

**As Reported by the House Agriculture and Natural Resources  
Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

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

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

**Representatives Aslanides, Gibbs**

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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 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 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.

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(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.

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(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.

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

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

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

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

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

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(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.

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(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

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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 51  
a forum through the internet for a person to sell the person's 52  
real or personal property ~~that was not originally acquired for the~~ 53  
~~purpose of resale~~ via the submission of silent bids using a 54  
computer or other electronic device. 55

(H) "Public authority" means any board or commission of the 56  
state or any officer of such a board or commission, or any 57  
political subdivision of the state. 58

(I) "Estate auction" means the auction of real or personal 59  
property of a deceased person. 60

(J) "Absentee bidding" means a method by which a potential 61  
purchaser authorizes a proxy to place on behalf of the potential 62  
purchaser a written or oral bid to an auctioneer or auction firm 63  
or an agent of an auctioneer or auction firm. 64

(K) "Person" means an individual, sole proprietor, 65  
corporation, limited liability company, association, or 66  
partnership. 67

(L) "Auction firm" means a person who provides auction 68  
services. 69

(M) "Auction services" means arranging, managing, and 70  
sponsoring a personal property auction. "Auction services" 71  
includes the taking and advertising of personal property on 72  
consignment to be sold at auction by a licensed auctioneer. 73

(N) "Consignee" means a person or auction firm that takes 74  
personal property on consignment to be sold at auction by a 75  
licensed auctioneer. 76

(O) "Firm manager" means the individual designated by an 77  
auction firm who is responsible for ensuring that the auction firm 78

complies with this chapter.	79
(P) "Sealed bidding" means a method of submitting a bid in writing by one or more persons following which the bids are opened at an advertised, predetermined time and place, and, after a review of all the bids received, the real or personal property is awarded to the highest and most responsive bidder.	80 81 82 83 84
<b>Sec. 4707.02.</b> No person shall act as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer within this state without a license issued by the department of agriculture. No auction shall be conducted in this state except by an auctioneer licensed by the department.	85 86 87 88 89
The department shall not issue or renew a license if the applicant or licensee has been convicted of a felony or crime involving fraud or theft in this or another state at any time during the ten years immediately preceding application or renewal.	90 91 92 93
This section does not apply to:	94
(A) Sales at auction that either are required by law to be at auction, other than sales pursuant to a judicial order or decree, or that are conducted by or under the direction of a public authority;	95 96 97 98
(B) The owner of any real or personal property desiring to sell the property at auction, provided that the property was not acquired for the purpose of resale;	99 100 101
(C) An auction mediation company;	102
(D) An auction that is conducted in a course of study for auctioneers that is approved by the state auctioneers commission created under section 4707.03 of the Revised Code for purposes of student training and is supervised by a licensed auctioneer;	103 104 105 106
(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 111  
society under Chapter 1711. of the Revised Code or by the Ohio 112  
expositions commission under Chapter 991. of the Revised Code at 113  
which an auctioneer who is licensed under this chapter physically 114  
conducts the auction; 115

(F) A person licensed as a livestock dealer under Chapter 116  
943. of the Revised Code who exclusively sells livestock and uses 117  
an auctioneer who is licensed under this chapter to conduct the 118  
auction; 119

(G) A person licensed as a motor vehicle auction owner under 120  
Chapter 4517. of the Revised Code who exclusively sells motor 121  
vehicles and who uses an auctioneer who is licensed under this 122  
chapter to conduct the auction; 123

(H) A person who sells real or personal property by means of 124  
the internet. 125

**Section 2.** That existing sections 4707.01 and 4707.02 of the 126  
Revised Code are hereby repealed. 127

**Section 3.** Sections 1 and 2 of this act take effect on May 6, 128  
2005. 129

**Section 4.** This act is hereby declared to be an emergency 130  
measure necessary for the immediate preservation of the public 131  
peace, health, and safety. The reason for such necessity is to 132  
clarify that the amendment of Chapter 4707. of the Revised Code by 133  
Sub. S.B. 209 of the 125th General Assembly, which is to take 134  
effect on May 6, 2005, was not intended to regulate a person who 135  
sells real or personal property by means of the Internet. 136  
Therefore, this act shall go into immediate effect. 137