



Vehicle Auctions in BC – Part Two

Dealer Liability and Compliance with the Law

Ian Christman, Registrar of Motor Dealers, wants to remind licensed dealers that “if the dealer’s name is attached to the vehicle, the dealer is responsible. And, selling a non-compliant vehicle may be a serious offence.” This also applies to auctions that act as motor dealers. See [Vehicle Auctions in BC – Part One](#) for a summary of auction types.

Specific Compliance Concerns for BC Vehicle Auctions

- ◆ *Required disclosures must be made*

The *Motor Dealer Act Regulation (MDAR)* requires a motor dealer to make clear declarations to consumers about the motor vehicle being offered for sale. One such declaration is that the motor vehicle meets the safety requirements of the *Motor Vehicle Act (MVA)* and its regulations or is otherwise unsuitable for transportation. This also includes auctions.

- ◆ *Vehicle safety*

The *Motor Vehicle Act* applies to all motor vehicle sales in B.C. This includes private, business to consumer, and business-to-business sales. The *MVA* prohibits selling, or even advertising for sale, a motor vehicle for use that does not meet the minimum safety requirements of the *MVA* and its regulations.

- ◆ *Operation of unsafe vehicles*

The *Motor Vehicle Act* prohibits a person from operating a non-compliant motor vehicle on the roads, or from allowing another person from driving a non-compliant vehicle. A non-compliant vehicle should never be driven off a seller's lot.

- ◆ *Misrepresentation of material facts*

The B.C. Supreme Court and Court of Appeal note that making any representation about a good, such as a motor vehicle, but remaining silent about a material fact, could be a deceptive act under the *Business Practices and Consumer Protection Act (BPCPA)*. Compliance with the safety requirements of the *Motor Vehicle Act* is a material fact.

- ◆ *“As is, where is” may be misleading*

The VSA takes the position that the statement “As is, where is” is not compliant with the *MDAR* declaration requirements. These mandatory provisions cannot be waived in this way. Further, a consumer has certain rights under the *BPCPA* that cannot be waived. A blanket statement such as “As is, where is” may be misleading to a consumer about their rights and may be considered a violation of the *BPCPA*.