

# Chapter 698

## 1971 REPLACEMENT PART

(1973 reprint)

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698.030	[Repealed by 1967 c.344 §10]
698.040	[Repealed by 1967 c.344 §10]
698.050	[Repealed by 1967 c.344 §10]
698.060	[Repealed by 1967 c.344 §10]
698.070	[Repealed by 1967 c.344 §10]
698.080	[Repealed by 1967 c.344 §10]
698.090	[Repealed by 1967 c.344 §10]

### **JEWELRY AUCTIONS; JEWELRY AUCTIONEERS**

**698.210 Definitions for ORS 698.210 to 698.330.** As used in ORS 698.210 to 698.330:

(1) "Jewelry" includes gold, silver, plated ware, precious or semiprecious stones, mounted or unmounted, watches, clocks and goods, wares and merchandise commonly classified as jewelry and commonly offered for sale in jewelry stores.

(2) "Sale" means offer and sale of jewelry at auction.

**698.220 Jewelry sales without license prohibited.** (1) All sales are prohibited unless a license is obtained to allow such sale as provided for in ORS 698.210 to 698.330.

(2) No sale shall be licensed or held for a period of more than 30 consecutive days, legal holidays excepted, and no sale shall be licensed or held from December 1 to December 25, inclusive, of any year. Nor shall any sale be held or be open for business between 6 p.m. and 8 a.m.

(3) No sale shall be licensed or permitted unless it is held at the applicant's regularly established place of business, or at the place wherein his regular business has been operated for a period of at least one year prior to the application.

(4) Wherever any licensed sale is conducted the person to whom the license has been granted shall be in attendance at all times while the sale is being conducted. He shall be responsible for any violation of ORS 698.210 to 698.330.

**698.230 Limitations on application of ORS 698.210 to 698.330.** ORS 698.210 to 698.330 do not apply to any sale of second-hand jewelry or sale under or by virtue of any rule, order or judgment of any court, in relation to judicial sales conducted by court direction or court order only in a pending action before that court, or of any law respecting the collection of any tax or duty, either of this state, its political sub-

divisions, or the United States. Nor do ORS 698.210 to 698.330 apply to any sale of property belonging to this state or the United States, or to any sale by any trustee in bankruptcy, or any sale made by any executor, administrator or guardian authorized by an Oregon court to conduct such sale, personally, or by a court or county officer personally or by an officer of this state or of the United States in person.

**698.240 Certain persons may not obtain license.** No license for any sale shall be granted to any person, firm or corporation or to any agent, affiliate or assignee thereof, or to any person acting for any such person, firm or corporation, within the period of two years after the termination of a sale by that person, firm or corporation, licensed under ORS 698.210 to 698.330. No person who has been convicted of violating ORS 698.210 to 698.330 shall be granted a license or act as an auctioneer, or be employed in any manner at or in connection with any sale licensed under ORS 698.210 to 698.330 for a period of six years after such conviction.

**698.250 Sales within two-year period.** No license shall be granted for a sale if it appears that the applicant or any agent or affiliate or assignee or other person acting for him has, within the period of two years prior to the application, conducted a similar sale under ORS 698.210 to 698.330 either in the same place of business or at any other place.

**698.260 Certain facts to be disclosed to bidders.** At all sales the applicant and all persons participating in conducting it must truly represent at all times to the public the actual facts relating to the quality and manufacture and, if requested by a bidder or prospective bidder, the cost to the applicant of each article put up for sale.

**698.270 False bidding prohibited.** No person shall act at any sale as bidder, or what is commonly known as a "capper," "booster," or "shill," or offer to make any false bid to buy or pretend to buy any article sold or offered for sale.

**698.280 Additions to listed stock prohibited.** During the sale no additions shall be made to the stock of merchandise set forth in the inventory attached to the application

for license. Nothing shall be offered for sale or sold at the sale which is in addition to the stock of merchandise described in the inventory, or which has been added to the applicant's stock within a period of 60 days prior to the date of the application for license.

**698.290 Applications for licenses.** All license applications for sales shall be made to and filed in the office of the Secretary of State and shall set forth the following:

(1) The name, residence, address and business address of the applicant.

(2) The type of business the applicant has been engaged in during the two years prior to the application.

(3) Whether the proposed sale is to be held at the applicant's existing regularly established place of business and wherein his regular business has been operated for at least one year prior to the application.

(4) The name, address and occupational history for the preceding two years of each person who will participate in conducting the sale.

(5) Whether the applicant will be present at the proposed sale.

(6) Whether any additions to the stock of merchandise proposed to be sold have been made within 60 days prior to the date of the application, and if so, the applicant shall furnish a separate inventory thereof containing all details as required in the regular inventory.

(7) Whether, after filing the application and until the end of the sale, the applicant will make or permit additions to be made to the stock of merchandise described in the required inventory.

(8) Whether he has conducted or held any sales within a period of five years prior to the application, and if so, a brief description as to the character of those sales and a statement of the time and place held.

(9) Whether the applicant has owned or conducted within one year prior to the application any other store or place of business than the one mentioned as his regular place of business in the application, and, if so, where it was located and its character.

(10) The purpose for which the sale is to be held.

(11) He shall state whether he, and those participating in the conducting of the proposed sale will truly represent at all times to all persons attending, the actual

facts regarding the quality and manufacture and, if required by the bidder or prospective bidder, the cost to him of each article put up for sale.

(12) Whether he has attached to the application a correct detailed inventory of the stock of jewelry proposed to be sold at the sale. Whether he has given each separate article in the inventory a number, and whether he has set forth opposite that item the actual cost price of it to him, and whether he agrees, in case a license is granted, to attach to each article a card or ticket with the number of the article indorsed thereon corresponding to the inventory number.

(13) Whether the applicant or any person he proposes to use as auctioneer or other employe at the proposed sale has been convicted of any violation of ORS 698.210 to 698.330 within six years prior to the application.

**698.300 Inventory to accompany application; merchandise to be tagged.** The applicant shall attach to his application a detailed inventory listing each article proposed to be sold, together with an inventory number. He shall also set forth opposite the description of each article the actual cost price to him. The applicant shall thereupon verify the application by his personal oath or affirmation. If the license is granted, he must, before the beginning of the sale attach to each article a card or ticket with the number of the article indorsed thereon, so that the number of each article described, and set opposite the description of the representative article, corresponds to the card or ticket number. No person shall, at any licensed sale, sell or offer for sale any jewelry which has been falsely described or concerning which any untruthful statement has been made as to its character, quality, kind or description or cost.

**698.310 License fee; surety bond; issuance of license.** Upon compliance with the requirements of ORS 698.210 to 698.330, the payment of a license fee of \$1,000, the furnishing of an undertaking issued by a surety company authorized to do business in this state and satisfactory to the Secretary of State, and if the Secretary of State has no reasonable ground to deny the application, a license shall be granted to the applicant. The undertaking shall assure that the sale will be conducted in compliance with the

requirements of ORS 698.210 to 698.330 and shall be equal to one-half of the cost value to the applicant of the jewelry inventoried for sale.

**698.320 Suspension and restoration of licenses; appeals.** The Secretary of State may suspend and restore licenses in the manner that he deems reasonable or necessary to assure compliance with the provisions of ORS 698.210 to 698.330. An appeal from any decision of the Secretary of State may be made to the circuit court of the county wherein the sale is held or proposed to be held by the applicant or any person alleging and showing himself to have been aggrieved by such decision.

**698.330 Application of municipal ordinances.** The license to hold a sale as required by ORS 698.210 to 698.330 shall not be in place of, but shall be in addition to, any such license required by the ordinances of any municipality in which such sale is to be held.

**698.410** [1955 c.659 §1; repealed by 1967 c.344 §10]

**698.420** [1955 c.659 §2; 1965 c.340 §1; repealed by 1967 c.344 §10]

**698.430** [1955 c.659 §3; repealed by 1967 c.344 §10]

**698.440** [1955 c.659 §§4, 5; repealed by 1967 c.344 §10]

**698.450** [1955 c.659 §6; repealed by 1967 c.344 §10]

**698.460** [1955 c.659 §7; repealed by 1967 c.344 §10]

### AUCTIONEERS AND AUCTION MARKET OPERATORS

**698.510 Definitions for ORS 698.510 to 698.770.** As used in ORS 698.510 to 698.770, unless the context requires otherwise:

(1) "Auction" or "auction sale" means the sale or offer to sell of property by public outcry or to the highest bidders.

(2) "Auctioneer" means any person who sells or offers to sell property at auction, either for himself or for another person.

(3) "Auction mart" means any fixed or established place designed, intended or used for the conduct of auction sales.

(4) "Board" means the State Board of Auctioneers created by ORS 698.710.  
[1957 c.722 §1; 1959 c.308 §1]

**698.520 License required to operate auction mart or act as auctioneer or trainee.** (1) No person shall operate an auction mart in

this state unless he is licensed and bonded under ORS 698.510 to 698.770 to operate an auction mart and otherwise complies with the provisions of ORS 698.510 to 698.770.

(2) No person shall act as an auctioneer in this state unless he is licensed and bonded under ORS 698.510 to 698.770 as an auctioneer and otherwise complies with the provisions of ORS 698.510 to 698.770 except auctioneers who are, on July 1, 1957, 65 years of age or older and who have been practicing auctioneers of the State of Oregon for five years preceding July 1, 1957, or trainees licensed under subsection (1) of ORS 698.630.

(3) The license requirements under ORS 698.510 to 698.770 shall be in addition to, and not in lieu of, any license requirements of counties or cities.

[1957 c.722 §3; 1959 c.308 §2; 1965 c.313 §5]

**698.525 Remedies for violation of ORS 698.520.** The board may maintain a suit for an injunction against any person violating ORS 698.520. Any person who has been so enjoined may be punished for contempt by the court issuing the injunction. An injunction may be issued without proof of actual damage sustained by any person. An injunction shall not relieve a person from criminal prosecution for violation of ORS 698.520.

[1969 c.510 §2]

**698.530 Persons and practices not affected.** ORS 698.510 to 698.770 do not apply to:

(1) Persons selling property owned by them where such sales are not in the regular course of the business of such persons.

(2) The selling of the property of decedents' estates by the executors or administrators of such estates.

(3) Public officials selling property in the performance of their official functions.

(4) Persons selling property by order of any court.

(5) Persons selling property for civic, community, charitable or benevolent purposes or for political fund-raising purposes.

(6) Persons licensed under the provisions of ORS 698.210 to 698.330.

(7) Auction sales by common carriers pursuant to federal or state laws or other public authority.

(8) Auction sales conducted by or under the auspices of national, state or county livestock breeder or producer associations.

(9) Auction sales conducted by or under the auspices of the Future Farmers of America, 4-H Club or a county or district fair.

(10) Auction sales of livestock by a person licensed under the provisions of ORS chapter 599.

[1957 c.722 §2; 1969 c.510 §4; 1971 c.578 §19]

**698.535 Effect of mart being in violation of ORS 698.520.** (1) Except as provided in ORS 698.530, no licensed auctioneer shall cry any auction or conduct any auction sale at any auction mart operated by any person in violation of subsection (1) of ORS 698.520.

(2) Except as provided by ORS 698.530, no person licensed to operate an auction mart shall allow any person to cry any auction or conduct any auction sale within such mart in violation of subsection (2) of ORS 698.520.

[1969 c.510 §3]

**698.540 Application for and issuance of license.** (1) Each applicant for a license to operate an auction mart or to act as an auctioneer shall make application for such license to the board upon forms furnished by the board. The application shall contain all information which the board determines to be necessary or advisable, and shall show with particularity that the applicant is a person of good moral character, is a citizen of the United States or has declared his intention to become a citizen prior to August 22, 1969, and that the applicant is 21 years of age or older.

(2) A license shall be issued if the board finds that:

(a) The application is in proper form and the applicant meets the requirements of subsection (1) of this section;

(b) The applicant has paid to the board the license fee provided for in ORS 698.550;

(c) The applicant has filed with the board a bond as provided in ORS 698.590; and

(d) All the requirements of ORS 698.510 to 698.770 and of the rules and regulations of the board under ORS 698.510 to 698.770 have been complied with by the applicant.

[1957 c.722 §4; 1959 c.308 §3; 1965 c.313 §6; 1969 c.510 §5]

**698.550 License fees; expiration of licenses; transferability.** (1) Every person required by ORS 698.520 or subsection (1) of 698.630 to obtain a license shall pay to the board an annual license fee as follows:

(a) Auctioneers, \$50.

(b) Auction marts, \$25.

(c) Trainees, \$15.

(2) All licenses shall cover the period beginning July 1 and ending the following June 30. The licenses shall be nontransferable.

However, the holder of an auction mart license may change the location of his business upon the approval of the board.

[1957 c.722 §5; 1959 c.308 §4; 1965 c.313 §7]

**698.560 Grounds for suspension or revocation of licenses.** Any license issued under the provisions of ORS 698.510 to 698.770 may be suspended or revoked by the board if the licensee:

(1) Has made any false or misleading statement regarding a material matter in his application for a license.

(2) Has violated any provision of ORS 698.510 to 698.770 or any rule or regulation of the board under ORS 698.510 to 698.770 governing the conduct of auction sales or auction marts.

(3) Has committed any act with the intent and purpose of defrauding any person for whom property was sold or offered for sale at an auction.

(4) Is convicted of a felony.

[1957 c.722 §6]

**698.570 Investigating violations of ORS 698.510 to 698.770.** Upon the verified complaint of any person, or upon its own initiative, the board may investigate any alleged violation of ORS 698.510 to 698.770.

[1957 c.722 §7; 1969 c.510 §6; 1971 c.734 §164]

**698.580** [1957 c.722 §8; repealed by 1971 c.734 §21]

**698.585 License denial procedure; review of orders.** (1) Where the board proposes to refuse to issue a license, or proposes to revoke or suspend a license or declare forfeiture of bond, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.500.

[1971 c.734 §166]

Note: ORS 698.585 was added to ORS chapter 698, but not to any series therein, by legislative action.

**698.590 Bonds of auction mart operator and auctioneers; action on bond.** (1) Each person applying for a license to operate an auction mart or to act as an auctioneer shall file with the board a bond, payable to the State of Oregon, in the principal sum of not more than \$2,500; however, if such person is employed by a partnership or corporation bonded pursuant to this section, that partnership or corporation bond, if it covers such person in a manner sufficient to meet the

requirements of this section, shall be in lieu of the bond otherwise required of such person. Such bond shall be in a form required by the rules and regulations of the board and shall be conditioned that the auction mart operator or auctioneer shall pay all legal claims which may accrue in favor of any person arising out of auction business transacted with such auction mart operator or auctioneer.

(2) The surety on such bond shall be a surety company licensed to do business in this state.

(3) In lieu of the bond described in subsection (1) of this section, the applicant may deposit cash or United States Government securities with the board in the sum of not less than \$2,500. Such deposit shall be conditioned in the same manner as provided for bonds in subsection (1) of this section.

(4) The securities or bond required by this section shall be continuously on file with the board and upon termination or cancellation of the bond or withdrawal of the securities, the licensee shall immediately surrender his license to the board and cease conducting auction sales or operating an auction mart.

(5) A person having a claim against an auction mart operator, auctioneer or trainee shall give the secretary of the board notice of the claim by registered or certified mail within one year after the date on which the claim accrued. A person who has given such notice may enforce the claim by an action on the bond, in his own name and for his own benefit.

[1957 c.722 §9; 1959 c.308 §9; 1963 c.439 §1; 1965 c.313 §8]

**698.600 Property sold on auction mart premises to be sold in compliance with ORS 698.510 to 698.770.** All property sold at an auction mart, or around and adjacent to an auction mart on premises owned or controlled by the operator of the auction mart, shall be handled and sold through the facilities of the auction mart and in compliance with the requirements of ORS 698.510 to 698.770 and any rules and regulations of the board.

[1957 c.722 §10]

**698.610 Licensees to keep records.** Every operator of an auction mart shall keep a record of the name and address of every person bringing property to the licensee for sale, the signature of such person and a general description of the property delivered by such person for sale. In addition, all licensees shall keep such records as are required by

the rules and regulations of the board. All records kept as required by this section shall be preserved by the licensee required to keep them for not less than one year and shall be available for inspection during the business day by law enforcement officers, board members or duly authorized inspectors of the board.

[1957 c.722 §11]

**698.620 Licensees exempt from certain requirements of other statutes.** Persons licensed under ORS 698.510 to 698.770 may sell at auction upholstered furniture and bedding, as defined by ORS 433.410, without obtaining an auctioneer's certificate under ORS 433.405 to 433.680.

[1957 c.722 §12; 1959 c.308 §5; 1959 c.406 §33; 1963 c.461 §28]

**698.630 Auctioneer trainee license; limitation on use.** (1) Upon application therefor by a person under the age of 21 years, accompanied by a fee of \$15, the board shall issue a trainee license to the applicant if the board finds that:

(a) The applicant meets all the qualifications and requirements for an applicant for a license as an auctioneer, except that of age;

(b) An auctioneer licensed and bonded under ORS 698.510 to 698.770 has given written notice to the board upon forms furnished by the board that he has agreed to employ the applicant as a trainee auctioneer, that he will assume responsibility for all acts of the applicant in the conduct of auction business and of auction sales by the applicant, and that he will be present and supervise any auction sale conducted by the applicant; and

(c) The applicant has furnished security in the form of a bond or deposit of securities as required by ORS 698.590 of an applicant for an auctioneer license or that the bond of the employer auctioneer is conditioned that the auctioneer shall pay all legal claims which may accrue in favor of any person arising out of auction business transacted with either the auctioneer or the applicant.

(2) No trainee, licensed under provisions of subsection (1) of this section, shall sell his own property at an auction sale conducted by him nor shall he sell any property by auction sale unless the employer auctioneer is present at the time of the auction sale.

[1965 c.313 §§2, 3]

**698.640 Required content of advertisement of auction sale.** Any advertisement of an auction sale shall include the name of the

auctioneer who will conduct the auction sale or the person responsible for the conduct of the auction sale.

[1965 c.313 §4]

### STATE BOARD OF AUCTIONEERS

#### 698.710 State Board of Auctioneers.

There is established within the Department of Commerce the State Board of Auctioneers, which shall consist of five members appointed by the Director of Commerce, with the approval of the Governor. Each member shall have engaged in the business of selling property at auction in this state for not less than five years prior to his appointment. In making appointments to the board, the director shall give due consideration to representation of all types of auctions conducted in the state and to representation of the economic areas of the state.

[1957 c. 722 §13; 1963 c.580 §65; 1967 c.401 §7; 1969 c.314 §99; 1969 c.510 §7; 1971 c.753 §40]

698.720 [1957 c.722 §14; repealed by 1971 c.753 §74]

698.730 Duties of board. The board shall:

(1) Promulgate necessary rules and regulations governing auction marts, auction sales and auctioneers, and print and distribute copies of such rules and regulations to all persons licensed under ORS 698.510 to 698.770 at least 20 days before they are effective.

(2) Consider all matters that may be submitted to it by persons interested in auction marts and auction sales.

(3) Prescribe standards for the construction and equipment necessary or advisable for sanitation or safety in auction marts, in addition to all other requirements of law.

(4) Enter upon and inspect, or cause to be entered upon and inspected, the auction

marts and auction records of licensees under ORS 698.510 to 698.770.

[1957 c.722 §18; 1959 c.308 §6]

698.740 [1957 c.722 §15; repealed by 1971 c.753 §74]

698.750 [1957 c.722 §16; 1967 c.637 §36; repealed by 1971 c.753 §74]

#### 698.755 Disposition of fines imposed.

All fines imposed under ORS 698.510 to 698.770 shall be paid to the treasurer of the county in which the proceedings were begun. One-half of all such money shall be paid to the board by the county treasurer within 30 days after he receives the money, together with an itemized statement thereof. The board shall deposit this money in the General Fund in the State Treasury to the credit of the State Auctioneer's Account under ORS 698.750. The other half of the fine shall be retained by the county treasurer, who shall deposit it in the general fund of the county in which the fine was imposed.

[1959 c.308 §8]

698.760 [1957 c.722 §17; repealed by 1971 c.753 §74]

698.770 Jurisdiction of courts. Justice courts and district courts have concurrent jurisdiction with the circuit courts of violations of ORS 698.510 to 698.770.

[1957 c.722 §19]

### PENALTIES

698.990 Penalties. (1) Any violation of ORS 698.210 to 698.330 is punishable, upon conviction, by a fine not exceeding \$500 or by imprisonment in the county jail for not exceeding six months, or by both.

(2) Violation of any provision of ORS 698.510 to 698.770 is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than one year, or both.

[Subsection (3) of 1965 Replacement Part enacted as 1955 c.659 §8; subsection (2) enacted as part of 1957 c.722 §19; 1967 c.344 §9]

### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,  
on December 1, 1971.

Robert W. Lundy  
Legislative Counsel

