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Bill Analysis

Legislative Service Commission

S.B. 99*

126th General Assembly
(As Introduced)

Sen. Mumper

BILL SUMMARY

- Generally excludes persons who sell their own real or personal property by means of the Internet from having to obtain a license under the Auctioneers Law.
- Requires persons to obtain auction firm licenses for taking and advertising personal property on consignment for sale by means of the Internet.
- Declares an emergency, and specifies that it 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 their own 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

* *This analysis was prepared before the introduction of the bill appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

Department. It then establishes several exemptions from those prohibitions. The bill also exempts 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 the Auctioneers Law. (Sec. 4707.02(H).)

With certain exceptions, revised law requires a person who is not otherwise licensed under the Auctioneers Law and who only provides auction services or holds the person's self out as providing auction services to do so only with a valid auction firm license issued by the Department (sec. 4707.074, not in the bill). "Auction firm" means a person who provides auction services (sec. 4707.01(L)). "Auction services" means arranging, managing, and sponsoring a personal property auction and includes the taking and advertising of personal property on consignment to be sold at auction by a licensed auctioneer. The bill revises the definition of "auction services" also to include the taking and advertising of personal property on consignment to be sold by means of the Internet. (Sec. 4707.01(M).) Thus, through operation of the definitions, the bill requires persons who provide those services to obtain an auction firm license.

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 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 be licensed under the Auctioneers Law (Section 4). The bill then specifies that it is to take effect on May 6, 2005 (Section 3).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	---	---

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