

As Introduced

**126th General Assembly
Regular Session
2005-2006**

S. B. No. 99

Senator Mumper

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A B I L L

To amend sections 4707.01 and 4707.02 of the Revised 1
Code to exclude persons who sell their own real or 2
personal property by means of the Internet from 3
having to obtain a license under the Auctioneers 4
Law, to require persons to obtain auction firm 5
licenses for taking and advertising personal 6
property on consignment for sale by means of the 7
Internet, and to declare an emergency. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4707.01 and 4707.02 of the Revised 9
Code be amended to read as follows: 10

Sec. 4707.01. As used in this chapter: 11

(A) "Auction" means a method of sale of real or personal 12
property, goods, or chattels, at a predetermined date and time, by 13
means of a verbal exchange, regular mail, telecommunications, the 14
internet, an electronic transmission, or a physical gesture 15
between an auctioneer or apprentice auctioneer and members of the 16
audience or prospective purchasers, the exchanges and gestures 17
consisting of a series of invitations for offers made by the 18
auctioneer and offers by members of the audience or prospective 19
purchasers, with the right to acceptance of offers with the 20

auctioneer or apprentice auctioneer. "Auction" includes a sale of
real or personal property, goods, or chattels in which there has
been a solicitation or invitation by advertisement to the public
for an advance in bidding using sealed bidding, provided that the
bids are opened and there is a call for an advancement of the
bids.

(B) "Auctioneer" means any person who engages, or who by
advertising or otherwise holds the person out as being able to
engage, in the calling for, recognition of, and the acceptance of,
offers for the purchase of real or personal property, goods, or
chattels at auction either directly or through the use of other
licensed auctioneers or apprentice auctioneers.

(C) "Apprentice auctioneer" means any individual who is
sponsored by an auctioneer to deal or engage in any activities
mentioned in division (A) of this section.

(D) "Special auctioneer" means any person who currently is
subject to section 4707.071 of the Revised Code.

(E) "Absolute auction" means an auction of real or personal
property to which all of the following apply:

(1) The property is sold to the highest bidder without
reserve.

(2) The auction does not require a minimum bid.

(3) The auction does not require competing bids of any type
by the seller or an agent of the seller.

(4) The seller of the property cannot withdraw the property
from auction after the auction is opened and there is public
solicitation or calling for bids.

(F) "Reserve auction" means an auction in which the seller or
an agent of the seller reserves the right to establish a stated
minimum bid, the right to reject or accept any or all bids, or the

right to withdraw the real or personal property at any time prior 51
to the completion of the auction by the auctioneer. 52

(G) "Auction mediation company" means a company that provides 53
a forum through the internet for a person to sell the person's 54
real or personal property that was not originally acquired for the 55
purpose of resale via the submission of silent bids using a 56
computer or other electronic device. 57

(H) "Public authority" means any board or commission of the 58
state or any officer of such a board or commission, or any 59
political subdivision of the state. 60

(I) "Estate auction" means the auction of real or personal 61
property of a deceased person. 62

(J) "Absentee bidding" means a method by which a potential 63
purchaser authorizes a proxy to place on behalf of the potential 64
purchaser a written or oral bid to an auctioneer or auction firm 65
or an agent of an auctioneer or auction firm. 66

(K) "Person" means an individual, sole proprietor, 67
corporation, limited liability company, association, or 68
partnership. 69

(L) "Auction firm" means a person who provides auction 70
services. 71

(M) "Auction services" means arranging, managing, and 72
sponsoring a personal property auction. "Auction services" 73
includes the taking and advertising of personal property on 74
consignment to be sold at auction by a licensed auctioneer or to 75
be sold by means of the internet. 76

(N) "Consignee" means a person or auction firm that takes 77
personal property on consignment to be sold at auction by a 78
licensed auctioneer. 79

(O) "Firm manager" means the individual designated by an 80

81 auction firm who is responsible for ensuring that the auction firm
82 complies with this chapter.

(P) "Sealed bidding" means a method of submitting a bid in 83
writing by one or more persons following which the bids are opened 84
at an advertised, predetermined time and place, and, after a 85
review of all the bids received, the real or personal property is 86
awarded to the highest and most responsive bidder. 87

Sec. 4707.02. No person shall act as an auction firm, 88
auctioneer, apprentice auctioneer, or special auctioneer within 89
this state without a license issued by the department of 90
agriculture. No auction shall be conducted in this state except by 91
an auctioneer licensed by the department. 92

The department shall not issue or renew a license if the 93
applicant or licensee has been convicted of a felony or crime 94
involving fraud or theft in this or another state at any time 95
during the ten years immediately preceding application or renewal. 96

This section does not apply to: 97

(A) Sales at auction that either are required by law to be at 98
auction, other than sales pursuant to a judicial order or decree, 99
or that are conducted by or under the direction of a public 100
authority; 101

(B) The owner of any real or personal property desiring to 102
sell the property at auction, provided that the property was not 103
acquired for the purpose of resale; 104

(C) An auction mediation company; 105

(D) An auction that is conducted in a course of study for 106
auctioneers that is approved by the state auctioneers commission 107
created under section 4707.03 of the Revised Code for purposes of 108
student training and is supervised by a licensed auctioneer; 109

(E) An auction that is sponsored by a nonprofit or charitable organization that is registered in this state under Chapter 1702. or Chapter 1716. of the Revised Code, respectively, if the auction only involves the property of the members of the organization and the auction is part of a fair that is organized by an agricultural society under Chapter 1711. of the Revised Code or by the Ohio expositions commission under Chapter 991. of the Revised Code at which an auctioneer who is licensed under this chapter physically conducts the auction;

(F) A person licensed as a livestock dealer under Chapter 943. of the Revised Code who exclusively sells livestock and uses an auctioneer who is licensed under this chapter to conduct the auction;

(G) A person licensed as a motor vehicle auction owner under Chapter 4517. of the Revised Code who exclusively sells motor vehicles and who uses an auctioneer who is licensed under this chapter to conduct the auction;

(H) A person who sells the person's own real or personal property by means of the internet, provided that the person does not conduct activities for which a person otherwise would be required to obtain a license under this chapter.

Section 2. That existing sections 4707.01 and 4707.02 of the Revised Code are hereby repealed.

Section 3. Sections 1 and 2 of this act take effect on May 6, 2005.

Section 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to clarify that the amendment of Chapter 4707. of the Revised Code by Sub. S.B. 209 of the 125th General Assembly, which is to take

effect on May 6, 2005, was not intended to regulate a person who 140
sells the person's own real or personal property by means of the 141
Internet, provided that the person does not conduct activities for 142
which a person otherwise would be required to be licensed under 143
that chapter. Therefore, this act shall go into immediate effect. 144