

SECTION 9
DEALER'S CAR AUCTION AGENCY

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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.

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 (in state or out-of-state) by the following entities** if the vehicles were acquired as an incident to its regular business:

(Exception: An 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 lienholder provided the title is in the name of the customer and has the proper documentation from the title state that substantiates a repossession transaction (i.e., affidavit of repossession and reassignment). Note: the out-of-state title must be furnished and if the lienholder has a title from a state that requires the lienholder to obtain a repossession title, the lienholder must obtain a repossession title prior to offering the vehicle for sale at auction.)

- 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.
- c. Any insurance company authorized to do business in either this state or some other state.

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.

- a. Any vehicle with a MCO/MSO sold for a manufacturer can only be offered to the manufacturer's franchised dealers with the same vehicle make.

An auction agency may also sell vehicles owned by any governmental entity to any member of the public. A sale of these vehicles to the public may **not** be held on the same day as dealer sales.

It is a Class 1 misdemeanor for any auction agency to accept for sale any unauthorized vehicle.

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.

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.

A dealer auction agency qualifies for dealer "99" auction agency plates. (See Section 6, Dealer License Plates).

An auction agency is required to announce, at the time of sale, if a vehicle being offered has a title (in state or out-of-state) that has been marked denoting any brand or damage. 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 a full refund to the purchaser.