

**As Passed by the Senate**

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

**Sub. S. B. No. 99**

**Senators Mumper, Armbruster, Cates, Niehaus, Schuler, Wilson**

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**A BILL**

To amend sections 4707.01 and 4707.02 of the Revised 1  
Code to exclude persons who sell real or personal 2  
property by means of the Internet from having to 3  
obtain a license under the Auctioneers Law, to 4  
revise the definition of "auction mediation 5  
company," and to declare an emergency. 6

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

**Section 1.** That sections 4707.01 and 4707.02 of the Revised 7  
Code be amended to read as follows: 8

**Sec. 4707.01.** As used in this chapter: 9

(A) "Auction" means a method of sale of real or personal 10  
property, goods, or chattels, at a predetermined date and time, by 11  
means of a verbal exchange, regular mail, telecommunications, the 12  
internet, an electronic transmission, or a physical gesture 13  
between an auctioneer or apprentice auctioneer and members of the 14  
audience or prospective purchasers, the exchanges and gestures 15  
consisting of a series of invitations for offers made by the 16  
auctioneer and offers by members of the audience or prospective 17  
purchasers, with the right to acceptance of offers with the 18  
auctioneer or apprentice auctioneer. "Auction" includes a sale of 19  
real or personal property, goods, or chattels in which there has 20

been a solicitation or invitation by advertisement to the public 21  
for an advance in bidding using sealed bidding, provided that the 22  
bids are opened and there is a call for an advancement of the 23  
bids. 24

(B) "Auctioneer" means any person who engages, or who by 25  
advertising or otherwise holds the person out as being able to 26  
engage, in the calling for, recognition of, and the acceptance of, 27  
offers for the purchase of real or personal property, goods, or 28  
chattels at auction either directly or through the use of other 29  
licensed auctioneers or apprentice auctioneers. 30

(C) "Apprentice auctioneer" means any individual who is 31  
sponsored by an auctioneer to deal or engage in any activities 32  
mentioned in division (A) of this section. 33

(D) "Special auctioneer" means any person who currently is 34  
subject to section 4707.071 of the Revised Code. 35

(E) "Absolute auction" means an auction of real or personal 36  
property to which all of the following apply: 37

(1) The property is sold to the highest bidder without 38  
reserve. 39

(2) The auction does not require a minimum bid. 40

(3) The auction does not require competing bids of any type 41  
by the seller or an agent of the seller. 42

(4) The seller of the property cannot withdraw the property 43  
from auction after the auction is opened and there is public 44  
solicitation or calling for bids. 45

(F) "Reserve auction" means an auction in which the seller or 46  
an agent of the seller reserves the right to establish a stated 47  
minimum bid, the right to reject or accept any or all bids, or the 48  
right to withdraw the real or personal property at any time prior 49  
to the completion of the auction by the auctioneer. 50

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

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

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

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

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

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

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

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

(O) "Firm manager" means the individual designated by an auction firm who is responsible for ensuring that the auction firm complies with this chapter.

(P) "Sealed bidding" means a method of submitting a bid in

writing by one or more persons following which the bids are opened 81  
at an advertised, predetermined time and place, and, after a 82  
review of all the bids received, the real or personal property is 83  
awarded to the highest and most responsive bidder. 84

**Sec. 4707.02.** No person shall act as an auction firm, 85  
auctioneer, apprentice auctioneer, or special auctioneer within 86  
this state without a license issued by the department of 87  
agriculture. No auction shall be conducted in this state except by 88  
an auctioneer licensed by the department. 89

The department shall not issue or renew a license if the 90  
applicant or licensee has been convicted of a felony or crime 91  
involving fraud or theft in this or another state at any time 92  
during the ten years immediately preceding application or renewal. 93

This section does not apply to: 94

(A) Sales at auction that either are required by law to be at 95  
auction, other than sales pursuant to a judicial order or decree, 96  
or that are conducted by or under the direction of a public 97  
authority; 98

(B) The owner of any real or personal property desiring to 99  
sell the property at auction, provided that the property was not 100  
acquired for the purpose of resale; 101

(C) An auction mediation company; 102

(D) An auction that is conducted in a course of study for 103  
auctioneers that is approved by the state auctioneers commission 104  
created under section 4707.03 of the Revised Code for purposes of 105  
student training and is supervised by a licensed auctioneer; 106

(E) An auction that is sponsored by a nonprofit or charitable 107  
organization that is registered in this state under Chapter 1702. 108  
or Chapter 1716. of the Revised Code, respectively, if the auction 109  
only involves the property of the members of the organization and 110

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 real or personal property by means of the internet.

**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 sells real or personal property by means of the Internet. Therefore, this act shall go into immediate effect.