

ACT 272

S.B. NO. 993

A Bill for an Act Relating to Fisheries.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 445-22, Hawaii Revised Statutes, is amended to read as follows:

“**§445-22 Public auction unlawful when.** It shall be unlawful for any person to sell, offer for sale, or expose for sale at public auction, any personal property at any place other than in a public auction room, except [household]:

- (1) Household furniture, vehicles, automobiles, machinery, livestock, and such bulky articles as are usually sold in warehouses or places other than auction rooms; [provided that this section shall not apply to any sale];
- (2) Sales made under the direction of any court [or to sales];
- (3) Sales of any personal property belonging to the State or [to] any county[, or to a];
- (4) A bona fide sale of a stock of merchandise, where the creditors of the owner thereof are engaged in the legitimate closing out of [such] the stock; [nor to]
- (5) Sales by hawkers on the street [nor] or peddlers from vehicles[, nor to];
- (6) Sales by persons selling fruit, fish, seafood products, vegetables, butter, eggs, or other farm or ranch produce; [nor to a] or
- (7) A bona fide sale of a stock of merchandise, where the owner thereof is engaged in a legitimate closing out of [any such] the stock and [the owner] has been engaged in business at a specified location in the State for not less than six months immediately preceding the commencement of any such sale; provided [further] that [in the latter case,] the owner [shall], before commencing any such sale, shall affix to each article to be sold a tag designating the article by serial number, and file with the county treasurer a true and sworn statement containing a detailed list and inventory of [such] the stock, which statement shall include [(1) a];
 - (A) A description of each article to be sold sufficient to identify the same[, (2) its];

- (B) The article's serial number[(, (3) its)];
- (C) The article's cost price[(, and (4) the)]; and
- (D) The approximate date of [its] the article's receipt by the owner, if received by the owner not more than ninety days prior to the date of the statement[(, and shall immediately, upon)].

Upon conclusion of sale, the owner shall immediately file with the treasurer a true and sworn statement containing a detailed list and inventory of such stock as has been sold at and during the sale, which statement shall include [(1)] a description of each article sold sufficient to identify the same, [(2) its] the article's serial number, and [(3)] the price received therefor.

The treasurer [shall], at any time prior to the filing of the final statement with the treasurer, or within ten days thereafter, shall require the owner to file with the treasurer the invoices and bills of lading of any articles in the stock [which] that appear from the preliminary statement to have been received by the owner within three months prior to the first day of the sale. The statements, invoices, and bills of lading shall be open to inspection by any interested person [on] upon application to the treasurer. The sale at public auction shall be only of the stock on hand at the time of filing the statement with the treasurer, and [such] the stock shall not be augmented or replenished in anticipation of the auction sale, or pending or during the sale[(, and the)]. The auction sale shall be held on successive days, Sundays and legal holidays excepted, and shall not continue for more than thirty days within the period of one year. Failure to comply with any of the foregoing provisions shall be deemed prima facie evidence that the sale was not for the legitimate purpose of closing out [such] the stock.

For the purposes of this chapter, [a public auction room is defined to be] the term "public auction room" means a place designated by a licensed auctioneer in the manner set forth in section 445-29, as the place for holding auction; provided that the treasurer of any county may give a special permit to any regularly licensed auctioneer to conduct the sale of pictures, paintings, furniture, books and bric-a-brac, or personal property under foreclosure of mortgage, at a place other than [at such] a public auction room."

SECTION 2. Section 445-23, Hawaii Revised Statutes, is amended to read as follows:

"§445-23 Hours for auctions. No auction sale of goods, wares, and merchandise shall be conducted between the hours of 9:00 o'clock in the evening and 8:00 o'clock in the morning, and no such auction of any nature or description shall be conducted during the months of November and December of any year; provided that this section shall not apply to [sales];

- (1) Sales of household furniture, vehicles, automobiles, machinery, live-stock, and like bulky articles[(, or to any)];
- (2) Any sale made under the direction of any court[(, or to sales)];
- (3) Sales of any personal property belonging to the State or [to] any county[(, or to a)];
- (4) A bona fide sale of a stock of merchandise, where the creditors of the owner thereof are engaged in the legitimate closing out of [such] the stock; [nor to]
- (5) Sales by hawkers on the street [nor] or peddlers from vehicles[(, nor to)];
- (6) Sales by persons selling fruits, fish, seafood products, vegetables, butter, eggs, or other farm or ranch produce; [provided further that the prohibitions of this section shall not apply to auctions]; or

(7) Auctions held in public auction rooms [which] that have been established for six months or more.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1993.)