

CHAPTER 3-A

ADMINISTRATION AND ORGANIZATION

§81. State Liquor and Lottery Commission

1. Oversight of Bureau of Alcoholic Beverages and Lottery Operations. The commission shall monitor the operation of the bureau in its administration of the laws relating to the sale of spirits. [PL 2013, c. 269, Pt. C, §1 (AMD); PL 2013, c. 269, Pt. C, §13 (AFF); PL 2013, c. 368, Pt. V, §61 (REV).]

2. Advice. The commission shall advise the director of the bureau regarding the administration of the functions of the bureau. The commission may advise the Governor and the Legislature regarding issues relating to the operation of the bureau and the administration of the laws relating to the sale of spirits. [PL 2013, c. 269, Pt. C, §2 (AMD); PL 2013, c. 269, Pt. C, §13 (AFF); PL 2013, c. 368, Pt. V, §61 (REV).]

3. Listing of items. The commission shall determine which spirits items may be listed for sale in the State. Products listed must be made available by the spirits supplier at a warehouse designated by the commission. [PL 2021, c. 658, §51 (AMD).]

4. Notice to delist or stop purchases. Before any spirits item listed by the commission is discontinued or delisted or before the commission issues any order to stop purchases of any listed spirits item, the commission shall give the vendor of the item reasonable written notice of its intention to delist or stop purchase of the item. [PL 2021, c. 658, §52 (AMD).]

5. Retail price; reconsideration. The commission shall, in accordance with section 1651 and after considering any recommendation submitted by the bureau, establish the retail price of spirits sold in the State. The director of the bureau shall notify the affected spirits supplier of the commission's decision establishing the retail price and of the affected spirits supplier's opportunity to request reconsideration of the retail price determination at an adjudicatory hearing conducted by the commission in accordance with Title 5, chapter 375, subchapter 4. The decision of the commission issued after an adjudicatory hearing requested under this subsection is final agency action for the purposes of judicial review under Title 5, chapter 375, subchapter 7. The commission shall adopt rules establishing the procedures for the conduct of adjudicatory hearings under this subsection, including but not limited to the deadline for an affected spirits supplier to request a hearing. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. For purposes of this subsection, "affected spirits supplier" means a spirits supplier that supplies a spirits product that is the subject of a retail price determination of the State. [PL 2021, c. 622, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 373, §28 (NEW). PL 1999, c. 535, §3 (AMD). PL 2013, c. 269, Pt. C, §§1, 2 (AMD). PL 2013, c. 269, Pt. C, §13 (AFF). PL 2013, c. 368, Pt. V, §61 (REV). PL 2021, c. 622, §1 (AMD). PL 2021, c. 658, §§51, 52 (AMD).

§82. Bureau of Liquor Enforcement**(REPEALED)**

SECTION HISTORY

PL 1997, c. 373, §28 (NEW). PL 1997, c. 571, §1 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 451, §T9 (AMD). PL 2009, c. 213, Pt. X, §§1, 2 (AMD). PL 2013, c. 368, Pt. V, §16 (RP).

§82-A. Enforcement of licensing

1. Authority. In addition to any authority a law enforcement officer has to enforce the laws, a law enforcement officer may, subject to subsections 2 and 4, enforce this Title or the rules adopted pursuant to this Title against violations that may result in an administrative sanction against a licensee or the licensee's agents or employees.

[PL 2005, c. 139, §4 (NEW).]

2. Commissioner. The commissioner in consultation with the Commissioner of Public Safety or the Commissioner of Public Safety's designee may by agreement, with the consent and approval of the affected law enforcement agency, designate the law enforcement agency's officers to exercise the enforcement authority identified in subsection 1.

[PL 2013, c. 368, Pt. V, §17 (AMD).]

3. Contract officers. The commissioner in consultation with the Commissioner of Public Safety or the Commissioner of Public Safety's designee may appoint contract officers for the purpose of enforcing this Title and the rules adopted pursuant to this Title against specific violations that may result in an administrative sanction against a licensee, or the licensee's agents or employees.

[PL 2013, c. 368, Pt. V, §17 (AMD).]

4. Limitation. The commissioner in consultation with the Commissioner of Public Safety or the Commissioner of Public Safety's designee may limit the authority granted by this section to specific sections of this Title and rules adopted pursuant to those sections.

[PL 2013, c. 368, Pt. V, §17 (AMD).]

SECTION HISTORY

PL 2005, c. 139, §4 (NEW). PL 2013, c. 368, Pt. V, §17 (AMD).

§83. Bureau of Alcoholic Beverages and Lottery Operations

(REPEALED)

SECTION HISTORY

PL 1997, c. 373, §28 (NEW). PL 1999, c. 535, §4 (AMD). PL 2003, c. 20, §LLL1 (AMD). PL 2003, c. 20, §LLL4 (AFF). PL 2011, c. 693, §§1, 2 (AMD). PL 2013, c. 269, Pt. A, §2 (AMD). PL 2013, c. 269, Pt. C, §3 (AMD). PL 2013, c. 269, Pt. C, §13 (AFF). PL 2013, c. 368, Pt. V, §18 (RP). PL 2013, c. 476, Pt. A, §7 (RP).

§83-A. Bureau of Alcoholic Beverages and Lottery Operations

(REPEALED)

SECTION HISTORY

PL 2013, c. 368, Pt. V, §19 (NEW). PL 2013, c. 476, Pt. A, §8 (RP).

§83-B. Enforcement and licensing activities of the bureau

The bureau shall establish policies and rules and propose legislation concerning the administration and the enforcement of the laws under this Title and for the sale of liquor in this State. The bureau shall:

[PL 2013, c. 476, Pt. A, §9 (NEW).]

1. Enforcement. Enforce the laws relating to the manufacture, importation, storage, transportation and sale of all liquor and administer those laws relating to licensing and the collection of taxes on liquor required to be remitted under this Title;

[PL 2013, c. 476, Pt. A, §9 (NEW).]

2. Licensing and licensing hearings. Issue and renew all licenses authorized by this Title and hold licensing hearings as required by this Title. The director of the bureau or the director's designee shall appoint a hearing officer who may conduct hearings in any licensing matter pending before the bureau. The hearing officer, after holding the hearing, shall render a final decision based upon the record of the hearing. Except as provided in section 805, the decision of the hearing officer is final.

The hearing officer may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any license question in dispute before the bureau or to any matter involved in a hearing. Witness fees in all proceedings are the same as for witnesses before the Superior Court and must be paid by the bureau, except that, notwithstanding Title 16, section 253, the bureau is not required to pay the fees before the travel and attendance occur; [PL 2013, c. 476, Pt. A, §9 (NEW).]

3. Recommend revocation of licenses. Recommend to the District Court that it suspend or revoke, in accordance with sections 802, 803 and 1503, any license issued pursuant to this Title or the rules adopted under this Title; [PL 2013, c. 476, Pt. A, §9 (NEW).]

4. Prevent sale to minors and others. Prevent the sale of liquor by licensees to minors and intoxicated persons; [PL 2013, c. 476, Pt. A, §9 (NEW).]

5. Appeals of municipal decisions. Review all appeals from the decisions of municipal officers. The director or the director's designee may appoint a hearing officer as provided in subsection 2 to conduct hearings; [PL 2013, c. 476, Pt. A, §9 (NEW).]

6. Investigate and recommend changes. Carry out a continuous study and investigation of the sale of liquor throughout the State and the operation and administration of state activities relating to licensing and enforcement under this Title and recommend to the commissioner any changes in the laws or rules and methods of operation that are in the best interest of the State; [PL 2013, c. 476, Pt. A, §9 (NEW).]

7. Rules. Adopt rules consistent with this Title or other laws of the State for the administration, licensing, clarification, execution and enforcement of all laws concerning liquor and to prevent violations of those laws. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. The rules adopted by the Department of Public Safety before July 1, 2013 are deemed adopted by the bureau; [PL 2013, c. 476, Pt. A, §9 (NEW).]

8. Rules for food service organizations. Adopt rules permitting food service organizations to purchase malt liquor and wine from a wholesale licensee, notwithstanding section 1401, subsection 9. For the purposes of this subsection, "food service organization" means a business entity that provides catering services to passengers on international flights and cruises. The rules must provide that a food service organization is not required to have a license in order to purchase malt liquor and wine from a wholesale licensee for consumption by passengers on international flights and cruises after leaving port; [PL 2021, c. 658, §53 (AMD).]

9. Publish laws and rules. Ensure that licensees have access to the provisions of this Title, other laws governing liquor and all rules adopted pursuant to this Title in accordance with this section.

A. The bureau shall provide notification to licensees that the provisions of this Title and rules adopted pursuant to this Title are available on the bureau's publicly accessible website and that the bureau will provide a paper copy of this Title or rules to a licensee at no charge, upon request from that licensee. [PL 2013, c. 476, Pt. A, §9 (NEW).]

B. The bureau shall notify all licensees of changes to this Title and rules adopted within 90 days of adjournment of each regular session of the Legislature. [PL 2013, c. 476, Pt. A, §9 (NEW).]

C. The bureau may charge a reasonable fee for paper copies of this Title, any new laws enacted in this Title or any newly adopted or existing rules to cover the cost of producing the paper copy to persons other than licensees. Nothing in this paragraph prevents the bureau, upon its own discretion, from providing paper copies for no fee. [PL 2013, c. 476, Pt. A, §9 (NEW).]

D. The bureau shall keep that part of its publicly accessible website regarding this section updated with any new or updated laws or rules; [PL 2013, c. 476, Pt. A, §9 (NEW).]

[PL 2013, c. 476, Pt. A, §9 (NEW).]

10. Deposit revenues. Deposit all net revenues derived from licensing and enforcement under this Title to the General Fund; and

[PL 2013, c. 476, Pt. A, §9 (NEW).]

11. Certification. Certify monthly to the commission and the commissioner a complete statement of expenses and revenues collected in accordance with the licensing and enforcement functions of the bureau including a statement of the revenues collected under chapter 65.

[PL 2019, c. 13, §5 (AMD).]

SECTION HISTORY

PL 2013, c. 476, Pt. A, §9 (NEW). PL 2019, c. 13, §5 (AMD). PL 2021, c. 658, §53 (AMD).

§83-C. Administration of the spirits business by the bureau; rules

The bureau shall establish policies and rules and propose legislation concerning the administration of the spirits business laws under this Title. The bureau shall: [PL 2013, c. 476, Pt. A, §9 (NEW).]

1. Administration and trade marketing supervision. Manage the administration and trade marketing of spirits through agency liquor stores and consistent with one or more contracts awarded under section 90;

[PL 2013, c. 476, Pt. A, §9 (NEW).]

2. Price regulation. Make recommendations to the commission regarding the retail prices of spirits sold in the State and establish the wholesale prices of spirits sold in this State. The bureau shall adopt rules regarding the wholesale pricing of spirits sold to agency liquor stores. The wholesale spirits provider is granted the privilege to distribute spirits under this Title and is immune from antitrust action so long as the wholesale spirits provider is in compliance with the bureau's rules and all other applicable laws and regulations;

[PL 2021, c. 658, §54 (AMD).]

2-A. Special pricing situations. Notwithstanding section 1651, the bureau may, by rule, set retail prices on spirits at different levels than those established by the commission in the following circumstances.

A. The bureau may establish special retail prices on certain listed spirits items to be made available to the consumer at all agency liquor stores. [PL 2019, c. 404, §3 (NEW).]

B. The bureau may reduce the retail price of a listed spirits item that is unlikely to be sold for the retail price set by the commission. [PL 2019, c. 404, §3 (NEW).]

C. The bureau may reduce, at the expense of the spirits supplier, the retail price of those test-market spirits items that fail to meet set minimum gross profit standards after a 3-month period; [PL 2021, c. 658, §55 (AMD).]

[PL 2021, c. 658, §55 (AMD).]

2-B. Recommendations; review. Beginning October 1, 2024, and every 2 years thereafter, review the retail prices of spirits sold in the State established by the commission under, section 81, subsection

5. The review must include comments provided to the bureau from a public hearing held by the bureau on the retail prices of spirits sold in the State. The bureau shall submit a report of the review conducted under this subsection to the commission and to the joint standing committee of the Legislature having jurisdiction over alcoholic beverages matters. The report may include recommendations regarding the establishment of the retail prices of spirits sold in the State pursuant to subsection 2.

[PL 2023, c. 632, §1 (NEW).]

3. Purchase. Oversee the wholesale purchase and storage of spirits for sale in the State. Spirits delivered to the wholesale spirits provider and stored at a warehouse designated by the commission under section 81 are the property of the spirits supplier. Spirits become the property of the bureau upon removal from the warehouse for shipment to an agency liquor store. Spirits delivered to an agency liquor store become the property of the licensee upon receipt of delivery. The wholesale spirits provider at no time takes legal title to any spirits delivered to the warehouse. The bureau may buy and have in its possession spirits for sale to the public. The bureau shall buy spirits directly and not through the Chief Procurement Officer. All spirits must be free from adulteration and misbranding;

[PL 2023, c. 516, Pt. B, §44 (AMD).]

4. Investigate and recommend changes. Carry out a continuous study and investigation of the sale of spirits throughout the State and the operation and administration of state activities regarding the sale of spirits and recommend to the commissioner any changes in the laws or rules and methods of operation that are in the best interest of the State;

[PL 2013, c. 476, Pt. A, §9 (NEW).]

5. Sales incentives to agents; rules.

[PL 2021, c. 592, Pt. B, §1 (RP).]

6. Rules. Adopt rules consistent with this Title or other laws of the State for the administration of all laws concerning the sale of spirits. The rules must include a process for developing recommendations to be submitted to the commission regarding the establishment of the retail prices of spirits sold in the State under subsection 2, including, but not limited to, rules regarding the data and other criteria used in developing the recommendations. The rules must establish a process for the bureau to receive public input regarding the proposed recommendations to the commission. In adopting the rules, the bureau shall hold a public hearing. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A;

[PL 2023, c. 632, §2 (AMD).]

7. Certification. Certify monthly to the commission and the commissioner a complete statement of revenues from and expenses for the sale of spirits by the bureau;

[PL 2019, c. 13, §6 (AMD).]

8. Establish performance standards for contracts. Establish performance standards for any contract awarded under this Title, subject to applicable laws relating to public contracts; and

[PL 2013, c. 476, Pt. A, §9 (NEW).]

9. Report on expenditures. Report annually on expenditures and investments made by the bureau, including, but not limited to, reductions in the retail price at which spirits are sold and incentives offered to agency liquor stores, to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over alcoholic beverages matters. The report must include the impact of those spending initiatives on the number of cases of spirits sold in the State and on sales of spirits generally.

[PL 2021, c. 658, §57 (AMD).]

SECTION HISTORY

PL 2013, c. 476, Pt. A, §9 (NEW). PL 2019, c. 13, §6 (AMD). PL 2019, c. 404, §§3, 4 (AMD). PL 2021, c. 592, Pt. B, §1 (AMD). PL 2021, c. 658, §§54-57 (AMD). PL 2023, c. 516, Pt. B, §44 (AMD). PL 2023, c. 632, §§1, 2 (AMD).

§84. Director of Bureau of Alcoholic Beverages and Lottery Operations

The director of the bureau or the director's designee shall: [PL 2013, c. 368, Pt. V, §20 (AMD).]

1. Manage sale of spirits. Manage the sale of spirits through agency liquor stores in accordance with applicable laws and rules that provide for the operation of wholesale distribution of spirits; [PL 2013, c. 588, Pt. A, §34 (RPR); PL 2013, c. 588, Pt. A, §35 (AFF).]

1-A. Manage enforcement and licensing activities. Manage the enforcement and licensing activities of the bureau under section 83-B; [PL 2013, c. 476, Pt. A, §10 (NEW).]

2. Act as chief administrative officer of bureau. Act as chief administrative officer of the bureau, having general charge of the office and records and employ such personnel as necessary to fulfill the purpose of this Title. The personnel must be employed with the approval of the commissioner and are subject to the Civil Service Law; [PL 2021, c. 658, §58 (AMD).]

3. Act as executive secretary. Act as executive secretary of the commission; [PL 1997, c. 373, §28 (NEW).]

4. Confer with commissioner. Confer regularly as necessary or desirable and not less than once a month with the commissioner on the operation and administration of the bureau and make available for inspection by the commissioner, upon request, all books, records, files and other information and documents of the bureau; [PL 2021, c. 658, §59 (AMD).]

5. Certification. [PL 2019, c. 13, §7 (RP).]

6. Implement a spirits sales data reporting system. Collect from reselling agents data on spirits sales made by each reselling agent to establishments licensed to sell spirits for on-premises consumption. The data must include, but is not limited to, the amount and date of sale of each product code sold to on-premises licensees by the reselling agent. For the purposes of this subsection, "product code" has the same meaning as in section 461. For the purposes of collecting on-premises spirits sales data from reselling agents, the director shall enter into a contract with a trade association representing states that control and manage the sale of spirits. The contract must require the trade association to compile aggregate data for each product code on the monthly sales made by reselling agents to establishments licensed to sell spirits for on-premises consumption and to make that data and the data provided in subsection 6-A available to spirits suppliers. The contract must also require that neither the bureau nor the trade association may make publicly available any information that would specifically identify the reselling agent, including, but not limited to, the reseller's name, the name of the reseller's agency liquor store, the reseller's agency liquor store's address or the address of any associated storage facility of the reselling agent; [PL 2021, c. 622, §2 (AMD).]

6-A. Wholesale spirits sales data. Provide to the trade association awarded the contract under subsection 6 data on spirits sales made each month by the State to agency liquor stores. The data must include, but is not limited to, aggregate sales of each product code sold to agency liquor stores by the State. For the purposes of this subsection, "product code" has the same meaning as in section 461; and [PL 2021, c. 622, §3 (NEW).]

7. Annual report. Beginning February 15, 2020, submit a report annually, subject to the approval of the commission, to the Governor and the joint standing committees of the Legislature having jurisdiction over alcoholic beverage matters and appropriations and financial affairs. The joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters may submit to the Legislature legislation based on the report. The report must include:

A. A complete statement of the revenues and expenses for the bureau for the preceding calendar year; [PL 2019, c. 13, §9 (NEW).]

B. A complete statement of the information required by section 83-B, subsection 11 for the preceding calendar year; [PL 2019, c. 13, §9 (NEW).]

C. A complete statement of the information required by section 83-C, subsection 7 for the preceding calendar year; [PL 2019, c. 13, §9 (NEW).]

D. The information required by section 83-C, subsection 9; and [PL 2019, c. 13, §9 (NEW).]

E. Any recommendations for changes to this Title. [PL 2019, c. 13, §9 (NEW).]

[PL 2019, c. 13, §9 (NEW).]

SECTION HISTORY

PL 1997, c. 373, §28 (NEW). RR 1999, c. 2, §29 (COR). PL 1999, c. 535, §5 (AMD). PL 2013, c. 269, Pt. C, §4 (AMD). PL 2013, c. 269, Pt. C, §13 (AFF). PL 2013, c. 368, Pt. V, §§20, 21 (AMD). PL 2013, c. 368, Pt. V, §61 (REV). PL 2013, c. 476, Pt. A, §10 (AMD). PL 2013, c. 588, Pt. A, §34 (AMD). PL 2013, c. 588, Pt. A, §35 (AFF). PL 2013, c. 588, Pt. B, §1 (AMD). PL 2015, c. 430, §§1-3 (AMD). PL 2019, c. 13, §§7-9 (AMD). PL 2021, c. 622, §§2, 3 (AMD). PL 2021, c. 658, §§58, 59 (AMD).

§85. Inventory and working capital

1. Net profits are general revenue.

[PL 2013, c. 368, Pt. V, §22 (RP).]

2. Inventory. The bureau may keep and have on hand a stock of spirits for sale, the value of which when priced for resale must be computed on the delivered case cost F.O.B. liquor warehouse designated by the commission filed by spirits suppliers. The inventory value must be based upon actual cost for which payment may be due. Spirits may not be considered to be in the inventory until payment has been made for them.

[PL 2021, c. 658, §60 (AMD).]

3. Authorized working capital.

[PL 2013, c. 368, Pt. V, §22 (RP).]

SECTION HISTORY

PL 1997, c. 373, §28 (NEW). PL 2013, c. 269, Pt. C, §5 (AMD). PL 2013, c. 269, Pt. C, §13 (AFF). PL 2013, c. 368, Pt. V, §22 (AMD). PL 2013, c. 476, Pt. A, §11 (AMD). PL 2021, c. 658, §60 (AMD).

§86. Conflict of interest

In addition to the limitations set forth in Title 5, section 18, any member of the commission or any employee of the commission or the bureau may not accept directly or indirectly any samples, gratuities, favors or anything of value from a manufacturer, wholesaler, wholesale licensee or retail licensee or any representative of a manufacturer, wholesaler, wholesale licensee or retail licensee under circumstances that may reasonably be construed as influencing or improperly relating to past, present or future performance of official duties. [PL 2013, c. 588, Pt. B, §2 (AMD).]

SECTION HISTORY

PL 1997, c. 373, §28 (NEW). PL 2013, c. 588, Pt. B, §2 (AMD).

§87. Eligibility of employees

A person is not eligible for employment with the bureau if that person: [PL 2013, c. 588, Pt. B, §3 (AMD).]

1. Interest in corporation. Has any official, professional or other connection with or owns any stock in a corporation interest either directly or indirectly in the manufacture or sale of liquor; or [PL 1997, c. 373, §28 (NEW).]

2. Violation of state or federal law. Has been convicted or adjudicated guilty of violating any state or federal law regulating the manufacture, sale or transportation of liquor. [PL 1997, c. 373, §28 (NEW).]

SECTION HISTORY

PL 1997, c. 373, §28 (NEW). PL 2013, c. 588, Pt. B, §3 (AMD).

§88. Transfer of wholesale liquor activities

(REPEALED)

SECTION HISTORY

PL 2003, c. 20, §LLL2 (NEW). PL 2003, c. 20, §LLL4 (AFF). PL 2013, c. 269, Pt. A, §3 (RP). PL 2013, c. 269, Pt. A, §10 (AFF). PL 2013, c. 368, Pt. V, §23 (AMD).

§89. Renewal of contracts for wholesale liquor activities

(REPEALED)

SECTION HISTORY

PL 2011, c. 380, Pt. S, §1 (NEW). PL 2013, c. 1, Pt. G, §1 (RP).

§90. Contract for wholesale spirits activities and marketing

1. Statement of purpose. The Legislature finds that it is in the public interest to continue to maximize growth in the State's wholesale spirits business while ensuring that growth in revenue from the business is achieved in a socially responsible manner. The contracting of the operations of the wholesale spirits business serves this purpose and provides the State's agency liquor store partners with effective and efficient services in order to responsibly serve consumers of spirits in the State. [PL 2021, c. 592, Pt. A, §1 (RPR).]

2. Contract for spirits administration and trade marketing. Upon the expiration or termination of all contracts for the operation of the State's wholesale spirits business in effect on January 1, 2022, the commissioner shall enter into a single 10-year contract for spirits administration and spirits trade marketing in accordance with the requirements in this section. [PL 2021, c. 592, Pt. A, §1 (RPR).]

3. Competitive bid process. A contract described in subsection 2 must be awarded pursuant to a competitive bid process in a manner consistent with the process described in Title 5, chapter 155, subchapter 1-A. [PL 2021, c. 592, Pt. A, §1 (RPR).]

4. Request for proposals. The commissioner shall develop a request for proposals for the competitive bid process required under subsection 3 designed to encourage vigorous bidding. The request for proposals must:

A. Inform potential bidders of the State's target gross revenue profit margin over the term of the contract; [PL 2021, c. 592, Pt. A, §1 (RPR).]

B. Instruct potential bidders to propose the scope of spirits administration and spirits trade marketing services that will be provided and the fee for those services expressed as a percentage of revenue generated by the wholesale business; [PL 2021, c. 592, Pt. A, §1 (RPR).]

C. Direct potential bidders to indicate whether subcontractors will be used for any portion of the services described in paragraph B and to identify those subcontractors; [PL 2021, c. 592, Pt. A, §1 (NEW).]

D. Inform potential bidders that they may propose incentives intended to encourage responsible growth of revenue and enhanced efficiencies in services provided; and [PL 2021, c. 592, Pt. A, §1 (NEW).]

E. Require each bidder to affirm that neither the bidder nor any of the principal officers of the bidder has a direct financial interest in a license or permit in this State or another state for the manufacture of spirits, other than a minor investment in not more than 1% of the securities of a business entity that holds such a license or permit. [PL 2021, c. 592, Pt. A, §1 (NEW).]

[PL 2021, c. 592, Pt. A, §1 (RPR).]

5. Information provided by bidder. A bidder seeking consideration of the award of a contract pursuant to this section shall:

A. Demonstrate the bidder's knowledge of the wholesale liquor business, the alcoholic beverage industry or a related field as well as the bidder's experience or knowledge, if any, of the responsible marketing of liquor; [PL 2021, c. 592, Pt. A, §1 (RPR).]

B. Propose the bidder's marketing strategies and the scope of the spirits administration services the bidder will provide as well as the fee for those strategies and services expressed as a percentage of revenue generated by the wholesale business; [PL 2021, c. 592, Pt. A, §1 (RPR).]

C. Identify the strategies and services proposed in paragraph B for which the bidder may use a subcontractor and identify those subcontractors; [PL 2021, c. 592, Pt. A, §1 (RPR).]

D. Demonstrate the bidder's financial capacity and access to capital to maintain the strategies and services proposed in paragraph B; [PL 2021, c. 592, Pt. A, §1 (RPR).]

E. Demonstrate the bidder's capabilities for providing transportation and distribution of spirits to agency liquor stores, which must include:

- (1) Delivery vehicles with the appropriate capacity to deliver spirits to the full range of agency liquor stores, including both large and small stores;
- (2) Drivers with the requisite driver's license credentials to drive all sizes of delivery vehicles;
- (3) The ability to make deliveries to agency liquor stores on at least 250 days per year; and
- (4) The ability to provide the minimum number of deliveries established in the request for proposals per week to each store, which may not be less than 2; [PL 2021, c. 592, Pt. A, §1 (RPR).]

F. Demonstrate the bidder's warehousing capacity and ability to expand its warehousing capacity over the term of the contract. The bidder shall propose bailment rates and related fees that the bidder proposes to charge spirits suppliers; [PL 2021, c. 592, Pt. A, §1 (RPR).]

G. Describe the bidder's information technology capabilities, which must include methods for processing orders and invoices, inventory management and sales data analysis; [PL 2021, c. 592, Pt. A, §1 (NEW).]

H. Describe the bidder's plan for enhancing services to spirits suppliers and agency liquor stores; [PL 2021, c. 592, Pt. A, §1 (NEW).]

I. Describe the bidder's business plan to provide services in a manner that will assist the State in achieving a responsible growth rate for the wholesale spirits business; [PL 2021, c. 592, Pt. A, §1 (NEW).]

J. Demonstrate the positive impact on the economy, employment and state revenues that the bidder's overall proposal will provide; [PL 2021, c. 592, Pt. A, §1 (NEW).]

K. Demonstrate that the bidder, any principal officer of the bidder and any named subcontractor have not been found to have violated any state or federal law or rule governing the manufacture, distribution or sale of spirits; and [PL 2021, c. 592, Pt. A, §1 (NEW).]

L. Affirm that neither the bidder nor any of the principal officers of the bidder has a direct financial interest in a license or permit in this State or another state for the manufacture of spirits, other than a minor investment in not more than 1% of the securities of a business entity that holds such a license or permit. [PL 2021, c. 592, Pt. A, §1 (NEW).]

In addition to the requirements of paragraphs A to L, the commissioner, in order to ensure that the objective of maximizing growth in the State's wholesale spirits business is achieved, may require a bidder to provide additional information, including disclosure of the potential of a bidder's direct and substantial conflict of interest with the State's financial interest.

[PL 2021, c. 592, Pt. A, §1 (RPR).]

6. Award criteria and issuance of contract. The commissioner shall choose the best-value bidder in conformity with Title 5, section 1825-B, subsection 7 and shall consider as criteria for award the information required to be provided in subsection 5. The commissioner may not award the contract to a bidder that holds or has a direct financial interest in, or that has a principal officer that holds or has a direct financial interest in, a license or permit in this State or another state to manufacture spirits. A minor investment in not more than 1% of the securities of a business entity that holds a license or permit in this State or another state to manufacture spirits does not constitute a financial interest prohibited by this subsection.

The commissioner shall ensure that the following criteria are met before entering into a contract:

A. That revenue to the State from the sale of spirits is predictable over the term of the contract; [PL 2021, c. 592, Pt. A, §1 (RPR).]

B. That revenue from the sale of spirits will be maximized by the issuance of the contract and achieved through efficiency of services; [PL 2021, c. 592, Pt. A, §1 (RPR).]

C. That the bidder has demonstrated that services provided to agency liquor stores will be enhanced; and [PL 2021, c. 592, Pt. A, §1 (RPR).]

D. That, upon execution of the contract, the disruption of services to agency liquor stores and spirits suppliers will be minimal or absent. [PL 2021, c. 592, Pt. A, §1 (NEW).]

[PL 2021, c. 592, Pt. A, §1 (RPR).]

7. Mandatory contract provisions. A contract entered into with a successful bidder in accordance with this section must:

A. Require that the person awarded the contract submit to the bureau, in a manner determined by the bureau, an annual report audited by an independent 3rd party. The bureau, following receipt of the report, shall provide the report annually to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and alcoholic beverages matters; [PL 2021, c. 592, Pt. A, §1 (NEW).]

B. Prohibit the person awarded the contract from engaging in activities reserved for agency liquor stores licensed as reselling agents to provide spirits to establishments licensed for on-premises consumption; [PL 2021, c. 592, Pt. A, §1 (NEW).]

C. Include provisions that allow for ongoing performance standards review so that deficiencies in such standards may result in amendments to the contract or nullification. Performance standards subject to contract amendments or nullification include:

- (1) Working in partnership with the State to achieve the goal of a responsible growth rate for the wholesale spirits business as negotiated with the successful bidder at the time of award;
- (2) Transparency in annual reporting and conformance to the reporting requirements established in consultation with the successful bidder throughout the term of the contract by the bureau; and
- (3) Responsiveness to the service needs of agency liquor stores; [PL 2021, c. 592, Pt. A, §1 (NEW).]

D. Include provisions establishing standards of efficiency and quality of operations; and [PL 2021, c. 592, Pt. A, §1 (NEW).]

E. Require that the bureau approve all bailment rates and related fees. [PL 2021, c. 592, Pt. A, §1 (NEW).]
[PL 2021, c. 592, Pt. A, §1 (RPR).]

8. Extension. The commissioner and a successful bidder awarded a contract under this section may agree to a single extension of the existing terms of the contract for a period of no more than 3 years following the end of the original 10-year contract term.
[PL 2021, c. 592, Pt. A, §1 (NEW).]

9. Price regulation. Notwithstanding any other provision of this section to the contrary, the State shall regulate the wholesale and retail prices of all spirits sold in the State.
[PL 2021, c. 592, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 269, Pt. A, §4 (NEW). PL 2013, c. 368, Pt. V, §61 (REV). PL 2021, c. 592, Pt. A, §1 (RPR).

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