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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

April 12, 2001

Robert G. Pickerill, Chairman
State Board of Vehicle Manufacturers, Dealers and Salespersons
116 Pine Street
Harrisburg, PA 17105

Re: Regulation #16A-601 (IRRC #2173)
State Board of Vehicle Manufacturers, Dealers and Salespersons
Consignment Sales

Dear Chairman Pickerill:

Enclosed are our Comments. They will soon be available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce".

Robert E. Nyce
Executive Director
wbg

Enclosure

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Clarence D. Bell, Chairman, Senate Consumer Protection & Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection & Professional Licensure Committee
Honorable Kim Pizzingrilli, Secretary of the Commonwealth
Albert H. Masland, Commissioner, Bureau of Professional & Occupational Affairs
Teresa Lazo-Miller, Esq., Counsel, State Board of Vehicle Manufacturers, Dealers and Salespersons
Joyce McKeever, Esq., Deputy Chief Counsel, Department of State

Comments of the Independent Regulatory Review Commission

on

State Board of Vehicle Manufacturers, Dealers and Salespersons Regulation No. 16A-601

Consignment Sales

April 12, 2001

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by March 12, 2003 the regulation will be deemed withdrawn.

1. Section 19.19(a). - Vehicle auction. - Clarity.

Subsection (a) states, "A licensed dealer shall be permitted to engage in consignment sales without being licensed as a vehicle auction...." There are two concerns. First, how does the term "vehicle auction" relate to the statutory language? The statute (63 P.S. § 818.5 (f)(3)) refers to "...a wholesale vehicle auction or public or retail vehicle auction...." The statute also defines the phrases "wholesale vehicle auction" and "public or retail vehicle auction" in 63 P.S. § 818.2. For clarity, the phrase "vehicle auction" should be defined or amended to reflect the statute.

Second, the reference to licensure is unclear. Section 19.4 (relating to *Fees*) of the existing regulation does not include licensure as a "vehicle auction," "public or retail auction" or "wholesale vehicle auction." Does the Board have provisions for licensure as a "vehicle auction"?

2. Section 19.19(a)(1) - Consignment agreement. - Reasonableness; Clarity.

This paragraph lists requirements for a written consignment agreement. The list does not include a period of consignment. If a consignment is for a specific period of time, should this also be included in the written agreement?

Additionally, we question whether one standard consignment agreement can cover multiple sales, or whether separate consignment agreements must be obtained for each vehicle that is on consignment.

3. Section 19.19(b) - Applicable Federal and State Statute. - Clarity.

This subsection states, "In all activities involving the consignment sale of a vehicle, the dealer shall comply with applicable Federal and State law." What are the applicable laws? For clarity, this subsection should be deleted or replaced with a cross reference to the specific laws and regulations that apply.



INDEPENDENT REGULATORY REVIEW COMMISSION

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INDEPENDENT REGULATORY REVIEW COMMISSION

To: Suzanne Hoy
Agency: Department of State
Licensing Boards and Commissions
Phone: 7-2628
Fax: 7-0251

From: Kristine M. Shomper
Administrative Officer
Company: Independent Regulatory Review
Commission
Phone: (717) 783-5419 or (717) 783-5417
Fax: (717) 783-2664

Date: April 12, 2001
of Pages: 3

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Vehicle Manufacturers, Dealers and Salespersons' regulation #16A-601 (#2173). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: Suzanne J. Hoy **Date:** 4/12/01