

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

---

Legislative Document

No. 623

H.P. 440

House of Representatives, February 13, 1991

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative STEVENS of Sabattus.

Cosponsored by Senator RICH of Cumberland, Representative GURNEY of Portland and Senator MATTHEWS of Kennebec.

---

STATE OF MAINE

---

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

---

**An Act to Improve the Regulatory Operations of the Board of Licensing  
of Auctioneers.**

---

(EMERGENCY)

Emergency preamble. Whereas, Acts of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
Whereas, it is vital that the funds provided for in this  
6 legislation are available for the beginning of the fiscal year  
1991-92; and

8  
Whereas, the fiscal year 1991-92 begins before the  
10 expiration of the 90-day period; and

12  
Whereas, in the judgment of the Legislature, these facts  
14 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
16 necessary for the preservation of the public peace, health and  
safety; now, therefore,

18 **Be it enacted by the People of the State of Maine as follows:**

20 **Sec. 1. 32 MRSA §271, first ¶, as amended by PL 1989, c.503,**  
Pt. B, §122, is further amended to read:

22  
The Board of Licensing of Auctioneers, as established by  
24 Title 5, section 12004-A, subsection 5, shall ~~be~~ is composed of 3  
5 members, ~~2~~ 3 of whom shall ~~must~~ must be auctioneers and ~~one~~ 2 of  
26 whom shall ~~must~~ must be a public member ~~members~~. Members shall ~~be~~  
compensated are entitled to compensation according to Title 5,  
28 chapter 379.

30 **Sec. 2. 32 MRSA §273, as amended by PL 1985, c. 748, §32, is**  
further amended to read:

32 **§273. Resident application; fee**

34  
Every resident person in this State desiring to do business  
36 as an auctioneer, who satisfies the board that he that person has  
knowledge of the laws of this State pertaining to auctions and  
38 sales, the ethics and practices of auctioneers, the laws relating  
to the record of sales of used merchandise and such other related  
40 subjects as the board may select, upon application in form  
designated by the board, shall ~~shall~~ must receive a license to conduct  
42 auctions. The original application shall ~~shall~~ must be accompanied by 2  
letters of recommendation as evidence of ethical business  
44 practice.

46 The board may establish an application fee and an  
examination fee in amounts which are reasonable and necessary for  
48 their respective purposes.

50 ~~The applicant shall furnish evidence of a surety bond~~  
~~payable to the Treasurer of State in the amount of \$10,000 issued~~

2 by a surety company approved by the Bureau of Insurance and  
licensed to do business in the State of Maine.

4 The board may establish by rule the requirements and amount  
6 of a surety bond as the board determines necessary.

8 The application and supporting information shall must be  
kept on file together with a record of all licenses issued. The  
10 license fee shall ~~be \$50~~ may not exceed \$100 for a biennium and  
the original license shall ~~be is~~ effective from date of issue  
12 until March 31st of the biennial expiration or ~~at any date which~~  
the board when the Commissioner of Professional and Financial  
Regulation designates. Original licenses effective for less than  
14 one year for the biennial licensing period shall be \$25.

16 **Sec. 3. 32 MRSA §274, first ¶**, as enacted by PL 1979, c. 478,  
§2, is amended to read:

18 Notice of expiration shall must be mailed to each licensee's  
20 last known address at least 30 days in advance of the expiration  
of his the license. The renewal notice shall must include any  
22 requests for information necessary to update the individual's  
records. The biennial license fee shall ~~be \$50~~ may not exceed  
24 \$100.

26 **Sec. 4. 32 MRSA §277**, as enacted by PL 1979, c. 478, §2, is  
amended to read:

28 **§277. Nonresident fee; renewal**

30 The ~~appliant~~ applicant shall pay an initial license fee of  
32 ~~\$100~~ not to exceed \$200. The license will ~~may~~ be renewed  
biennially upon payment of a ~~\$100 fee~~ fees not to exceed \$200. A  
34 ~~\$50 fee will be charged for licenses effective for less than one~~  
~~year of the biennial licensing period.~~

36 **Sec. 5. 32 MRSA §278-A, sub-§3, ¶¶C and D**, as enacted by PL  
38 1983, c. 413, §19, are amended to read:

40 C. Failure, within reasonable time, to account for or remit  
any moneys coming into his the licensee's possession which  
42 belong to others; or

44 D. Any act in violation of this chapter; or

46 **Sec. 6. 32 MRSA §278-A, sub-§3, ¶E** is enacted to read:

48 E. Unprofessional conduct.

50 **Sec. 7. 32 MRSA §280, sub-§4** is enacted to read:



- 2           1.   Increases the size of the Board of Licensing of  
4 Auctioneers by adding an additional public member and an  
additional licensed auctioneer;
- 6           2.   Allows the board to adopt by rule bonding requirements  
8 necessary to protect the citizens of the State that use  
10 auctioneers to sell their products and to more uniformly set  
bonding requirements based on the volume of business done by an  
auctioneer;
- 12          3.   Allows the board a higher fee cap for new, renewal and  
14 nonresident licenses to cover the costs of administering the laws;
- 16          4.   Adds "unprofessional conduct" as grounds for  
disciplinary action by the board;
- 18          5.   Adds a requirement to the law that all auctioneers must  
20 enter into a written contract in a format designated by the board  
with all cosigners;
- 22          6.   Repeals the exemptions in current law that allow  
24 unlicensed individuals to auction pedigreed animals or to auction  
foreclosure sales;
- 26          7.   Provides that any person operating as an unlicensed  
28 auctioneer commits a Class E crime, which is consistent with the  
penalty provisions of other occupational licensing laws; and
- 30          8.   Makes it mandatory that an auctioneer post and orally  
32 inform the consumer when the auctioneer is adding a buyer's  
premium charge on every purchase.