

# Wisconsin Department of Safety and Professional Services

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## DIVISION OF PROFESSIONAL CREDENTIAL PROCESSING

### ADVERTISING REQUIREMENTS FOR WISCONSIN AUCTIONEERS AND AUCTION COMPANIES

**NOTE: The answers to the following questions paraphrase the Wisconsin Statutes and Administrative Code. Please consult Wis. Stats. Ch. 480, and Wis. Admin. Code Ch. SPS 123 for the exact language.**

**1. Can you summarize the auctioneer and auction company advertising requirements in a way that I can more easily understand them and use the summary as a check list?**

**Auctioneer:** Only an individual may be registered as an auctioneer. A registered auctioneer may operate an auctioneer business and may conduct and manage auctions, as well as call auctions himself or herself or hire other registered auctioneers to call auctions for his or her business.

**Requirement:**

**If the auction is to be conducted and managed by an auctioneer, and not managed by an auction company, the ad must contain the following:**

- a. Name of the auctioneer or a trade name which is registered with the department (Example: "John Doe" or "John Doe Auction Company")
- b. The words "Registered Wisconsin Auctioneer."
- c. The terms and conditions under which the auctioneer will accept payment by buyers at the auction.
- d. The percentage or other amount of any buyer's fee or surcharge which is a condition to sale.

**Example:**

John Doe  
Registered Wisconsin Auctioneer  
Cash or Credit Card  
10% Buyer's Fee (or Surcharge)

**Auction Company:** A corporation, partnership, association or an individual (not registered as an auctioneer) that manages auctions or that has primary responsibility for handling moneys received at an auction must register as an auction company. If the registrant is an individual, he or she may not call auctions. If the person wishes to call auctions, the individual should be registered as an auctioneer, rather than an auction company.

**Requirement:**

**If the auction is to be conducted by an auctioneer and managed by an auction company, the ad must contain the following:**

- a. Name of the auction company or a trade name registered with the department (Example: "Doe Auctioneers, Inc." or "Doe Auctioneers")
- b. Name or trade name of the auctioneer who will conduct the auction (if more than one, only one must be listed).
- c. The terms and conditions under which the auction company will accept payment by buyers at the auction.
- d. The percentage or other amount of any buyer's fee or surcharge which is a condition to sale.

**Example:**

Doe Auctioneers, Inc.  
Jane Doe, Registered Wisconsin Auctioneer  
Cash or Credit Card  
10% Buyer's Fee (or Surcharge)

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## 2. What is meant by “buyer’s fee or surcharge?”

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. **Note: Wisconsin Auctioneers may not advertise a “buyer’s fee surcharge by calling it a “buyer’s premium.”**

### 2b. Is it true that some information has to be posted at the location of the auction?

Yes, an auctioneer must post a notice or notices concerning the terms and conditions under which the auctioneer will accept payment by buyers and concerning the percentage or other amount of any buyer’s fee or surcharge.

## 3. What is a “trade name”, and when are auctioneers and auction companies permitted to use “trade names” in their advertising?

A “trade name” is a name, other than that on the registration certificate, under which an auctioneer or auction company advertises or does business. Auctioneers and auction companies may use a trade name in their advertising and business dealings, provided that they notify the department in writing of the trade name.

## 4. Can an auctioneer use both his or her trade name and individual name in an advertisement?

Yes. An auctioneer may advertise and do business under his or her personal name, a trade name, or both names.

## 5. Can an auction company use a trade name in advertising instead of the precise name of the corporation, partnership, association or individual?

Yes, provided the trade name is registered with the department.

## 6. Do the advertising requirements pertain to ads which provide information about an auction to be held in another state?

No, they only pertain to auctions held in Wisconsin.

## 7. Can a registrant advertise in a manner which is false, deceptive or misleading?

No.

## 8. What is meant by an “absolute auction” which is also known as an “auction without reserve”?

- 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.

## 9. Can a registrant advertise an auction as an “absolute auction” if any item or items are to be sold with reserve or with minimum bids?

No. 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.

## 10. Is it a violation of Wisconsin Statutes to advertise, practice or attempt to practice as an auctioneer or as an auction company under another person’s name?

Yes.

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**11. Does current law require that the name of each and every auctioneer who may be participating in a specific auction be listed in the advertisement for that auction?**

No, only the auctioneer who is in charge of conducting the auction must be named in the advertisement. The ad need not contain the names of other auctioneers who may assist with calling bids at the auction.

**12. Do the advertising requirements pertain to institutional advertising; for example: “John Doe Auction Service. We auction just about anything. Call us at (608) 987-5432”?**

No, just ads which refer to a specific auction.

**13. What persons or kinds of auctions are exempt from registration and advertising requirements?**

- a. Governmental auctions.
- b. Court ordered auctions.
- c. Auctions required by law.
- d. Auctions by owners of goods or real estate which they owned for their personal use for one year.
- e. Auctions by churches, schools, fraternal societies, non-profit organizations.
- f. Political fund raising auctions.
- g. Auctions of goods or services valued at under \$500.
- h. Fur auctions and auctioneers licensed by DNR.
- i. Motor vehicle auction dealers licensed by DOT.
- j. Persons conducting auctions within the scope of a license granted by another state agency.

**14. How important are these advertising requirements, and what are the consequences of not complying with them?**

The Auctioneer Board may suspend or revoke your registration certificate. To prevent complaints and possible disciplinary action, it is very important that registrants are in compliance with all advertising requirements.