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Chain businesses bid up prices for liquor licenses

KEVIN ZWICK  (<https://twitter.com/KevinjZwick>) | Sunday, Jan. 29, 2017, 11:00 p.m.

Raymond Mitch of Butler bid \$25,010 on a restaurant liquor license as an investment for his upcoming retirement. But he was outgunned by a \$306,000 bid placed by Sheetz Inc., the Altoona-based gas station chain.

“For a small guy who's not well established, to lay out \$300,000 for just the license — you're going to have to have a half a million in addition to that to get everything else established,” Mitch said.

The bids were placed through the Pennsylvania Liquor Control Board's new auction of so-called “dead” restaurant liquor licenses. The money from the auction goes to the PLCB, which transfers money each year to the state's general fund.

The second auction is underway. The first bidding process was dominated by Sheetz; Giant Eagle, which operates GetGo gas stations; Giant Food Stores and Weis Markets. Their high-priced bids are potentially squeezing out would-be mom-and-pop restaurateurs and barkeeps, according to lobbyists and industry observers.

“There's gonna be more BYOBs than ever before,” said Ed Taraskus, a Philadelphia lawyer who specializes in liquor licensing and liquor laws.

In the first auction, only six licenses — all located in the southeast — of the 37 licenses auctioned went to independent entities. The licenses available to southwestern counties were won solely by chain entities.

Lawmakers last summer authorized the PLCB to conduct the auctions as part of a sweeping liquor law reform bill, Act 39 of 2016. The law set the minimum bid at \$25,000 plus a \$5,000 bid deposit to avoid frivolous bids. The first auction authorized 40 licenses offered in 21 counties, and 134 valid bids were received. The winning bids ranged from \$51,500 in Somerset County to \$556,000 in Cumberland County. Two licenses auctioned in Westmoreland County went for \$75,015 each.

The average winning bid was about \$212,000. Winning bids for the 40 licenses in the first auction totaled at least \$7.2 million, according to information provided by the PLCB. The highest bidder for each license can submit an application for the license within six months of the auction award.

Mitch said after his experience with the auction, it makes more sense for him to try to buy a license in a private deal outside of the PLCB's auction process. But given the hundreds of thousands paid by chain companies, a private seller is more likely to wait for an offer from a Sheetz or Giant Eagle.

"They set the bar pretty high," Mitch said.

Melissa Bova, vice president of government relations for the Pennsylvania Restaurant and Lodging Association, called the auction process "a huge threat to the independent restaurant industry."

"Because the supermarkets are buying up these licenses, it's lifting the prices of these licenses," she said. "At the end of the day, the only entities that could afford these will be chains.

"It could be a threat to entrepreneurs who want to get into the business," she added.

The high cost and dominance by supermarket and convenience chains is a supply-and-demand issue, said Alex Baloga, vice president of external relations for the Pennsylvania Food Merchants Association, which represents convenience stores and supermarkets.

"There are not enough available licenses versus the demand that's out there," he said. "Because of the scarcity of licenses, it does drive up the price and makes it harder for small, mom-and-pop retailers to get these licenses."

Each county is limited to one liquor license for every 3,000 residents, and the licenses cannot be transferred across county lines.

None of the licenses auctioned by the PLCB are new. Instead, they were once owned by individuals until the PLCB acquired them after they fell out of so-called “safekeeping,” a time period when individuals aren't using their license because their establishment closed for renovation, was damaged by natural disaster or was shuttered due to economic downturn.

Through Act 39, the Legislature reduced the safekeeping period from three years to two, unless the licensee pays a fee to extend the period. But the new law doubled those fees, costing up to \$10,000, depending on the county where the license is based. Beyond the first-year extension, fees double again.

For four years of safekeeping, it could cost a licensee \$40,000 to not use a license. If the individual fails to pay the fees, the license is revoked and turned over to the PLCB.

It's a “use it or lose it” policy, said Ned Sokoloff of the Specialty Group, a Pittsburgh-based consulting firm that helps individuals get into the restaurant and bar industry.

Those once “dead” licenses are now being brought back to life and auctioned by the PLCB. No licenses that may have expired in 2016 have been auctioned off, and the 90 licenses made available for auction date back to the early 2000s, according to the PLCB.

“All (the PLCB is) doing now is selling other people's licenses and keeping the money,” Sokoloff said of the auction process. “They're not creating new licenses.

“It has nothing to do with people or their business,” he said. “It's all about the money.”

Amy Christie, executive director of the PA Licensed Beverage and Tavern Association, which represents bar owners across the state — and is critical of the auction process — said in an email there are hundreds of licenses available in safekeeping to purchase from small business owners across the state.

“The principal of a taxpayer who bought a restaurant liquor license by the terms of the PA Liquor Code selling to another party is now short-circuited so the PLCB can auction licenses that no longer exist, collect all profits, and keeps all profits to puff up revenue lines in a financially crippled state agency should bother everyone,” she said.

The PLCB has been under pressure for several years to improve its bottom line and modernize operations amid Republican legislative efforts to dismantle the state wine and liquor system.

The auction process is one way for the PLCB to raise revenue that it eventually transfers to the general fund.

“Our goals with the restaurant license auctions are to meet growing demand for licenses and efficiently process the applications that result from auctions, while maximizing revenue for the commonwealth (auction revenue is deposited directly into the General Fund quarterly)

and preserving the value of existing licenses,” Elizabeth Brassell, spokeswoman for the PLCB, said in an email.

She said the board is aware that licensees and potential licensees have concerns regarding availability and accessibility of licenses and has had discussions with organizations involved. However, she said the PLCB is required to administer the law. Many of the concerns, including the number of licenses available, can be addressed only through legislative change, she noted.

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