

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

*Motor Vehicle License By Auction
Auction Motor Vehicles
29 APR 1978 342*

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

October 16, 1978

COPY

Honorable Linwood F. Ross
Deputy Secretary of State
Motor Vehicle Division
Augusta, Maine 04330

Re: Auctioneers Selling Motor Vehicles

Dear Mr. Ross:

This is in response to your request of October 6, 1978 for an opinion as to whether a licensed auctioneer may "auction" motor vehicles in which he has no interest without obtaining a motor vehicle dealer's license. Assuming that the auctioneer sells or offers to negotiate the sale of more than 5 motor vehicles within any 12-month period, or permits the display of 3 or more motor vehicles for sale at any one time or within a 30-day period upon premises owned or controlled by him, we answer in the negative.

29 MRSA Section 342 provides, in pertinent part:

No person shall engage in the business of buying, selling or offering to negotiate a sale of any vehicle without having been issued a license under this subchapter.

* * * * *

A person is "engaged in the business of buying, selling or offering to negotiate the sale of a vehicle" if that person buys motor vehicles for the purpose of resale, sells or offers to negotiate the sale of more than 5 motor vehicles within any 12-month period, or displays or permits the display of 3 or more motor vehicles for sale at any one time or within any 30-day period upon premises owned or controlled by him, unless that person has owned and registered each vehicle for at least 6 months.

Failure to obtain such a license . . . shall be a misdemeanor.

This statutory provision carries (although in outdated terminology) a criminal penalty. Therefore, if an auctioneer engages in the business

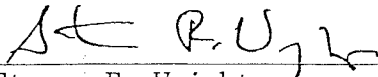
COPY - 2 -

Honorable Linwood F. Ross

October 16, 1978

of selling or offering to negotiate a sale of motor vehicle in which he holds no interest, it is our opinion that that auctioneer comes within the language of 29 MRSA Section 342 and must be licensed. Of course, to obtain a license an auctioneer is on no different footing than any other applicant with regard to the requirements set out in 29 MRSA c. 5, subchapter III-A.

It should be noted that auctioneers are not in any way exempted from 29 MRSA Section 342. See, 32 MRSA Section 251, et seq.



Steven F. Wright
Assistant Attorney General