of bovine animals, manifested by inflammation of the mammary gland, which is caused by a variety of microorganisms.

**(48)** "Managerie animal" means a domestic or non-domestic animal kept individually or as part of a collection primarily for purposes of exhibition or competition.

**(49)** "Mycoplasmosis" means a disease of poultry caused by *Mycoplasma gallisepticum*.

**(50)** "National poultry improvement plan" means the national poultry improvement plan established by the federal bureau.

**(51)** "Negative" means an official diagnostic test result which discloses no evidence of disease.

**(52)** "Official back tag" means an identification back tag, approved by the federal bureau, that conforms to the 8-character alpha-numeric national uniform backtagging system.

Note: Examples of official back tags include the official Wisconsin bovine back tag and the official Wisconsin swine back tag.

**(53)** "Official eartag" means an identification eartag, approved by the federal bureau, that conforms to the 9-character alpha-numeric national uniform eartagging system.

**Note:** The official eartag uniquely identifies each individual animal with no duplication of the alpha-numeric identification, regardless of the materials or colors used. Examples of official eartags include the official Wisconsin identification tag, the official U.S.D.A. Wisconsin vaccination tag, and the official Wisconsin swine cartag.

**(54)** "Official individual identification" means a set of identifying characters which is uniquely associated with an individual animal, and which consists of one of the following:

- (a) The animal's official eartag number.
- (b) The animal's breed association tattoo.
- (c) The animal's breed association registration number.
- (d) A registration freeze brand number which uniquely identifies the animal.
- (e) The lip tattoo number of an equine animal which uniquely identifies that equine animal.
- (f) A written or graphic description of an equine animal, prepared by a licensed and accredited veterinarian, which uniquely identifies that equine animal and includes all of the following:
  1. A complete and accurate description of the equine animal's breed, coloration and distinguishing markings.
  2. The equine animal's status as a gelding, mare or stallion, which may be abbreviated as "G", "M" or "S" respectively.
- (g) The microchip number of a ratite which uniquely identifies that ratite.
- (h) The leg band number of ratite which uniquely identifies that ratite.
- (i) Other identification approved by the department.

**(55)** "Official spayed heifer" means a female bovine animal which has had its ovaries removed and is identified by an open spade brand or spay certificate.

**(56)** "Official vaccinate" means a female bovine animal which is vaccinated against brucellosis, and identified and reported as a vaccinate, in compliance with s. ATCP 10.10 or comparable laws of another state.

**(57)** "Open spade brand" means a branding mark consisting of the outline of an inverted heart with a short stalk at the bottom, used for the identification of spayed heifers.

**(58)** "Originates from a herd" or "originating from a herd" means coming from a herd, other than a group of animals temporarily assembled for sale or shipment, in which the animal was born or kept since birth, or in which the animal was kept for at least 120 days.

**(58m)** "Originates from a state" or "originating from a state" means coming directly from one of the following:

- (a) A state in which the animal was born and kept since birth.
- (b) A state to which the animal was moved from a state holding an equal or better federal classification for the disease in question.
- (c) A state in which the animal has been kept for at least 120 days.

**(59)** "Paratuberculosis" means the infectious and communicable disease of domestic ruminants, commonly known as Johne's disease, which is caused by *Mycobacterium paratuberculosis*.

**(60)** "Paratuberculosis reactor" means a ruminant which has a positive fecal culture for *Mycobacterium paratuberculosis*, or which is positive to any other test approved by the department for identification of paratuberculosis.

**(61)** "Part 78 market" means a licensed livestock market which is approved by the department and the federal bureau to receive cattle in interstate commerce, pursuant to s. ATCP 11.12 and 9 CFR 78.

**(62)** "Part 76 market" means a licensed livestock market which is approved by the department and the federal bureau to receive swine in interstate commerce, pursuant to s. ATCP 11.21 and 9 CFR 76.

**(63)** "Person" includes any individual, corporation, partnership, association or firm.

**(64)** "Poultry" means domesticated fowl, including chickens, turkeys, waterfowl, and game birds, except doves and pigeons, which are bred for the primary purpose of producing eggs or meat. "Poultry" does not include ratites.

**(65)** "Pseudorabies" means the contagious, infectious and communicable disease of livestock and other animals which is caused by the pseudorabies herpes virus, and which is also known as Aujeszky's disease, mad itch, or infectious bulbo-paralysis.

**(66)** "Pseudorabies test" means the negative serum neutralization (SN) test or another pseudorabies diagnostic test which is approved by the department and conducted at a laboratory approved by the department or the federal bureau.

**(67)** "Pullorum" means a disease of poultry caused by *Salmonella pullorum*.

**(68)** "Qualified pseudorabies negative herd" means a herd of swine which is certified as being pseudorabies negative by one of the following:

- (a) The department under s. ATCP 10.30.
- (b) The authorized animal health agency in the state where the herd is located, under standards comparable to s. ATCP 10.30.

**(69)** "Racing animal" means a greyhound or other racing canine, and equine animals which participate in organized races such as county, district, or state fairs, or other organized racing events where cash, points, or awards are given as prizes.

**(69m)** "Ratite" means a member of the group of flightless birds that includes the ostrich, emu, cassowary, kiwi and rhea.

**(70)** "Reactor" means an animal which has reacted positively in a conclusive diagnostic test for an infectious, contagious or communicable disease.

**(70m)** "Single cervical tuberculin test" means a test under s. ATCP 10.66 (4) that is used to detect tuberculosis in cervidae.

**(71)** "Slaughtering establishment" means a slaughtering establishment which is subject to licensing by the department, or inspection by the United States department of agriculture. "Slaughtering establishment" includes all premises used in connection with a slaughter operation.

**(71m)** "South american camelid" means a llama, alpaca, vicuna or guanaco.

**(72)** "Sow" means a sexually mature female swine.

**(73)** "Stallion" means a male equine animal over 731 days of age but does not include a gelding.

**(74)** "State veterinarian" means the administrator of the animal health division of the department, or a veterinarian who is authorized by the administrator to act on his or her behalf.

**(75)** "Steer" means a castrated male bovine animal.

**(76)** "Suspect" means an animal which is suspected of having a disease, based on test results or other reliable information, but which is not yet confirmed to have the disease.

**(77)** "Swine" means a domestic hog or any variety of wild hog.

**(78)** "Swine growth performance test station" or "swine test station" means a premises where swine are assembled for purposes of determining feeding efficiency.

**(79)** "Test mare" means a mare which is used in determining the disease status of stallions with respect to contagious equine metritis.

**(80)** "Tuberculosis" means the contagious, infectious and communicable disease caused by *Mycobacterium bovis*.

**(80m)** "Tuberculosis monitored herd" means a herd of cervidae that is certified as a tuberculosis monitored herd by one of the following:

- (a) By the department under s. ATCP 10.67 (3).
- (b) By the authorized animal health agency of the state in which the herd is located, using standards comparable to those specified under s. ATCP 10.67 (3).



**(80r)** "Tuberculosis qualified herd" means a herd of cervidae that is certified as a tuberculosis qualified herd by one of the following:

(a) By the department under s. ATCP 10.67 (2).

(b) By the authorized animal health agency of the state in which the herd is located, using standards comparable to those specified under s. ATCP 10.67 (2).

**(81)** "Tuberculosis test" means a test, approved by the department, which is used to detect tuberculosis in animals. "Tuberculosis test" includes any of the following tests when authorized or required under this chapter:

(a) A caudal fold tuberculin test or a comparative cervical tuberculin test for bovine animals.

(b) A single cervical tuberculin test, a comparative cervical tuberculin test, or a blood tuberculosis test for cervidae.

(c) An axillary tuberculosis test for exotic ruminants or south american camelidae.

**(82)** "Typhoid" or "fowl typhoid" means a disease of poultry caused by *Salmonella gallinarum*.

**(83)** "Validated brucellosis-free herd" means a herd of swine which is certified as brucellosis-free by one of the following:

(a) The department under s. ATCP 10.33.

(b) The authorized animal health agency of the state in which the herd is located, under standards comparable to s. ATCP 10.33.

**(84)** "Veal calf" means a bovine animal of either sex, not more than 120 days old, which is kept for the sole purpose of feeding prior to slaughter for veal.

**(85)** "Zoo" or "zoological park" means any park, building, cage, enclosure, or other structure or premise in which a live animal or animals are kept for public exhibition or viewing, regardless of whether admission or other consideration is paid by the viewer.

**History:** Cr. Register, December, 1990, No. 420, eff. 1-1-91; emerg. cr. (18j), (18m), (20m) and (70m), eff. 3-18-91; cr. (18j), (18m), (20m), (70m) and (85), am. (27), Register, November, 1991, No. 431, eff. 12-1-91; am. (27), r. and recr. (58), cr. (58m), Register, September, 1993, No. 453, eff. 10-1-93; cr. (24p) and (24q), Register, January, 1994, No. 457, eff. 2-1-94; am. (25), (42), (44), (45), (64), renum. (54) (d) to be (54) (i), cr. (54) (d) to (h), (69m), Register, March, 1995, No. 471, eff. 4-1-95; am. (1), (41), cr. (8m), (16m), (71m), (80m), (80r), r. and recr. (13), (20m), (70m), (81), r. (18j), (40), Register, February, 1996, No. 482, eff. 3-1-96; emerg. cr. (40), eff. 6-3-96; am. (18m), (41), cr. (29m), (40), (40e), Register, December, 1996, No. 492, eff. 1-1-97.

## DEPARTMENT OF AGRICULTURE, TRADE &amp; CONSUMER PROTECTION

**ATCP 11.16 Intrastate movement of bovine animals; brucellosis test.**

(1) **REQUIREMENT.** Except as provided under sub. (2), no person may move any bovine animal between locations in this state unless the animal tests negative for brucellosis in a brucellosis test conducted within 30 days prior to movement, and the animal is accompanied by a report of the negative brucellosis test. An on-site brucellosis screening test, conducted by an accredited veterinarian at a livestock market licensed under s. 95.68, Stats., satisfies the brucellosis testing requirements under this subsection and s. 95.49, Stats., provided that the veterinarian submits the test sample to the department within 24 hours for confirmatory testing.

(2) **EXEMPTIONS.** The brucellosis testing requirement under sub. (1) does not apply to any of the following:

- (a) An official vaccinate.
- (b) A steer or official spayed heifer.
- (c) An animal shipped directly to a licensed slaughter establishment for slaughter.
- (d) A male animal under 6 months old.
- (e) A female beef breed animal under 299 days old.
- (f) A female dairy breed animal under 239 days old.
- (g) An animal, not known to be a brucellosis reactor, which is moved to the premises of a livestock market operator licensed under s. 95.68, Stats., or livestock dealer licensed under s. 95.69, Stats., provided that the animal is tested in compliance with sub. (1) before leaving the premises of the licensed market or dealer.
- (h) An animal which is moved solely for exhibition at a fair or livestock exhibition, provided that both of the following apply:
  1. The animal is accompanied by a report of a negative brucellosis test conducted within 90 days prior to movement.
  2. The animal returns to its herd of origin after being exhibited at the fair or livestock exhibition.

(i) An animal moved between 2 farms, both of which are owned or operated by the animal owner.

(j) Feeder cattle shipped to an approved feedlot.

(k) Female beef breed feeder cattle under one year old.

(l) Cattle, provided that Wisconsin is currently classified as a brucellosis free state.

**(3) INTRASTATE MOVEMENT OF IMPORTED BOVINE ANIMAL FROM CONSIGNMENT SALE.**

(a) If an imported bovine animal is moved from a consignment sale location to another location within this state, the interstate health certificate or certificate of veterinary inspection which accompanied the imported animal from its state of origin may be used to document compliance with sub. (1), or to document that the animal is an official vaccinate under sub. (2) (a). The import certificate, if used for this purpose, shall be accompanied by a new certificate of veterinary inspection, signed by an accredited veterinarian who attended the consignment sale in this state, which contains the following statement or one substantially similar:

"The vaccination record and test results on this certificate have been copied from the incoming health certificate which was issued by (accredited veterinarian), who certified the information at (address and state of origin) on (date). A copy of the incoming certificate and the test results are attached."

(b) A reconsignment certificate of veterinary inspection, completed by an accredited veterinarian in the state of origin, and also signed by an accredited veterinarian in this state, serves in lieu of the statement under par. (a). A reconsignment certificate of veterinary inspection shall be completed on an approved form which is specifically designed for use in connection with imports to consignment sales.

Note: See also s. 95.49, Stats., which may require testing of animals when this rule appears to provide an exemption. If there is a conflict between the statute and this rule, the statute should be obeyed.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1), (2) (g), Register, March, 1995, No. 471, eff. 4-1-95; cr. (2) (L), Register, February, 1996, No. 482, eff. 3-1-96.

DEPARTMENT OF AGRICULTURE, TRADE & CONSUMER PROTECTION

**ATCP 11.34 Sale or transfer of ownership of equine animals.**

(1) **TEST REQUIRED.** Except as provided under sub. (2), no person may sell or transfer ownership of any equine animal in this state unless one of the following applies:

(a) The animal has been tested for equine infectious anemia during the calendar year in which the sale or transfer occurs.

(b) The sale or transfer occurs on or before January 31 of any calendar year and the animal has been tested for equine infectious anemia during the preceding calendar year.

(2) **EXEMPTIONS.** A pre-sale or pre-transfer test is not required under sub. (1) for either of the following:

(a) A nursing foal accompanying its dam.

(b) An equine animal sold directly to an equine market or consigned to a livestock market for sale directly to slaughter, provided that if the equine is not sold to slaughter, the equine shall be tested prior to movement out of the market.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94; r. and recr. (1), Register, July, 1995, No. 475, eff. 8-1-95.

## DEPARTMENT OF REVENUE

**Tax 11.50 Auctions.**

(s. 77.51 (9) (e), (13) (b) and (14) (intro.) and (a), Stats.) (1) STATUTE. Section 77.51 (13) (b), Stats., provides that every person engaged in the business of making sales at auction of tangible personal property owned by the person making the sale or others is a "retailer". The definition of "retail sale" contained in s. 77.51 (14) (a), Stats., includes any sale at an auction.

(2) **RETAILER.** If an auction company provides complete auction service, it is the retailer. If an auctioneer contracts with the owner of the auctioned property and arranges for clerking the auction, the auctioneer is the retailer. Auctioneers and auction companies who are retailers are responsible for reporting the sales tax on auction receipts even if the owner of the property has a seller's permit.

(3) **TAXABLE AUCTION RECEIPTS.** Taxable receipts from auctions include gross receipts from:

(a) Auction sales held regularly at an established place of business, such as an auction house or auction barn. The household goods exemption does not apply to these sales.

(b) Auctions held regularly on radio, television or CATV. The household goods exemption does not apply to these auctions.

(c) Auctions sponsored on an annual or other regular basis by nonprofit organizations or others, except as provided in sub. (4) (d). The household goods exemption does not apply to these auctions.

(d) Auction sales of heavy equipment and going-out-of-business auction sales of retail stores, motels, wholesalers, manufacturers, contractors and service enterprises. The

household goods exemption does not apply to these sales.

(e) Auction sales of antiques and works of art except when sold with other household goods of which they were a part.

(f) Auction sales of professional or business inventories or equipment even though they may consist of household goods.

(g) Sheriffs' sales and other auction sales made pursuant to orders of a Wisconsin court.

(h) All other auction sales which are not specifically exempt under the law.

(i) Liquidation sales of an insolvent debtor's assets which are made pursuant to the order of a federal bankruptcy court.

(4) **EXEMPT AUCTION RECEIPTS.** Gross receipts from the following auction sales are exempt:

(a) Auction sales of household goods or personal farm property which are not held at regular intervals. The following auctions are generally held on the property owner's premises:

1. "Household goods" includes tangible personal property which is associated with maintaining a household and is for family use. Items which are not considered "household goods" include:

a. Highway motor vehicles or trailers, snowmobiles, all-terrain vehicles, mini bikes, aircraft and boats.

b. Professional or business inventory equipment.

Example: Household goods include furniture necessary or ornamental to a house in furnishing or fitting it for use by members of

the household. Thus auction sales of goods removed from a family home, such as tables chairs, lamps, appliances, beds, clocks, musical instruments, dressers, lawn and garden equipment, jugs and fruit jars, sporting goods or hobby equipment including bats, balls, tennis racquets, golf clubs, guns and ammunition and related hunting equipment, fishing equipment, camping equipment, photographic equipment, tools and bicycles are not taxable.

2. "Personal farm property" includes tractors, implements of husbandry, machines, equipment or other tangible personal property used by a farmer to till the soil and raise crops. "Personal farm property" does not include riding horses or other recreational animals, highway vehicles, boats, snowmobiles and mini bikes.

(b) Sales for resale or sales which are otherwise exempt. If such a sale is made at an auction, the person conducting the auction should obtain a properly completed resale or exemption certificate from the purchaser.

(d) Auction sales by religious, charitable, educational or civic organizations and other nonprofit organizations which conduct a fund raising event, if:

1. The auctioneer is not the retailer, because the auctioneer's services are donated; and

2. The organization is not engaged in a trade or business and not otherwise required to have a seller's permit. An organization is not engaged in a trade or business if:

a. Its sales of otherwise taxable tangible personal property or services or its events occur on 20 days or less during the calendar year, or

Example: A boy scout troop takes orders for Christmas wreaths from October 1 through November 1. The wreaths are delivered by the troop on December 15 and 16. For purposes of determining whether its events meet the 20-

day test, the troop should use the days of delivery rather than days orders are taken.

b. Its taxable gross receipts for the calendar year are \$15,000 or less.

Examples: 1) A church sells cookies and cakes at a bake sale. Since the sale of cookies and cakes for off-premise consumption is exempt from sales tax, the sale of these items is not counted as gross receipts for purposes of the \$15,000 receipts test.

2) A nonprofit organization, which sells hundreds of Christmas trees, sells 5 Christmas trees for \$100 to a public school. Although Christmas trees are taxable tangible personal property, a public school can purchase tangible personal property exempt from sales tax. This \$100 exempt sale to the school is not counted as gross receipts for purposes of the \$15,000 receipts test.

Note: The interpretations in s. Tax 11.50 are effective under the general sales and use tax law on and after September 1, 1969, except that the standard in sub. (4) (d) 2 became effective January 1, 1989, pursuant to 1987 Wis. Act 399.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78; am. (3) (e), Register, December, 1983, No. 336, eff. 1-1-84; am. (4) (d) 3, Register, April, 1985, No. 352, eff. 5-1-85; am. (4) (d) 3., Register, December, 1987, No. 384, eff. 1-1-88; am. (2), (3) (a), (b), (c), (d) and (h) and (4) (a) (intro.), 1. (intro.), a. and 2. and (d) (intro.), 1. and 2., r. (4) (d) 3., renum. (4) (c) to be (3) (i), Register, June, 1991, No. 426, eff. 7-1-91.

## DEPARTMENT OF TRANSPORTATION

**DEALER FACILITIES, RECORDS, AND LICENSES****Trans 138.028 Retail auctioneers; limited exemption.**

Notwithstanding s. Trans 138.025, a retail auctioneer selling motor vehicles may conduct business without a motor vehicle dealer license, provided the retail auctioneer meets all of the following requirements:

(1) None of the vehicles offered at auction are owned by a motor vehicle dealer, wholesaler, manufacturer, or other licensee under ch. 218, Stats.

(2) Each auction is clearly distinct in place and date and meets at least one of the following conditions:

(a) It includes only those vehicles owned by a single person, where person means an individual, household, association, firm, or corporation including its subsidiaries and divisions; or,

(b) The auction includes no more than 3 motor vehicles.

Note: For example, an auctioneer may not need a dealer license when the auction only involves vehicles owned by one individual, corporation, or other "person". If the auction includes vehicles owned by 2 or more persons, the auctioneer or auction company usually needs a dealer license. The only exception occurs in very small consignment auctions, where no more than 3 vehicles are offered for sale at a single auction.

(3) The auction is not conducted on the permanent business premises of any motor vehicle dealer, wholesaler, wholesale auction dealer, or other person licensed under ch. 218, Stats.

(4) The auctioneer does not hold regular or frequent auctions under the conditions described in this section at a single location. Frequent auctions at the same location include, though are not limited to, situations in which 3 or more vehicle auctions are conducted in the same place within 12 months.

History: Cr. Register, June, 1991, No. 426, eff. 7-1-91.

# POLICY STATEMENT

Dealer Section, Department of Transportation

## SUBJECT

Dealer License Requirements for Retail Auction Companies

## NUMBER

92-05-11

## AUTHORIZED BY

Martha Gertsch, Director, Bureau of Vehicle Services

Charles Supple, Chief, Dealer Section

## DATE

4/28/92

*MAG*

*CS*

## POLICY

The attached policy matrix allows retail auctioneers licensed as motor vehicle dealers to consign vehicles from other licensed dealers. It also explains when auctioneers who sell motor vehicles need a dealer license or other license under ch. 218, Wisconsin Statutes.

## REASONS FOR POLICY

The policy responds to the Wisconsin Auctioneers Association's concerns that provisions in Trans 138, Wisconsin Administrative Code, hamper retail auctioneers' ability to sell vehicles on behalf of dealers. Trans 138.028 (1), prohibits retail auctioneers not licensed as dealers from selling vehicles for dealers, and Trans 138.04 (1) (b) prohibits retail auctioneers who are licensed as dealers from selling other dealers' vehicles on consignment. This policy exempts retail auctioneers licensed as dealers from the prohibition against dealer to dealer consignments since auctioneers are by nature consignment sellers.

## AUTHORITY FOR POLICY

This policy interprets s. Trans 138.025, 138.028, par. 138.04 (1) (b), Wisconsin Administrative Code, and par. 218.01 (1) (n), (o), par. 218.01 (2) (a), s. 218.30, s. 218.32 and s. 218.33, Wisconsin Statutes.

## Dealer License Requirements for Retail Auction Companies

<i>Definitions and Examples</i>	<i>Type of License Required</i>
<b>Activity: Auction company auctions vehicles for person exempt from dealer licensing requirements.</b>	
<p><b>Exempt person is:</b></p> <ul style="list-style-type: none"> <li>● Person acting under court order.</li> <li>● Finance company selling repossessed vehicles.</li> <li>● Public officer performing public duties.</li> <li>● Person selling 5 or fewer per year of his or her own vehicles (used for transportation).</li> <li>● Business selling to licensed dealers and wholesalers its own vehicles (used for transportation). Or selling at retail its own <i>privately titled</i> vehicles (used for transportation). <i>Excludes businesses which lease, rent or manufacture vehicles.</i></li> </ul>	<p><b>No license required if auction meets these requirements:</b></p> <ul style="list-style-type: none"> <li>● Auction does not include vehicles owned by a dealer or other licensee.</li> <li>● Auction does not include more than one person's (or firm's) vehicles <i>or</i> it includes no more than 3 vehicles.</li> <li>● Auction is distinct in place and date. (No more than three auctions per year at the same location.)</li> <li>● Auction is not conducted on permanent business premises of any dealer or other licensee.</li> </ul> <p>[S. Trans 138.028]</p>
<b>Activity: Auction company auctions licensee's vehicles wholesale.</b>	
<p>For example: Auction company auctions manufacturer's former rental vehicles to licensed dealers.</p>	<p><b>Motor Vehicle Wholesale Auction Dealer license required.</b> Auction may be at a "permanent" place and time.</p>
<b>Activity: Auction company auctions licensees' vehicles retail.</b>	
<p>For example: Dealer hires auction company to sell off vehicle inventory to public. Dealer consigns vehicles to auction company or pays a flat fee for auction services.</p>	<p><b>Motor Vehicle Dealer license <i>or</i> Salesperson license required.</b></p> <ul style="list-style-type: none"> <li>● Auction company licensed as a motor vehicle dealer may consign and sell dealers' vehicles.</li> <li>● Auction company licensed as salesperson for one dealer at a time, may consign and sell that dealer's vehicles retail. <i>May transfer license to another dealer at no charge.</i></li> <li>● Auction company licensed as dealer or salesperson may sell dealer's vehicles on dealer's or auctioneer's business premises or off-premises. <i>All disclosure, purchase contract, and registration/titling requirements apply. If off-premise sale, must give department 10-day notice of sale.</i></li> <li>● If auction company licensed as a dealer or as a salesperson, auctioneer and person writing up purchase contract need salesperson licenses.</li> </ul>



## **PART VI**

### **Directory of Other Agencies**

1. **Secondhand Article Dealer - Municipal Clerk**  
(after February 28, 1995 registered auctioneer is exempt from this license)
2. **Secondhand Jewelry Dealer - Municipal Clerk**  
(after February 28, 1995 registered auctioneer is exempt from this license)
3. **Fur Auctions and Fur Auctioneers - Wisconsin Department of Natural Resources,**  
125 S. Webster, Madison, WI 53702. Telephone: (608) 266-2105
4. **Motor Vehicle Auctions - Wisconsin Department of Transportation, 4802 Sheboygan**  
Avenue, Madison, WI 53707. Telephone: (608) 266-1425
5. **Livestock Dealers', Truckers', and Market Licenses - Wisconsin Department of**  
Agriculture, Trade and Consumer Protection, 310 N. Midvale Avenue, Madison,  
WI 53705. Telephone: (608) 224-4889
6. **Sellers Sales Tax Permit - Wisconsin Department of Revenue, 4638 University Avenue,**  
Madison, WI 53705. Telephone: (608) 266-2776

PART VII  
SALE OF FIREARMS



DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Post Office Box 2994  
Atlanta, Georgia 30301-2994

REFER TO  
SE:CT:FE:FDB:es

Dear Auctioneer:

Pursuant to your request we have reviewed the firearms laws and regulations as they apply to auctioneers who engage in the auctioning of firearms and submit the following information for your signature.

As provided by Title 18, United States Code, Section 922(a)(1), it shall be unlawful for any person, except a dealer licensed under the provisions of Title 18, United States Code, Chapter 44, to deal in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce. As provided for in Title 18, United States Code, Section 923(a) no person shall engage in business as a firearms dealer until he has filed an application with, and received a license to do so from the Secretary of the Treasury or his delegate. The term dealer is defined in Title 18, United States Code, Section 923(a)(11), to mean, among other things, any person engaged in the business of selling firearms at wholesale or retail.

Accordingly, whether an auctioneer is a person who should be licensed as a dealer in firearms depends upon whether he is "engaged in the business" of selling firearms at wholesale or retail. The determination of "engaged in the business" is made on a case by case basis taking into consideration all the surrounding circumstances including the existence of continuity and regularity of transactions in firearms as opposed to singular isolated sales. Additionally, Title 18, United States Code, Section 921, requires no minimum number of sales, dollar volume of sales, or number of employees to constitute "engaged in the business". Thus, dollar volume may be minimal, but if there is regularity in transactions, a person would normally be considered to be engaged in business. Business has been defined as that which occupies the time, attention and labor of a person for the purpose of profit. Even a single sale of a firearm may be held to constitute "engaging in business" if surrounding circumstances so indicate.

We believe that an auctioneer who has disposed of firearms in the past and expects to encounter handling more firearms in the future in his auction operation, possesses that element of continuity implied in the phrase "engaged in business". The fact that the status of such person may be that of a bailee of the goods or agent acting on a consignment basis, is immaterial. The firearms laws make no mention of "ownership" in such context and do not require that title to each firearm sold by a dealer be in his name. It is the fact of dealing and engaging in the business of selling firearms and ammunition that is of concern under the provisions of Title 18, United States Code, Chapter 44. In our view, if an auctioneer handles firearms on a regular basis as a business commodity, he is a dealer and must comply with the license requirements of Chapter 44.

While the individual auctioneer, who travels from auction to auction, selling household goods or similar merchandise does not have to be licensed as a dealer under the Gun Control Act of 1968, because he occasionally "sells a firearm" as part of a lot of goods being sold at such an auction; he would, however, have to make sure that the individual purchasing the firearm was a resident of the state in which the auction was being held, since it is unlawful under the Act, for a person to transfer, sell, trade, give, transport or deliver any firearm to any person who the transferor knows or has reasonable cause to believe, resides in any state other than that which the transferor resides.

When the auctioneer functions from a place of business, with regularly scheduled auctions conducted at those business premises, he should obtain a Federal firearms license as a dealer if his activities could be considered to be "engaged in the business of selling firearms". A license would also be required in situations where the auctioneer takes actual custody of the firearms, and personally, himself, handles the disposition of the firearms.

We will now set forth the questions most often presented by auctioneers and provide general answers to those questions.

1. Are there any complications for an auctioneer selling shotguns, rifles or handguns in an estate auction?

Sales of firearms may be made by Administrators and Executors of Decedents' Estates. Such sales are not considered to constitute engaging in the business where they are undertaken in order to dispose of the estate of a decedent not engaged in business as a firearm's manufacturer or dealer. Accordingly, Administrators or Executors will not be required to obtain a license to sell at a private sale or at a public auction such firearms as remain as part of a decedent's estate. Further, in the event an auctioneer should, for example, conduct the estate sale, at the estate premises, and such sale includes a small number of firearms, the auctioneer might be regarded as the agent of the owner of the firearms for the purpose of that sale and would not, therefore, be required to obtain a Federal firearms license. However, if such firearms are taken to an auction house on a habitual or continuing practice, a Federal firearms license would be required.

2. Is it significant if the estate auction is not court ordered?

No.

3. What about firearms at a consignment auction? (from individuals).

A definitive answer to such a question is quite difficult from the facts presented. Again, to reiterate whether an auctioneer is a person who should be licensed as a dealer in firearms under the provision of Title 18, United States Code, Chapter 44, depends upon whether he is engaged in the business of selling firearms at wholesale or retail. Consideration must be given to the surrounding circumstances including the existence of continuity and regularity of transactions in firearms as opposed to singular isolated sales. We could envision situations where one auctioneer may sell one or two firearms every week of the year under consignment but not be considered to be "engaged in the business" as the firearms were only a small portion of the total goods sold at any auction. On the other hand, another auctioneer might only sell firearms once a year, but if it involved a large number of firearms and was conducted on a regular basis he might be considered to be "engaged in the business".

4. Can an auction company conduct a consignment auction for firearms only?

An auction company can conduct a consignment auction for firearms only; however, such auctioneer would be considered to be engaged in the business of selling firearms at wholesale or retail if such sales were repetitive. He would need a Federal firearms license. At this time, consideration should be given to certain firearms that are subject to the provisions of a taxing statute (The National Firearms Act) which is codified in Chapter 53 of the Internal Revenue Code of 1954. Pursuant to the provisions of Title 26, United States Code, Chapter 53, transfers of firearms such as machineguns, sawed-off shotguns, bombs, grenades, rockets and mines are subject to tax. A transfer is defined as including selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of a firearm.

The sale or disposition of such weapon may not be lawfully made until the tax has been paid and the transfer approved. Accordingly, it is suggested that any auctioneer assure himself that all requirements of the law have been satisfied prior to disposing of such weapons as may be part of a consignment or estate sale.

5. If the firearms are a part of the inventory of a hardware or sporting goods store being liquidated for reasons other than a bankruptcy?

The answers contained in questions one, three and four answer this question.

6. Will a court ordered bankruptcy relieve the auction company of liability?

No.

7. To what lengths must an auction company go to check on whether or not firearms are stolen?

Under the provisions of Title 18, United States Code, Section 922(i), it is unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm, knowing or having reasonable cause to believe that the firearm was stolen. Furthermore, under the provisions of Title 18, United States Code, Section 922(j), it is unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or pledge or accept as security for a loan any stolen firearm which is moving as, which is a part of, or which constitutes, interstate

or foreign commerce, knowing or having reasonable cause to believe that the firearm was stolen. Violations of the aforementioned Sections constitute felonies and a person who violates either section is subject to a fine of not more than \$5,000, or imprisonment for not more than 5 years or both. See Title 18, United States Code, Section 924(a). Therefore, we believe that an auctioneer should make some determination as to whether or not the firearms are, in fact, stolen.

8. If an auctioneer has a firearms dealer's license he cannot sell firearms at locations of estates or businesses, so what can he do?

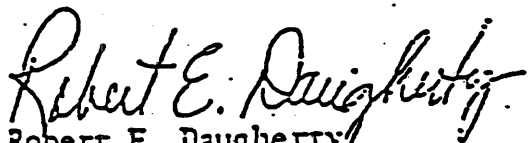
The Federal firearms laws and the regulations thereunder contemplate the issuance of a firearm license for a specific premise. The term "business premises" is defined in 27 CFR, Section 178.11 to mean the property on which firearms importing, manufacturing or dealing business is or will be conducted. Furthermore, 27 CFR, Section 178.41(b) provides that a separate license must be obtained for each business and each place at which the applicant is to do business, with such license entitling the licensee to engage in the business specified by the license, at the location described on the license and for the period stated on the license. Again, in those instances where auctions are conducted at the location of an estate or business and may include a small number of firearms, an auctioneer might be regarded as the agent of the owner of the firearms for the purpose of that sale and would not, therefore, be required to obtain a federal firearms license for the sale premises. However, if an auctioneer sells substantial amounts of firearms on a regular basis, such sales may only be made at his licensed premises.

9. May an auction company liquidate a firearm dealer's inventory at his business location?

Yes. See Questions one, four and eight.

If you have any further questions in regard to this matter, please advise.

Sincerely yours,

  
Robert E. Daugherty  
Regional Director (Compliance)

## **PART VIII**

### **Insurance and Bonding**

Statutes and administrative rules enforced by the Wisconsin Auctioneer Board and the Department of Regulation and Licensing do not require auctioneers and auction companies to obtain liability insurance or bonding. Some other states do have one or other type of requirement.

Nevertheless, the broad issue of insurance is an important consideration. An auctioneer or auction company should weigh the cost of coverage against the risks that are to be protected against. Some coverage may be required by law, some may be essential and some may be advisable or nice to have if you can afford it.

Worker's compensation is a matter of estate law. Generally, all employees and independent contractors must be included. If you have any questions about worker's compensation, you may call the Department of Work Force Development at (608) 266-1340.

Liability insurance may provide coverage for automobile liability, for injuries to clients or customers on your premises, and other coverage for other things like records and equipment.

Errors and omissions insurance is a form of insurance that covers liabilities for errors, mistakes and negligence in your work as an auctioneer or auction company. It does not cover fraudulent behavior. It protects you and your staff against claims. Errors and omissions policies are typically written on a "claims-made" basis where the insured is covered only if the claim is made during the period of the policy.

If you have any questions about liability insurance or errors and omissions insurance, you should discuss them with your insurance agent.