

BILL ANALYSIS

C.S.H.B. 1066
By: Goldman
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties explain that wholesale motor vehicle auctions are held only for licensed motor vehicle dealers to buy and sell cars at auction. In Texas, a wholesale motor vehicle auction company must hold a general distinguishing number issued by the Texas Department of Motor Vehicles (TxDMV) and, in addition to this regulation, a Texas auction company is regulated as an auctioneer by the Texas Department of Licensing and Regulation (TDLR). The parties contend that this dual regulation of the state's wholesale auto auction industry by TxDMV and TDLR seems redundant. C.S.H.B. 1066 seeks to amend current law to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1066 amends the Occupations Code to exempt from statutory provisions governing auctioneers a sale of motor vehicles at auction by a person licensed under statutory provisions relating to the sale or lease of motor vehicles or under statutory provisions relating to salvage vehicle dealers and a sale of motor vehicles at auction by a person who holds a wholesale motor vehicle auction general distinguishing number or an independent motor vehicle general distinguishing number issued by the Texas Department of Motor Vehicles (TxDMV). The bill authorizes a licensed auctioneer to conduct an auction to sell motor vehicles for a person who holds a wholesale motor vehicle auction general distinguishing number issued by TxDMV or a salvage vehicle dealer or salvage vehicle agent license.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1066 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 1802.002(a), Occupations Code, is amended to read as follows:

- (a) This chapter does not apply to:
- (1) a sale conducted by order of a United States court under Title 11, United States Code;
 - (2) a sale conducted by an employee of the United States, this state, or a political subdivision of this state in the course and scope of employment;
 - (3) a sale conducted by a charitable, religious, or civic organization, including an organization having a tax exempt status under Section 501(c), Internal Revenue Code of 1986, or organized as a nonprofit entity, if the person organizing, arranging, or conducting the auction receives no compensation;
 - (4) a sale conducted by any person of the person's property if the person is not engaged in the business of selling property at auction on a recurring basis;
 - (5) a foreclosure sale of real property personally conducted by a trustee under a deed of trust;
 - (6) a foreclosure sale of personal property personally conducted by:
 - (A) a person who holds a security interest in the property, including a mortgage; or
 - (B) an employee or agent of a person described by Paragraph (A) acting in the course and scope of employment, if:
 - (i) the employee or agent is not otherwise engaged in the auction business; and
 - (ii) all property for sale in the auction is subject to a security agreement;
 - (7) a sale conducted by sealed bid without the option of increasing or decreasing the amount of a bid;
 - (8) an auction conducted only for student training purposes as part of a course of study approved by the department;
 - (9) an auction conducted by a posted stockyard or market agency as defined by the federal Packers and Stockyards Act (7 U.S.C. Section 181 et seq.), as amended;
 - (10) an auction of livestock conducted by a nonprofit livestock trade association chartered in this state, if the auction involves only the sale of livestock owned by members of the trade association;
 - (11) an auction conducted by a charitable or

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 1802.002(a), Occupations Code, is amended to read as follows:

- (a) This chapter does not apply to:
- (1) a sale conducted by order of a United States court under Title 11, United States Code;
 - (2) a sale conducted by an employee of the United States, this state, or a political subdivision of this state in the course and scope of employment;
 - (3) a sale conducted by a charitable, religious, or civic organization, including an organization having a tax exempt status under Section 501(c), Internal Revenue Code of 1986, or organized as a nonprofit entity, if the person organizing, arranging, or conducting the auction receives no compensation;
 - (4) a sale conducted by any person of the person's property if the person is not engaged in the business of selling property at auction on a recurring basis;
 - (5) a foreclosure sale of real property personally conducted by a trustee under a deed of trust;
 - (6) a foreclosure sale of personal property personally conducted by:
 - (A) a person who holds a security interest in the property, including a mortgage; or
 - (B) an employee or agent of a person described by Paragraph (A) acting in the course and scope of employment, if:
 - (i) the employee or agent is not otherwise engaged in the auction business; and
 - (ii) all property for sale in the auction is subject to a security agreement;
 - (7) a sale conducted by sealed bid without the option of increasing or decreasing the amount of a bid;
 - (8) an auction conducted only for student training purposes as part of a course of study approved by the department;
 - (9) an auction conducted by a posted stockyard or market agency as defined by the federal Packers and Stockyards Act (7 U.S.C. Section 181 et seq.), as amended;
 - (10) an auction of livestock conducted by a nonprofit livestock trade association chartered in this state, if the auction involves only the sale of livestock owned by members of the trade association;
 - (11) an auction conducted by a charitable or

nonprofit organization chartered in this state, if the auction:

(A) is part of a fair that is organized under state, county, or municipal authority; and

(B) involves only the sale of property owned by the organization's members; [øf]

(12) a sale or auction conducted outside of this state; or

(13) the sale of motor vehicles at auction by a person who holds a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Motor Vehicles.

No equivalent provision.

SECTION 2. This Act takes effect immediately if it receives a vote of two-

nonprofit organization chartered in this state, if the auction:

(A) is part of a fair that is organized under state, county, or municipal authority; and

(B) involves only the sale of property owned by the organization's members; [øf]

(12) a sale or auction conducted outside of this state;

(13) a sale of motor vehicles at auction by a person licensed under Chapter 2301 or 2302; or

(14) a sale of motor vehicles at auction by a person who holds a wholesale motor vehicle auction general distinguishing number or an independent motor vehicle general distinguishing number issued by the Texas Department of Motor Vehicles.

SECTION 2. Section 1802.051, Occupations Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as provided by Subsection (d), an [An] individual who is licensed under this chapter may not act as an auctioneer for an entity unless the entity:

(1) is an auction company owned or operated by an individual who is licensed under this chapter; or

~~(2) [holds a dealer general distinguishing number issued under Subchapter B, Chapter 503, Transportation Code, and the auction is for the purpose of auctioning vehicles as defined by Section 503.001, Transportation Code; or~~

~~(3) is a real estate brokerage firm that is operated by a broker licensed by the Texas Real Estate Commission.~~

(d) An auctioneer who is licensed under this chapter may conduct an auction to sell motor vehicles, as defined by Section 501.002 or 502.001, Transportation Code, if the auctioneer conducts the auction for a person who holds a dealer general distinguishing number or wholesale motor vehicle auction general distinguishing number issued under Subchapter B, Chapter 503, Transportation Code, or a license issued under Subchapter C, Chapter 2302, of this code.

SECTION 3. Same as introduced version.

thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.