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Legislative Document

No. 1642

S.P. 527

In Senate, May 5, 2021

An Act To Allow Affirmation of a Local Option Referendum by the Municipal Officers or County Commissioners

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Received by the Secretary of the Senate on May 3, 2021. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LUCHINI of Hancock.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** current law requires that a municipality hold a referendum to authorize or
4 the county commissioners of an unincorporated place approve the sale of liquor in that
5 municipality or unincorporated place; and

6 **Whereas,** based upon the affirmative referendum or county commissioner
7 authorization, the Department of Administrative and Financial Services, Bureau of
8 Alcoholic Beverages and Lottery Operations is authorized to issue a liquor license to a
9 qualified establishment in that municipality or unincorporated place; and

10 **Whereas,** it recently became clear that a large number of municipalities would have
11 to conduct new local option elections and county commissioners would have to reauthorize
12 the sale of liquor due to changes in terminology that occurred in 1976 relating to types of
13 establishments requiring liquor licenses; and

14 **Whereas,** Public Law 2019, chapter 672, enacted by the Legislature and approved by
15 the Governor on March 18, 2020, authorized the bureau to continue to issue, renew or
16 transfer licenses to sell liquor in an authorized municipality or authorized unincorporated
17 place until July 1, 2022, by which date municipalities and unincorporated places would be
18 required to provide evidence of the results of a local option election or county
19 commissioner action authorizing such sales; and

20 **Whereas,** conducting local option elections to affirm that the pre-1976 local option
21 vote should be extended to all establishment types constitutes a significant financial and
22 administrative burden for many municipalities and unincorporated places statewide; and

23 **Whereas,** it is imperative that this legislation take effect as soon as possible to avoid
24 irreparable harm to businesses that have complied with all requirements but could lose their
25 licenses to sell liquor for reasons beyond their control, while providing an alternative option
26 to municipalities and unincorporated places to allow municipal officers or the county
27 commissioners of an unincorporated place the option to affirm and extend the results of a
28 past local option election or county commissioner authorization to new license
29 classifications created by changes to laws in effect at the time of previous local option
30 elections or county commissioner authorizations instead of requiring additional local
31 option elections in potentially hundreds of municipalities or unincorporated places to
32 address the ramifications of Public Law 2019, chapter 672; and

33 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
34 the meaning of the Constitution of Maine and require the following legislation as
35 immediately necessary for the preservation of the public peace, health and safety; now,
36 therefore,

37 **Be it enacted by the People of the State of Maine as follows:**

38 **Sec. 1. 28-A MRSA §121, sub-§1-A,** as enacted by PL 2019, c. 672, §2, is
39 amended to read:

40 **1-A. Vote of municipal officers.** As an alternative to the petition process in
41 subsection 1, the municipal officers may vote either to hold a local option election, which
42 must be conducted pursuant to subsection 3, paragraph A, including one or more of the

1 questions specified in section 123, or to affirm the scope of a prior local option election
2 under the procedure established in section 125, subsection 3, paragraph B.

3 **Sec. 2. 28-A MRSA §125, sub-§3**, as enacted by PL 2019, c. 672, §4, is repealed
4 and the following enacted in its place:

5 **3. Proof of municipal local option election or county commissioner authorization.**
6 If a municipality or unincorporated place disagrees with a preliminary determination made
7 by the bureau under subsection 2, by July 1, 2022:

8 A. The municipality may submit evidence of the results of an election on any local
9 option question pursuant to section 123 or former Title 28, section 101 or the county
10 commissioners of an unincorporated place may submit evidence of the result of an
11 affirmative decision pursuant to section 122 or former Title 28, section 103 to refute
12 the bureau's preliminary determination; or

13 B. The municipal officers may vote to affirm that the results of a local option election
14 of a question approved by voters that specified certain types of licensed establishments
15 as required by former Title 28, section 101 are considered an approval for all types of
16 establishments that may be licensed by the bureau. The county commissioners of an
17 unincorporated place may vote to affirm that a prior authorization for certain types of
18 licensed establishments under former Title 28, section 103 is considered an approval
19 for all types of establishments that may be licensed by the bureau. The municipality
20 or unincorporated place shall submit evidence of such municipal officers' or county
21 commissioners' vote, which must be accepted by the bureau to refute the bureau's
22 preliminary determination.

23 Nothing in this subsection prohibits a municipality from conducting a local option election
24 in accordance with this chapter at any time.

25 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
26 takes effect when approved.

27 SUMMARY

28 Current law requires a municipality through a local option election to affirmatively
29 authorize the licensing of businesses to sell liquor in that municipality. In an
30 unincorporated place, the county commissioners must decide whether to authorize or not
31 authorize the licensing of businesses to sell liquor in that unincorporated place. Based on
32 the type of sales authorized in that municipality or unincorporated place, the Department
33 of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery
34 Operations issues licenses to the establishments or agency liquor stores in that municipality
35 or unincorporated place.

36 Since a municipality or unincorporated place may not be able to provide proof that the
37 sale of liquor was authorized in that municipality or unincorporated place, Public Law
38 2019, chapter 672 was enacted to provide a window, until July 1, 2022, for a municipality
39 or unincorporated place to either provide the bureau with proof of an affirmative vote or
40 decision or to conduct a new local option election or affirmative decision by the county
41 commissioners to authorize the sale of liquor. Due to the COVID-19 pandemic, however,
42 many municipalities were unable to conduct the new local option election required to affirm
43 the authorization of the sale of liquor.

1 This bill allows a municipality to authorize the sale of liquor by allowing the municipal
2 officers to vote to affirm the results of a prior local option election held for that purpose
3 and it allows the county commissioners of an unincorporated place to reaffirm a prior
4 authorization. This bill specifies that such authorization constitutes proof for purposes of
5 approving the sale of liquor by all types of establishments that may be licensed by the
6 bureau in that municipality or unincorporated place.