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Bill Analysis

Legislative Service Commission

Sub. S.B. 99*

126th General Assembly

(As Reported by H. Agriculture and Natural Resources)

Sens. Mumper, Armbruster, Cates, Niehaus, Schuler, Wilson

BILL SUMMARY

- Excludes persons who sell real or personal property by means of the Internet from having to obtain a license under the Auctioneers Law.
- Revises the definition of "auction mediation company."
- Declares an emergency, and specifies that the bill takes effect on May 6, 2005.

CONTENT AND OPERATION

The Auctioneers Law was revised by Sub. S.B. 209 of the 125th General Assembly (hereafter, revised law). The revisions take effect on May 6, 2005. Among the numerous changes, the definition of "auction" was revised to include a method of sale of real or personal property, goods, or chattels, at a predetermined date and time, by means of the Internet. Due to this and other revisions, it is unclear how the Auctioneers Law applies to persons who sell real or personal property on the Internet and to other aspects of Internet sales. The bill clarifies the application of the Auctioneers Law regarding Internet sales as follows.

Revised law prohibits any person from acting as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer within Ohio without a license issued by the Department of Agriculture. It further prohibits any auction from being conducted in Ohio except by an auctioneer licensed by the Department. It then establishes several exemptions from those prohibitions. The bill also exempts a person who sells real or personal property by means of the Internet. (Sec. 4707.02(H).)

* This analysis was prepared before the report of the House Agriculture and Natural Resources Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Additionally, revised law exempts auction mediation companies from the above prohibitions regarding licensure (sec. 4707.02(C)). Under revised law, "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. The bill revises the definition by removing the stipulation that the property could not have been acquired for the purpose of resale. (Sec. 4707.01(G).)

The bill declares an emergency, stating that it is necessary to clarify that the amendment of the Auctioneers Law by Sub. S.B. 209 of the 125th General Assembly was not intended to regulate a person who sells real or personal property by means of the Internet (Section 4). The bill then specifies that it is to take effect on May 6, 2005 (Section 3).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-08-05	p. 277
Reported, S. Agriculture	03-16-05	p. 314
Passed Senate (31-0)	03-16-05	pp. 323-324
Reported, H. Agriculture & Natural Resources	---	---

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