

AUCTIONEERS Penalties and Sanctions

Texas Occupations Code, Chapter 1802

Texas Occupations Code, Chapter 51

16 Texas Administration Code, Chapter 67

16 Texas Administration Code, Chapter 60

Class A

Penalty Range: Warning to \$1,500

Administrative Violations

Violation	Statute/Rule
Failed to include name and license number in advertisement	67.70(a)(1)
Failed to furnish to Department the name, including assumed names, addresses, website, or social media pages, and phone numbers of all auction companies	67.70(b)(1)
Failed to announce, give notice, display or disclose auctioneer is licensed	67.70(c)(1)(A)
Failed to announce, give notice, display or disclose terms and conditions of the sale	67.70(c)(1)(B)
Failed to announce, give notice, display or disclose if owner has reserved right to bid	67.70(c)(1)(C)
Failed to notify consumers of Department information	67.70(c)(4)
Failed to report change of address	67.70(b)(2); 67.72(d)

Class B

Penalty: \$1,000 to \$3,000 and/or up to one-year full suspension.

Unlicensed Activity Violations

Violation	Statute/Rule
Performing as an auctioneer or associate auctioneer without a license	1802.051(a)
Act as auctioneer for auction company not owned or operated by licensee	1802.051(c)
Auctioned vehicles for an entity that arranges or manages car auctions but does not hold a dealer general distinguishing number or salvage vehicle dealer license	1802.051(d)
Allowed unlicensed auctioneer to call bids	67.70(c)(2)

Standards of Practice Violations

Violation	Statute/Rule
Advertised auction as “absolute” or “without reserve” when minimum bids required	67.70(a)(2)
Failed to announce, give notice, display or disclose a buyer’s premium before auction	67.70(c)(1)(B)
Failed to state buyer’s premium in advertisement	67.70(a)(3)

Sponsoring Auctioneer Violations

Violation	Statute/Rule
Failure of supervising auctioneer to be on premises and directly supervising when associate is bid calling	67.71(b)
Failure of sponsoring auctioneer to provide signed documentation to associate auctioneer upon termination of sponsorship	67.71(d)(2)

Associate Auctioneer Violations

Violation	Statute/Rule
Associate auctioneer providing auction services without a sponsoring auctioneer	67.72(a), 67.72(e)
Associate auctioneer bid called an auction without a sponsoring auctioneer on premises or providing direct supervision	67.72(b)

Class C

Penalty: \$2,000 to \$5,000 and/or up to revocation.

Standards of Practice Violations

Violation	Statute/Rule
Failed to provide a party with a written contract with terms of the agreement	1802.121(a), 67.70(b)(4)
Before the auction, failed to agree in writing to an itemized inventory of property to be sold or offered by sale	1802.121(c), 67.70(b)(4)-(6)
Failed to put into writing and have signed by both parties any amendment to the inventory	1802.121(c), 67.70(b)(6)
Failed to account for or remit money belonging to another	1802.251(5)
Commingling funds of another with own funds	1802.251(5)

Violation	Statute/Rule
Failed to pay funds due to seller within 15 banking days of auction	1802.251(5), 67.70(b)(10)(D)
Failed to maintain escrow account	67.70(b)(10)(A)
Failed to deposit auction proceeds in escrow account within 72 hours of auction	67.70(b)(10)(B)
Failed to pay public monies as required by law	67.70(b)(10)(C)
Failed to cooperate with the Department in the performance of an investigation	67.70(b)(11)

Recordkeeping Violations

Violation	Statute/Rule
Failed to keep records relative to an auction for 2 years	67.70(b)(3)
Failed to include, in records kept for an auction, any of the following: ➤ names and addresses of consignors ➤ date of the auction ➤ name of auctioneer and clerk for sale ➤ gross proceeds ➤ location and account number of escrow account ➤ itemized list of expenses charged to consignor ➤ list of all purchasers ➤ description and selling price of each item sold	67.70(b)(7)
Failed to keep all documents relating to an auction	67.70(b)(8)

Class D

Penalty: \$3,500 up to \$5,000 and/or revocation.

Violations

Violation	Statute/Rule
Flagrant course of misrepresentation or making false promises	1802.251(4)
Violation of Business and Commerce Code (DTPA)	1802.251(6)
Used or permitted use of false bidders	67.70(c)(3)
Obtained license by fraud or false representation	1802.251(2), 60.23(a)(1)
Substantial misrepresentation on application	1802.251(3)
Failed to comply with previous order of Commission/Executive Director	1802.251(7), 51.353(a)
Payment is made from the recovery fund as the result of an action of the license holder	1802.252(a), 67.40
Failed to pay the Department for a dishonored check	60.82