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## Mission Statement

The Mission of the Tennessee Auctioneers Commission is to protect the public and licensees by monitoring the auctioneer profession through licensure and regulation.

## Commission Report

Congratulations to Commissioner Howard Phillips, East Tennessee member, on his reappointment to another term on the Tennessee Auctioneers Commission.

The Commission continues to hear complaints regarding unlicensed activity. These include issues of unlicensed out-of-state auctioneers coming into Tennessee to conduct auctions, but also unlicensed auction companies attempting to co-op with Tennessee licensed auctioneers to conduct an auction in Tennessee.

It is important to note: Tennessee Auction Law does not allow a licensed auction firm to loan or lease their firm license number to an unlicensed firm. Because there are states that allow this practice, it may be a source of confusion for companies that are not properly educated on Tennessee Auction Laws and Regulations. Nonetheless, it is a violation and generally it is the Tennessee licensee who is penalized.

When an auctioneer or auction firm agrees to co-op a deal, the Tennessee licensed firm is responsible for the contract, the advertising and the proper accounting of all funds in an Escrow account.

Let's look at a scenario: *OOS Auctions, an out-of-state auction company has a client in their state who owns property in Tennessee. OOS Auctions does not hold any license in Tennessee, so they contact TAC Real Estate & Auction Co. to conduct the auction.*

In this scenario, only TAC Real Estate & Auction Co. can enter into a contract with the out-of-state seller, and TAC Real Estate & Auction Co. must be on all advertising with their firm license number, and TAC Real Estate & Auction Co. must manage any escrowed deposit and the closing.

If OSS Auctions signs the contract, and utilizes the services of TAC Real Estate & Auction Co. to conduct the sale; then OSS Auctions has engaged in unlicensed activity and TAC Real Estate & Auction Co. is at risk of citation for participating in an unlicensed auction.

Rule 0160-1-.05(1) states: *"All advertising of an auction sale must be made in the name of the licensee who shall bear responsibility of the sale to the sellers, general public and auctioneer commission."* [emphasis added].

**Reminder:** Commission meetings are open to the public and licensees. See the calendar for a list of upcoming dates and times.

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

Well known Nashville auctioneer **Bill Colson** passed away September 20, 2015 in Nashville, TN.

Colson served the Tennessee Auctioneer Commission for two terms beginning in 1989. In 2000, Colson was selected by his competitors and peers for induction into the Tennessee Auctioneer Association Hall of Fame.

Colson made numerous contributions to the auction profession and to the Tennessee Auctioneer Commission. We extend our sincere condolences to the Colson Family.



## Charitable Gaming Information

### Who Can Apply to hold a charitable gaming event?

The law currently allows IRS 501(c)(3) and 501(c)(19) organizations to operate an annual game of chance. Organizations must apply and be approved by a two-thirds vote of the General Assembly.

**What games are authorized and how many may I operate during the annual event?** Only one (1) event is allowed each year. Authorized games include raffles, reverse raffles, cakewalks, and cakewheels. Unauthorized games include bingo, pulltabs, punchboards, video lottery games, instant and online lottery games, keno, and games of chance associated with casinos including but not limited to slot machines, roulette wheels, and the like.

**What are the basic requirements of the law?** The event period from July 1—June 30 of the following year. An application must be received by January 31, 2016 for an event being held between July 1, 2016 and June 30, 2017. The organization must provide documentation from the IRS of tax exempt status, and the event must be held in the location where the charitable organization has a physical presence.

**When can an organization begin selling tickets?** After receiving the approval from the General Assembly, an authorized organization can begin selling tickets 120 days before the event.

**Are accounting reports or post event financial data required?** Yes. A financial report is due 90 days after the annual event date stated in your application. If gross revenues from an event exceeds \$ 50,000 an audited financial statement is also required.

**May two 501(c)(3) or 501(c)(19) organizations jointly operate an annual event?** Yes, however participating organizations must file an application and each pay the required fees. All applicants must qualify.

**Where can I obtain the forms to apply?** [sos.tn.gov/charitable/gaming-forms](http://sos.tn.gov/charitable/gaming-forms)

## Disciplinary Action

### March 2015

**Respondent:** Carroll County Auction, McKenzie, TN  
**Violation:** T.C.A. § 62-19-112 (b)(7) & Rule 0160-01-.20 (2)  
**Action:** \$1,000 Civil Penalty & full refund of the bid, plus the buyer's premium for the 2 1/2 dollar gold piece to the complainant.

### April 2015

**Respondent:** Everything But The House, Cincinnati, OH  
**Violation:** Unlicensed activity  
**Action:** \$2,000 Civil Penalty and Cease and Desist

**Respondent:** Sellers Auction Service, Rolla, MO  
**Violation:** Unlicensed activity  
**Action:** \$500 Civil Penalty

### May 2015

**Respondent:** Circle R Auction, LLC, Florence, AL  
**Violation:** Unlicensed conduct  
**Action:** Agreed to Voluntary Surrender Consent Order

### August 2015

**Respondent:** Mark W. Lipscomb, Memphis, TN  
**Violations:** Calling an auction for an unlicensed auction firm  
**Action:** \$500 civil penalty

**Respondent:** James G. Cox, Mosheim, TN  
**Violation:** Respondent did not pay the full amount owed on sale  
**Action:** \$250 civil penalty and a copy of written contract to be entered into with owners or consignees of any property to be sold

## COMMISSION CALENDAR

November 2, 2015 9:00 am Commission Meeting  
Conference Rm 1-B

December 7, 2015 9:00 am Commission Meeting  
Conference Room 1-B

Commission Meetings are held at  
500 James Robertson Pkwy, Nashville, TN

### Continuing Education Seminar

November 9, 2015 9:00 am East TN CE Seminar  
Holiday Inn West at  
Cedar Bluff Road  
Knoxville, TN

# SELLING ALCOHOL at AUCTION

## *Spoiler Alert: Don't Do It*

From time to time auction questions arise on issues that are addressed by state laws other than the Auctioneer Code. One such question regards the sale of alcohol at auction.

Joshua Stepp, legal counsel for the Tennessee Alcoholic Beverage Commission (TABC) has provided the following information to assist auctioneers in addressing the proper process for the handling of alcoholic beverages at estate auctions and benefit auctions.

TABC regulates the sale of distilled spirits, wine and high-gravity beer. The sale of low-gravity beer (that is beer with an alcohol content of 5% by weight or 6.27% by volume) is regulated on the local level by the municipal beer board.

According to Mr. Stepp, any alcoholic beverage regulated by TABC must have a license issued by the TABC or it cannot be sold.

The only license that may allow an auctioneer to sell alcoholic beverages is the Special Occasion Permit. This license would be obtained by a charitable organization at least two weeks prior to a fundraising auction to allow for the sale, at auction, of distilled spirits, wine and/or high-gravity beer donated by a wholesaler or liquor store. This is an event specific license with an application fee of \$ 100. A limited number of Special Occasion Permits can be issued to a single organization in any calendar year.

Since there is no license to allow an auctioneer to liquidate a private collection at an estate auction or for a collector, the TABC is very clear: an auctioneer cannot sell a private collection.

In 2009, the Tennessee Legislature passed a law allowing for a Collector's License. Some auctioneers have misinterpreted this license to authorize them to sell for a collector. Not so. The Collector's license is very narrow in its scope as defined by T.A.C. 57-3-209(a) below. This license would only allow the sale of a private collection if the owner of the collection was properly licensed by TABC *and* happened to be an auctioneer.

### **57-3-209. Collectors of containers that hold alcoholic beverages.**

*a) For purposes of this section:*

*(1) "Alcoholic beverage collector" means an individual who collects commemorative bottles containing alcoholic beverages, wine or distilled spirits, where the individual displays the collection in a location available to the public, either by appointment or on a regular schedule, and who sells collectible alcoholic beverages for the purpose of collection, without the intent that the collectible alcoholic beverage be consumed; and*

*(2) "Collectible alcoholic beverage" means an alcoholic beverage, distilled spirit or wine in a unique or commemorative bottle, decanter or other container, not generally available at a licensee holding a permit issued pursuant to § 57-3-204.*

For additional information, please visit the TABC website at [tn.gov/abc](http://tn.gov/abc).

## Did You Know?

In August, Fodor's Travel listed the Great Smoky Mountains in Tennessee among the top 10 Best Fall Foliage Trips. According to Fodor's, the Great Smoky Mountain National Park has over 800 miles of roads and hiking trails with over 100 species of native trees that turn out fall foliage in gold, red, orange and purple.

The Farmer's Almanac forecasts the peak dates this year to be October 12-28th.

## Legal Reminder

### **Rule 0160-1-.21. Disclosure of Buyer's Premium.**

*An auctioneer, auction firm or gallery shall disclose the existence and amount of any "buyer's premium", commission, or fee to be charged to the buyers at an auction sale. Such disclosure shall be made in all advertising and orally announced immediately prior to the start of an auction.*

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[www.tn.gov/commerce/section/auctioneers](http://www.tn.gov/commerce/section/auctioneers)

***Please be sure to forward a copy of the NewsLine to licensees in your firm.***

*To receive email or text alerts from the Tennessee Auctioneer Commission  
go to the direct link at [www.tn.gov/notify-app/sign\\_up](http://www.tn.gov/notify-app/sign_up)*

## UPCOMING CONTINUING EDUCATION SEMINAR

Monday, November 9, 2015

9:00 a.m. (eastern)

Holiday Inn Knoxville West at Cedar Bluff

9134 Executive Park Drive  
Knoxville, Tennessee 37923

*Featuring*

**Robert Mayo**

Mayo is the President of Mayo Auction & Realty in Belton, Missouri and is a nationally recognized auction educator. Mayo was one of the authors of the National Auctioneers Association Auction Technology Specialist Designation program and is a trendsetter in online auctions and social media marketing for the auction industry. Don't miss out on 4 hours of fun and informative Continuing Education from Robert Mayo.

Wendell Hanson will also be presenting at this seminar on Auction Dynamics.

Driving Directions will be provided on the Reminder Postcard