

As Reported by the Senate Agriculture Committee

126th General Assembly

Regular Session

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Sub. S. B. No. 99

Senator Mumper

—

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.