

4501:1-3-36

**Construction equipment auction license.**

[Comment: For dates and availability of material incorporated by reference in this rule, see rule 4501:1-3-38 of the Administrative Code.]

(A) Each person applying for a construction equipment auction license shall submit an "Application for Construction Equipment Auction License," ~~form "BMV 4324," (April, 2013);~~ hereinafter referred to as "application," to the registrar of motor vehicles; ~~available via the "Ohio Bureau of Motor Vehicles, Dealer Licensing Section" website at <http://www.OhioAutoDealers.com>.~~ The application shall be signed and sworn to by the applicant and shall include the following information:

- (1) The name or names under which the business will be conducted;
- (2) The business address, telephone number, fax number, and email address;
- (3) The form of business under which the business is organized;
- (4) The vendor number of the business;
- (5) The business's federal tax identification number;
- (6) Information identifying the principals including name, address, and social security number or tax identification number as follows:
  - (a) For a sole proprietorship, the proprietor;
  - (b) For a partnership, the partners;
  - (c) For a corporation, the president, vice president, secretary, and treasurer of the corporation;
  - (d) For a trust, the trustees;
  - (e) For a limited liability company, all members owning more than ten percent of the company;
  - (f) For any other form of organization, the directors or other appropriate principals of the organization as designated by the registrar.
- (7) Any other information determined by the registrar to be relevant to the application.

(B) Each principal of the business who is an individual and a resident of Ohio shall submit a background check obtained through the bureau of criminal identification and investigation. Each principal of the business who is an individual but is

not a resident of Ohio, shall submit a "Civilian Identification Fingerprint Card," form "~~BIM-12-98,~~" (~~December, 1998~~), for the purpose of obtaining a background check through the office of the bureau of criminal identification and investigation. Fingerprint cards are available upon written request to: "Ohio Bureau of Motor Vehicles, Dealer Licensing Section, P.O. Box 16521, Columbus, Ohio 43216-6521." ~~The application prescribed by the registrar shall contain instructions on how to comply with these requirements.~~

(C) ~~The application shall contain affirmations stating that the applicant~~ The applicant shall affirm all the following requirements:

- (1) Is engaged primarily in the business of selling large construction and transportation equipment at auction;
- (2) Receives more than one million dollars in gross annual sales in Ohio, and derives not more than ten percent of the its gross annual sales revenue in Ohio from the sale of motor vehicles having a gross vehicle weight rating of ten thousand pounds or less;
- (3) Maintains a permanent auction site within Ohio that is at least ninety acres in size and maintains over sixty thousand square feet of total facility space;
- (4) Will comply with sections 4517.17 and 4517.18 of the Revised Code;
- (5) With respect to motor vehicles having a gross vehicle weight rating of ten thousand pounds or less, will comply with all applicable provisions of Chapter 4505. of the Revised Code concerning the titling of such vehicles, Chapter 5739. of the Revised Code concerning the the withholding and payment of sales taxes in connection with the sale such motor vehicles, and Chapter 5751. of the Revised Code concerning the payment of commercial activity taxes on the sale of such motor vehicles in the same manner as a motor vehicle dealer, including transferring title to such vehicles to the licensee's name prior to auction.

(D) The application, shall contain questions requiring the applicant to state whether the business or any of the principals of the business have previously applied for an Ohio new or used motor vehicle dealer's license, leasing license, auction owner's license, motor vehicle salvage license, motor vehicle auction license, motor vehicle salvage pool license, or motor vehicle salesperson's license; whether the business or any of the principals of the business currently holds any such license; and whether any such license has ever been suspended or revoked. The applicant shall also provide information regarding any such applications, licenses, suspensions, and revocations.

- (E) The application shall contain questions requiring the applicant to state whether the business or any of the principals of the business have ever been convicted of any fraudulent act in connection with selling or otherwise dealing in auctions, motor vehicles, or equipment. The registrar may require the applicant to provide additional information regarding any such conviction.
- (F) The application shall be signed by a principal or authorized agent of the business and shall be notarized.
- (G) The registrar shall determine whether the business is eligible for a construction equipment auction license and if the application should be approved. If so, the registrar shall issue the license. If the registrar determines that the license should not be issued, the registrar shall either require additional information or deny the license.
- ~~(H) If a construction equipment auction license is issued, the licensee shall comply with the requirements of sections 4517.17 and 4517.18 of the Revised Code.~~
- ~~(H)~~(H) The registrar shall prescribe a "Construction Equipment Auction License Annual Report," form "BMV 4313," (October, 2012), hereinafter referred to as "annual report," available via the "Ohio Bureau of Motor Vehicles, Dealer Licensing Section" website at <http://www.OhioAutoDealers.com>. The licensed construction equipment auction shall certify the following information:
- (1) The gross proceeds generated from auctions held at the auction site during the prior calendar year;
  - (2) The gross proceeds generated from the sale of motor vehicles having a gross vehicle weight of ten thousand pounds or less during the prior calendar year;
  - (3) Any other information reasonably prescribed by the registrar.
- ~~(I)~~(I) Each licensed construction equipment auction shall file with the bureau of motor vehicles the annual report specified in paragraph (I) of this rule no later than the thirtieth day of April in the following calendar year. Failure to timely file the annual report may be grounds for the suspension of the auction's license until the annual report is filed.
- ~~(J)~~(J) The registrar shall deny the application of any business for a construction equipment auction license or may revoke a license previously issued if the registrar finds that the business is in violation of any provisions of section 4517.171 of the Revised Code.
- ~~(K)~~(K) Any business which has been denied a license or has had a license revoked by the registrar may appeal from the action of the registrar to the motor vehicle dealers board in the manner provided in section 4517.33 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 11/6/2017

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Certification

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Date

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