

§125. Proof of local option election or county commissioner decision

1. Prohibition on licensing. Except as provided in subsection 4, the bureau may not issue a license for the retail sale of spirits, wine or malt liquor unless the premises to be licensed are located in a municipality or unincorporated place that has voted in favor of the issuance of the type of license sought.

[PL 2021, c. 137, §1 (AMD).]

2. Preliminary determination of authorized retail liquor establishments in each municipality. By December 31, 2020, the bureau shall notify each municipality in the State of the bureau's preliminary determination, based on the bureau's records of elections in that municipality on local option questions under section 123 or former Title 28, section 101, whether licenses for each type of licensed establishment or for agency liquor stores may be issued for the sale of liquor on Sundays and on days other than Sunday in that municipality.

[PL 2019, c. 672, §4 (NEW).]

3. Proof of municipal local option election. If a municipality disagrees with a preliminary determination made by the bureau under subsection 2, the municipality may, by July 1, 2022, submit evidence of the results of an election on any local option question pursuant to section 123 or former Title 28, section 101 to refute the bureau's preliminary determination. Nothing in this subsection prohibits a municipality from conducting a local option election in accordance with this chapter at any time.

[PL 2019, c. 672, §4 (NEW).]

4. Final determination of authorized retail liquor establishments in each municipality. On July 1, 2022, the bureau shall make a final determination of whether licenses for each type of licensed establishment or for agency liquor stores may be issued for the sale of liquor on Sundays and on days other than Sunday in each municipality. The bureau shall post a copy of the final determination for each municipality on its publicly accessible website.

In making its final determination under this subsection, the bureau shall consider:

- A. The results of any local option election conducted in the relevant municipality in compliance with this chapter subsequent to the preliminary determination made by the bureau under subsection 2; [PL 2021, c. 137, §2 (NEW).]
- B. Evidence submitted by the relevant municipality under subsection 3; and [PL 2021, c. 137, §2 (NEW).]
- C. The bureau's records of local option elections in the municipality. [PL 2021, c. 137, §2 (NEW).]

For purposes of paragraphs B and C, the results of any local option election conducted prior to January 1, 1977 in favor of a local option question pursuant to former Title 28, section 101 approving the issuance of licenses for the sale of liquor for on-premises consumption at any type of licensed establishment on Sundays or on days other than Sundays are deemed to be evidence that the municipality approved the issuance of licenses for the sale of liquor for on-premises consumption by all types of licensed establishments on those days unless the bureau's records demonstrate that the municipality voted to prohibit the issuance of licenses for the sale of liquor for on-premises consumption on those days in a subsequent local option election conducted under this chapter or under former Title 28, section 101.

[PL 2021, c. 137, §2 (AMD).]

5. Effect of final determination; future local option elections. Beginning July 1, 2022, the bureau's final determination under subsection 4 governs whether the bureau may issue licenses for the sale of liquor in each municipality. Nothing in this subsection prohibits a municipality from conducting

a local option election in compliance with this chapter that has the effect of authorizing or prohibiting the issuance of any or all licenses for the sale of liquor in that municipality after July 1, 2022. If a municipality conducts a local option election after July 1, 2022, the bureau shall update the information posted on its publicly accessible website to reflect the results of that local option election.

[PL 2019, c. 672, §4 (NEW).]

6. Notice to county commissioners. By December 31, 2020, the bureau shall inform the county commissioners of each county in which an unincorporated place is located that proof of an affirmative decision under section 122 or former Title 28, section 103 authorizing the issuance of licenses for the retail sale of liquor is a prerequisite to issuance of such licenses in an unincorporated place and shall request that the county commissioners provide the bureau with copies of any such decisions for each unincorporated place in the county by July 1, 2022. If the county commissioners do not have a record of an affirmative decision under section 122 or former Title 28, section 103 authorizing the issuance of licenses for the retail sale of liquor in an unincorporated place, the county commissioners may, in compliance with section 122, determine whether to authorize or refuse to authorize the issuance of licenses for the retail sale of liquor in that unincorporated place and shall provide the bureau with a record of the decision.

[PL 2019, c. 672, §4 (NEW).]

SECTION HISTORY

PL 2019, c. 672, §4 (NEW). PL 2021, c. 137, §§1, 2 (AMD).

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