

Notice of Hearing

The Department of Safety and Professional Services, in conjunction with the Auctioneer Board, announces that it will hold a public hearing on a permanent rule for SPS 120 to 126, relating to online auctions, at the time and place shown below.

Hearing Information

Date: July 08, 2025

Time: 9:30 am

Location: Information concerning the location of the hearing will be available at:
<https://dsps.wi.gov/Pages/RulesStatutes/PublicHearingComments.aspx>

Appearances at the Hearing and Submittal of Written Comments

Comments may be submitted to Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov.

Comments must be received at or before the hearing to be included in the record of rule-making proceedings. The rule may be reviewed and comments made at:
<http://docs.legis.wisconsin.gov/code/chr/hearings>.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

Agency Small Business Regulatory Coordinator

The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by phone at (608) 266-2112.

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY AND	:	PROFESSIONAL SERVICES
PROFESSIONAL SERVICES	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Department of Safety and Professional Services to **amend** SPS 120.02 (1) (d), 121.02 (1), 124.02 (7), 125.08 (2) (Note) and (3) (Note), and 126.03 (2) (e) 5.; to **repeal and recreate** SPS 121.02 (2) (Note), 121.035 (Note), and 122.02 (Note); and to **create** SPS 120.02 (1m) relating to online auctions.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 480.01, Stats.

Statutory authority:

Sections 227.11 (2), 480.04 (1) and (2), 480.06, Stats.

Explanation of agency authority:

Section 227.11 (2) (a), Stats. provides “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute . . .”

Although as stated in section 480.04 (2), Stats. the Auctioneer Board does not have rule-making authority, pursuant section 480.04 (1), Stats., “the board shall advise the secretary on matters relating to auctioneers or auction companies or to the board.”

Section 480.06, Stats. details the relationship between the Department as the rule-making authority and the board as the subject matter experts when promulgating rules.

Related statute or rule:

None.

Plain language analysis:

The Department reviewed chapter SPS 120 to update the definition of “auction” in light of the increasing popularity of online auctions. Additionally, the Department conducted a comprehensive review of chapters SPS 120 to 126 to review necessary updates and remove obsolete or unnecessary references.

Summary of, and comparison with, existing or proposed federal regulation:

None

Comparison with rules in adjacent states:

Illinois:

Illinois requires any person who will conduct an auction or provide auction services to obtain a license as an auctioneer. The Auction License Act establishes definitions, licensing requirements, and general provisions of matters pertaining to auctions and auctioneers. In this Act, “auction” is defined as “the sale or lease of property, real or personal, by means of exchanges between an auctioneer and prospective purchasers or lessees, which consists of a series of invitations for offers made by the auctioneer and offers by prospective purchasers or lessees for the purpose of obtaining an acceptable offer for the sale or lease of the property, including the sale or lease of property via mail, telecommunications, or the Internet”. Additionally, Illinois has a definition for “internet listing service” as a “a website on the Internet, or other interactive computer service, that is designed to allow or advertise as a means of allowing users to offer personal property or services for sale or lease to a prospective buyer or lessee through an online bid submission process using that website or interactive computer service and that does not examine, set the price, prepare the description of the personal property or service to be offered, or in any way utilize the services of a natural person as an auctioneer.” [225 ILCS 407/5-10]

Iowa:

Iowa does not require auctioneers to be licensed statewide. However, some municipalities and counties may require permits. Iowa does not define nor regulate online auctions.

Michigan:

As of June 2014, Michigan does not require auctioneer licenses. Michigan does not define nor regulate online auctions.

Minnesota:

Minnesota Statutes authorizes each county to issue an auctioneer license. The requirements are specified in chapter 330 of the Minnesota Compiled Statutes. The Minnesota Department of Revenue under chapter 8130 defines “auction” as “is a method of selling tangible personal property in a public forum through open and competitive bidding

conducted by an auctioneer licensed under Minnesota Statutes, chapter 330.” [MCL 8130.5800 Subpart 8]. Minnesota does not define nor regulate online auctions.

Summary of factual data and analytical methodologies:

The Department, in collaboration with the Auctioneer Board, reviewed chs. SPS 120 to 126 to bring them up to current standards of practice.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Sofia Anderson, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before April 8, 2025, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 120.02 (1) (d) is amended to read:

SPS 120.01 (1) (d) The seller may not nullify the sale by bidding ~~himself or herself~~ themselves directly or through an agent.

SECTION 2. SPS 120.02 (1m) is created to read:

SPS 120.02 (1m) “Auction” has the meaning given in s. 480.01 (1), Stats. As permitted in s. 480.01 (1), Stats., this definition includes services provided through a website or interactive computer service if an individual ranks the bids or conducts the auction.

SECTION 3. SPS 121.02 (1) is amended to read:

SPS 121.02 (1) AUCTIONEER. The department may register as an auctioneer an applicant who satisfies the requirements in s. 480.08 (2) or (2m), Stats. The department shall consider s. 480.08 (2) (d), Stats., as having been satisfied, if the applicant has either received a seller's permit from the department of revenue under s. 77.52 (9), Stats., or the applicant has determined that ~~he or she is~~ they are not required to have a seller's permit and is, therefore, not eligible to obtain a permit.

SECTION 4. SPS 121.02 (2) (Note) is repealed and recreated to read:

SPS 121.02 (2) Note: Instructions for applications can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

SECTION 5. SPS 121.035 (Note) is repealed and recreated to read:

SPS 121.035 Note: Instructions for applications can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

SECTION 6. SPS 122.02 (Note) is repealed and recreated to read:

SPS 122.02 Note: Instructions for applications can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

SECTION 7. SPS 124.02 (7) is amended to read:

SPS 124.02 (7) A statement by the seller that ~~he or she~~ the seller has title and right to sell all property to be sold at auction free of encumbrances and liens; or, if some or all of the property to be sold is subject to encumbrances or liens, a specific itemization of such property.

SECTION 8. SPS 125.08 (2) (Note) and (3) (Note) are amended to read:

SPS 125.08 (2) Note: A Consent to Examine and Audit Auctioneer Trust Account form ~~may be obtained from the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708~~ can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

(3) Note: Forms ~~may be obtained from the department at 1400 East Washington Avenue, P. O. Box 8935, Madison, Wisconsin 53708.~~ can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.

SECTION 9. SPS 126.03 (2) (e) 5. is amended to read:

SPS 126.03 (2) (e) 5. Suggest or imply to the public, privately or through advertising, that ~~he or she~~ the auctioneer or auction company is able to perform any of the activities in subds. 1. to 4.

SECTION 10. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 02/04/2025								
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) SPS 120 to 126									
4. Subject Online auctions									
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected s.20.165(1)(g)								
7. Fiscal Effect of Implementing the Rule <table style="width: 100%;"><tr><td><input type="checkbox"/> No Fiscal Effect</td><td><input type="checkbox"/> Increase Existing Revenues</td><td><input checked="" type="checkbox"/> Increase Costs</td><td><input type="checkbox"/> Decrease Costs</td></tr><tr><td><input type="checkbox"/> Indeterminate</td><td><input type="checkbox"/> Decrease Existing Revenues</td><td colspan="2"><input type="checkbox"/> Could Absorb Within Agency's Budget</td></tr></table>		<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs	<input type="checkbox"/> Decrease Costs	<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget	
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8. The Rule Will Impact the Following (Check All That Apply) <table style="width: 100%;"><tr><td><input type="checkbox"/> State's Economy</td><td><input checked="" type="checkbox"/> Specific Businesses/Sectors</td></tr><tr><td><input type="checkbox"/> Local Government Units</td><td><input type="checkbox"/> Public Utility Rate Payers</td></tr><tr><td colspan="2"><input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</td></tr></table>		<input type="checkbox"/> State's Economy	<input checked="" type="checkbox"/> Specific Businesses/Sectors	<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers	<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
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<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers								
<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)									
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0									
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No									
11. Policy Problem Addressed by the Rule The Department reviewed chapter SPS 120 to update the definition of "auction" in light of the increasing popularity of online auctions. Additionally, the Department conducted a comprehensive review of chapters SPS 120 to 126 to review necessary updates and remove obsolete or unnecessary references.									
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule will be posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule.									
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.									
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) DSPS estimates a total of \$2,335.00 in one-time staffing costs to implement the rule. The estimated need for 0.1 limited term employee (LTE) is for rule drafting, legal review, training, increase in call and emails volumes, updating application and website. The estimated costs may not be absorbed in the currently appropriated budget.									
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule This proposed rule will update chs. SPS 120 to 126 to reflect current standards of practice. The policy alternative is to leave the chapters unchanged, which would fail to address stakeholder questions and allow confusion to persist as practitioners have attempted to apply outdated rules to modern-day auctions and technology.									
16. Long Range Implications of Implementing the Rule The long range implications of implementing this rule are improved clarity in the practice of auctioneers.									
17. Compare With Approaches Being Used by Federal Government									

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

None.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

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19. Contact Name	20. Contact Phone Number
Sofia Anderson, Administrative Rules Coordinator.	608-261-4463

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☐ No
