

# NewsLine

The Official Publication of the Tennessee Auctioneer Commission

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## Commissioners

	Term Expiration
<b>John Thorpe, Chairman</b> Middle Tennessee	12/31/20
<b>Ronnie Colyer, Vice Chairman</b> At-Large	08/31/19
<b>Adam Lewis</b> Consumer Member	12/31/19
<b>Jeff Morris</b> West Tennessee	08/31/20
<b>Randy Lowe</b> East Tennessee	08/31/21

## Mission Statement

The Mission of the Tennessee Auctioneer Commission is to protect the public through the establishment and administration of minimum requirements for candidates and licensees, effective professional education of licensees and enforcement of professional conduct.

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Department of Commerce & Insurance  
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Nashville, Tennessee 37243-1152  
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[www.tn.gov/commerce/regboards/auctioneers](http://www.tn.gov/commerce/regboards/auctioneers)

## Apprentice Upgrade to Auctioneer & License Renewal Notice

T.C.A. §62-19-111(b)(2) requires every apprentice auctioneer to serve “under the supervision of a licensed, full-time auctioneer for a period of two (2) years”. For those apprentice auctioneers that have 1000 points under a supervising auctioneer, have completed 30 hours of qualifying education, and are waiting on the 2 years to lapse in order to be compliant with statute, please apply for upgrade to auctioneer BEFORE expiring or you may be subject to the apprentice renewal fee and additional continuing education in order to remain in good standing for your upgrade.

Remember, all license renewals and upgrades must be completed and paid in full before the expiration date. Licenses that are not paid with proof of CE will go into an **Expired-Grace** status immediately upon expiration. Until the license is restored to **Active** status, the licensee cannot engage in any licensed activities. The Apprentice license must be in **Active Status** to advance to an Auctioneer license.

License renewals and upgrade applications can be managed through the licensee’s core account at [www.core.tn.gov](http://www.core.tn.gov). The CORE site has valuable tutorials to assist licensees in creating and using their user account.

## Professional Association Events

**Tennessee Auctioneers Association**  
Summer Convention—June 1-3, 2019  
Embassy Suites Nashville Airport—Nashville, TN

**National Auctioneers Association**  
70th Annual Conference & Show—July 9-13, 2019  
Hilton New Orleans Riverside—New Orleans, LA

*The Tennessee Department of Commerce & Insurance is committed to the principles of equal opportunity, equal access and affirmative action. Contact the EEO Coordinator or ADA Coordinator 615-741-2177 (TDD).*

# Commission Report & Legislative Update

**Commission Report:** During the January 2019 Auctioneer Commission meeting, Commissioner John Thorpe was re-elected as Commission Chairman and Commissioner Ronnie Colyer was re-elected as Vice Chair. Commissioner Jeff Morris was elected to represent the commission at the 2019 National Auctioneers Association (NAA) Conference and Show in New Orleans, Louisiana where he will also represent the commission at the annual meeting of the National Auctioneer License Law Officials Association (NALLOA) held at the NAA Conference and Show.

NALLOA serves as a forum of licensing board members and associate members, who communicate, endorse reciprocity and promote the common good in regulating the auction profession. Commissioner Morris is the current President of the NALLOA Board of Directors.

**Legislative Update:** On May 20, 2019 the Tennessee General Assembly passed HB797/SB1361 amending T.C.A. § 35-5-109 and T.C.A. § 35-5-112(b) regulating judicial and trust sales; T.C.A. § 55-17-120 regulating the sale of motor vehicles at auction; and multiple sections of T.C.A. § 62-19 Auctioneers. Governor Lee signed the bill into law on May 24, 2019. This act will take effect July 1, 2019.

HB797/SB1361 reflects the recommendation of the Tennessee Task Force on Auction Law Modernization. This task force was formed by legislative action in 2018 and was made up of representatives from the Department of Commerce and Insurance, the Auctioneer Commission, the Real Estate Commission, the Motor Vehicle Commission, online auctioneers, private auction companies, an auction education provider, the Tennessee Auctioneer Association, the County Officials Association of Tennessee and a consumer member. Charged with bringing Tennessee's auctioneer laws up to date with current industry practices, the thirteen-member task force addressed a variety of issues surrounding online auctions in Tennessee, the ease of entry into the auction profession, the selling of certain motor vehicles at auction, judicial sales of real estate at auction.

The full bill can be viewed at [www.legislature.state.tn.gov](http://www.legislature.state.tn.gov) by searching under the bill number. Following is a summary of this bill:

- ◆ Extends public sale auctions and published end times for auctions to include internet-based bidding platform formats.
- ◆ Exempts going out of business sales of motor vehicles from a requirement that a licensed motor vehicle dealer performs the sale, if all vehicles in the sale were owned by the business for at least one year and the auctioneer gives a 14-day written notice to the Motor Vehicle Commission (MVC).
- ◆ Defines a "timed listing".
- ◆ Exempts from licensing the live, online or simulcast auction of salvage vehicles.
- ◆ Exempts from licensing an individual generating less than ten thousand dollars in revenue in a calendar year from the sale of property in online auctions.
- ◆ Renames the existing title and licensure of an "apprentice auctioneer" to an "affiliate auctioneer".
- ◆ Defines and creates licensure procedure for a "bid caller auctioneer", exempting such auctioneers from application fees, examination, and continuing education requirements.
- ◆ Authorizes applicant to acquire instructional hours online.
- ◆ Reduces or restructures the instructional hours for a bid calling auctioneer, an affiliate auctioneer, a principal auctioneer, and a public automobile auctioneer.
- ◆ Reduces time served as an affiliate auctioneer to apply for a principal auctioneer license from two years to six months.
- ◆ Deletes definitions and all licensure requirements for firm, gallery, firm branch and gallery branch licenses.
- ◆ Authorizes public automobile auctions to hire any licensed auctioneer to solicit bids at such auction.

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go to the direct link at [www.tn.gov/notify-app/sign\\_up](http://www.tn.gov/notify-app/sign_up)*

# Sales & Use Tax

In 2018, the United States Supreme Court handed down a decision in *South Dakota v. Wayfair, Inc.*, overturning the previous ruling under *Quill Corp. v. North Dakota*.

Under the *Quill* ruling, a vendor had to have a physical presence in a state for that state to require sales tax collection from the vendor. Under the 2018 *Wayfair* ruling, states can now enforce sales tax collection from any vendor that has a financial presence in the state regardless of their physical location.

Tennessee Sales Tax Rule 129(2) establishes an economic nexus rule; however, in May 2017, the Tennessee General Assembly passed legislation prohibiting the enforcement of this rule until the General Assembly could review the *Wayfair* decision. Out-of-state auctioneers are not required to collect Tennessee sales tax until the Department of Revenue issues a public notice with the specific date and circumstances under which out-of-state dealers must begin to collect and remit sales and use tax in Tennessee.

Licensees may elect to receive such notices electronically, at [www.tn.gov/revenue](http://www.tn.gov/revenue) by clicking on the 'Tax Resources' box and then under the 'Legal Resources' heading and 'Important Notices', Notice 18-11.

The collection of sales and use tax is unchanged for in-state auctioneers. The Tennessee Sales and Use Tax Guide was updated in September 2018 and is also available by clicking on the 'Tax Resources' box and then click 'Tax Guides' under the 'Legal Resources' heading. The Tax Guide is a valuable tool for all auctioneers to help them understand sales tax regulations as they apply to the sales of tangible personal property at auction.

## Legal Reminder

Auctioneers are sometimes asked to "loan" their auctioneer, firm or gallery license number to an out-of-state auctioneer or auction company wishing to conduct an auction in Tennessee. While some states allow this practice, Tennessee does not.

If anyone asks to "borrow" a licensee's license number, please refer them to Tenn. Comp. R & Regs. 0160-01-.21(5): *An auctioneer...shall not permit its name or license number to appear on any advertisement not in compliance with Tennessee Code Annotated Title 62, Chapter 19 et seq. (Auctioneer Licensing Laws) and the Rules of the Tennessee Auctioneer Commission.*

This rule is very clear on the use of licensee's name and number but there may still be some confusion on cooperative auctions and referrals, especially from out-of-state auctioneers wishing to conduction business in Tennessee.

In summary: All auctions conducted in Tennessee must be contracted and conducted by a Tennessee licensed auctioneer.

### Disciplinary Action Report

#### January 2019

**Tim Hardee**, Newbern, TN  
\$1000 Civil Penalty  
Unlicensed Activity

**John Smith, Jr.**, Winchester, TN  
\$500 Civil Penalty  
Deceptive Advertising

#### February 2019

**Signature Luxury Auctions**, Knoxville, TN  
\$2000 Civil Penalty  
Unlicensed Activity

### Commission Calendar

#### 2019 Commission Meetings

*All meetings are held at 500 James Robertson Parkway, Nashville, TN 37243*

August 12, 2019 10:00 a.m.

November 18, 2019 9:00 a.m.

#### Upcoming Continuing Education Seminars:

**East Tennessee**  
Monday, September 30, 2019  
General Morgan Inn  
Greeneville, TN

**Middle Tennessee**  
Monday, March 2, 2020  
The Retreat at Center Hill Lake  
Smithville, TN

"Estate & Financial Planning for Small Business Owners & Independent Contractors" by Aaron J. Carmack, Financial Advisor

"Unleashing Your Inner Champion: How to be successful in the auction business and life" and "Inside the World of Equipment Auctions" by Dustin Rogers, 2017 IAC Champion Auctioneer



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