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By Mr. O'Brien of Raynham, petition of Walter W. O'Brien for legislation to create a board of auctioneers and providing for the licensing and regulation of auctioneers and apprentice auctioneers. State Administration.

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**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Sixty-Nine.

AN ACT CREATING A BOARD OF AUCTIONEERS, DEFINING ITS POWERS AND DUTIES AND PROVIDING FOR THE LICENSING AND REGULATION OF AUCTIONEERS AND APPRENTICE AUCTIONEERS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 112 of the General Laws is hereby amended by  
2 adding under the caption REGISTRATION OF AUCTIONEERS the  
3 following sections:—

4 *Section 98* As used in this chapter unless the context  
5 otherwise requires:

6 (a) "Apprentice auctioneer" means any person, who for  
7 compensation or consideration, or otherwise, is employed,  
8 directly or indirectly, by an auctioneer to deal or engage in  
9 any activity enumerated in paragraph (b);

10 (b) "Auctioneer" means any person who, for a fee, com-  
11 mission, or any other valuable consideration, or with the  
12 intention or expectation of receiving the same, by the means  
13 of, or process of, an auction or sale at auction, offers,  
14 negotiates or attempts to negotiate, a listing contract, sale,  
15 purchase or exchange of goods, chattels, merchandise, real or  
16 personal property, or of any other commodity which may  
17 lawfully be kept or offered for sale by or at public auction;

18 (c) "Board" means the Board of Auctioneers;

19 (d) "Goods" means any chattels, livestock goods, mer-  
20 chandise, real or personal property, or commodities of any

21 form or type which may be lawfully kept or offered for  
22 sale;

23 (e) "Persons" includes individuals, associations, partner-  
24 ships and corporations, and the word "persons" shall also  
25 include the officers, directors and employees of a corpora-  
26 tion.

27 *Section 99.* No person shall act as an auctioneer or appren-  
28 tice auctioneer, or advertise or assume to act in any such  
29 capacity without a license issued by the board of auc-  
30 tioneers.

31 *Section 100.* There is hereby created a board of auctioneers  
32 consisting of five members to be appointed by the governor,  
33 three of whom shall be practicing auctioneers and members of  
34 the Massachusetts State Auctioneers Association, and no  
35 more than two of whom shall be members of the same  
36 political party. Of the members first appointed, one shall be  
37 appointed for a term of one year, one for two years and three  
38 for three years. Thereafter the term of the members of the  
39 board shall be three years. Each member shall serve until his  
40 successor is appointed and qualified. The board shall select a  
41 chairman from its membership and shall reorganize annually  
42 upon the qualification of the member appointed each year by  
43 the selection of a chairman.

44 *Section 101.* The board shall annually publish a list of the  
45 names and addresses of all auctioneers and apprentice auc-  
46 tioneers licensed by it pursuant to this chapter. This list shall  
47 also contain the names of all persons whose licenses have  
48 been suspended or revoked within the preceding year, as well  
49 as any other information relative to the enforcement of the  
50 provisions of this act that the board may deem of interest to  
51 the public.

52 *Section 102.* The board may grant auctioneers' licenses to  
53 those persons deemed qualified by the department. Every  
54 applicant for an auctioneer's license shall furnish to the  
55 board, on forms provided by it, satisfactory proof of the  
56 following:

57 (A) That such applicant has a good reputation;

58 (B) That such applicant is of trustworthy character;

59 (C) That such applicant has served as an apprentice  
60 auctioneer for at least one year within this state;

61 (E) That such applicant is a citizen of the United States;  
62 (F) That such applicant has a general knowledge of the  
63 following;

64 (1) The requirements of the Revised Code relative to  
65 auctioneers;

66 (2) The auction profession;

67 (3) The principles involved in conducting an auction.

68 (G) That he has been a resident of Massachusetts for at  
69 least one year.

70 *Section 103.* The board shall hold written examinations  
71 twice each year. An examination shall not be required for the  
72 renewal of any license unless such license has been revoked or  
73 suspended, in which case the applicant shall take and pass a  
74 written examination offered by the board. All other appli-  
75 cants must pass the examination according to the standards  
76 set by the board in order to receive a license.

77 There shall be an examination fee of twenty-five dollars  
78 which shall be used to defray expenses of holding such  
79 examination. A fee of fifty dollars shall be paid on issuance of  
80 an auctioneer's license.

81 All applications and proofs must be filed by each applicant  
82 fifteen days before the scheduled date of examination, and  
83 must be accompanied by a bond and license fee.

84 All persons who are or have been licensed as auctioneers  
85 prior to January first, nineteen hundred and sixty-eight, shall  
86 be relicensed as such without examination and subject to the  
87 requirements in effect prior to that date, by making appli-  
88 cation for such license on forms provided by the board and  
89 paying the required fee of fifty dollars.

90 *Section 104.* The board may grant apprentice auctioneers'  
91 licenses to those persons deemed qualified by the board.  
92 Every applicant for an apprentice auctioneer's license shall  
93 furnish to the board, on forms provided by the department,  
94 satisfactory proof of the following:

95 (A) That such applicant has a good reputation;

96 (B) That such applicant is of trustworthy character;

97 (C) That such applicant has attained the age of at least  
98 twenty years;

99 (D) That such applicant is a citizen of the United  
100 States.



101 When any apprentice auctioneer is discharged or termi-  
102 nates his employment with an auctioneer for any reason, the  
103 auctioneer shall immediately deliver or mail by registered  
104 mail to the board the license of such apprentice auctioneer.  
105 No apprentice auctioneer shall thereafter perform any acts  
106 under authority of his license until such apprentice auc-  
107 tioneer receives a new license bearing the name and address  
108 of his new employer. No more than one license shall be issued  
109 to any apprentice auctioneer for the same period of time.

110 (E) The board shall prepare and deliver to each licensee a  
111 license certificate. The certificate shall be displayed con-  
112 spicuously at all times in the office of the licensee. The  
113 certificate of the apprentice auctioneer shall contain the  
114 name and address of the auctioneer under whose supervision  
115 he is employed.

116 *Section 105.* Every application for an auctioneer's or  
117 apprentice auctioneer's license shall be accompanied by a  
118 bond in the amount of three thousand dollars. The bond shall  
119 be a cash bond or a surety bond and, if the latter, shall be  
120 executed by a surety company authorized to do business in  
121 the commonwealth, and shall be made to the Commonwealth  
122 of Massachusetts. The bond shall be conditioned that the  
123 applicant shall conduct his business in accordance with the  
124 provisions of this chapter. The bond shall be in a form  
125 approved by the attorney general. No license may be issued  
126 until such a bond has been filed with the board.

127 *Section 106.* A nonresident may become an auctioneer or  
128 apprentice by conforming to all the conditions of this  
129 chapter.

130 In its discretion, however, the board may waive the written  
131 examination, provided the nonresident has passed a written  
132 examination of the same standards in another state, and is in  
133 good standing in that state at the time his application is  
134 submitted.

135 The nonresident must pay the issuance fee, unless he  
136 resides in any state having reciprocal agreements on auc-  
137 tioners. He may be licensed on reciprocal agreement, but  
138 shall furnish the bond required by section 10.

139 *Section 107. (a)* Each auctioneer shall keep a fair and  
140 particular account of all goods and chattels sold by him and

141 of the persons from whom they were received, and abide by  
142 Sales Tax Law.

143 (b) Any auctioneer licensed by the board may sell real or  
144 personal property by public auction in any place within the  
145 commonwealth, if such sale is made where such property is  
146 situated and in accordance with such conditions relative to  
147 the hours and places of selling goods and chattels in the town  
148 of sale.

149 *Section 108.* The board may revoke or suspend any license,  
150 after notice and hearing, for any of the following causes:  
151 obtaining a license through false or fraudulent representa-  
152 tion, continued and flagrant course of misrepresentation,  
153 making false promises through agents, advertising or other-  
154 wise, failing to account for or remit within a reasonable time  
155 any monies belonging to others that come into his possession,  
156 or conviction in a court of competent jurisdiction of this  
157 commonwealth or any state of a criminal offense involving  
158 moral turpitude or a felony, or receiving for sale or buying  
159 any goods from a minor. The provisions of chapter thirty A  
160 shall apply to the actions of the board taken under this  
161 section.

162 *Section 109.* The commonwealth shall distribute one third  
163 of any funds received by the licensing board after deducting  
164 the cost of operations of the board to the cities and towns of  
165 the commonwealth.

166 *Section 110.* Whoever not being licensed and qualified as  
167 an auctioneer, sells or attempts to sell any property by public  
168 auction, shall forfeit not more than five hundred dollars.

169 *Section 111.* Whoever sells or attempts to sell by public  
170 auction or advertises for sale any goods, wares or merchandise  
171 falsely representing or pretending that such goods, wares or  
172 merchandise are, in whole or in part, a bankrupt or insolvent  
173 stock, or damaged goods, or goods saved from fire, or makes  
174 any false statement as to the previous history or character of  
175 such goods, wares or merchandise, shall be punished by a fine  
176 of not more than one hundred dollars, and shall be liable in  
177 contract to any person purchasing any such goods, wares or  
178 merchandise because of such representation or statement, in  
179 an amount equal to three times the amount paid therefor.

180 *Section 112.* An auctioneer or other person who is guilty of

181 fraud or deceit in relation to a sale by auction shall forfeit not  
182 more than five hundred dollars.

183 *Section 113.* This chapter shall not extend to sales made by  
184 sheriffs, deputy sheriffs, collectors of taxes, executors, admin-  
185 istrators, guardians, conservators.

186 *Section 114.* No auctioneer, or licensee or any other person  
187 shall employ or permit to be employed or allow, directly or  
188 indirectly, any person to act at any public auction as a  
189 "capper", "by-bidder" or in any like capacity, for the purpose  
190 of bidding up the price of any goods, wares or merchandise  
191 offered for sale, in competition with bona fide bidders, or for  
192 the purpose of encouraging or enticing bona fide bidders to  
193 purchase, or stimulating competitive bidding or sales; and no  
194 person shall act in such a capacity at any public auction; nor  
195 shall any person make or accept any false bid to buy, or  
196 pretend to buy or sell, any goods, wares or merchandise at  
197 any public auction.

The Committee on the Judiciary has the honor to acknowledge the receipt of your letter of the 10th inst. and in reply to inform you that the same has been referred to the proper authorities for their consideration.

THE COMMITTEE ON THE JUDICIARY

U. S. DEPARTMENT OF JUSTICE

For information of the Honorable Member, the Committee has the honor to advise that the same has been referred to the proper authorities for their consideration.

I regret that the time of the Committee is so limited that it is not possible to give you a more detailed answer at this time.

I am, Sir, very respectfully,  
Your obedient servant,  
J. Edgar Hoover, Director

Very truly yours,  
J. Edgar Hoover, Director

