

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

—
S.P. 759 - L.D. 2120

An Act Regarding Sales of Alcohol in Municipalities and Unincorporated Places

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

Whereas, current law requires that a municipality hold a referendum to authorize the sale of liquor in that municipality; and

Whereas, current law requires the county commissioners for an unincorporated place to determine whether or not to authorize the sale of liquor in that unincorporated place; and

Whereas, based upon the affirmative referendum or decision, the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations is authorized to issue a license to a qualified establishment in that municipality or unincorporated place; and

Whereas, the bureau has recently become aware that it does not have proof of a referendum or decision in some municipalities and unincorporated places that have licensed establishments, endangering the ability of these currently licensed businesses to continue to be licensed by the bureau; and

Whereas, it is imperative that this legislation take effect as soon as possible to avoid irreparable harm to businesses that have complied with all requirements but could lose their licenses to sell liquor due to inadequate record keeping; and

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

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

Sec. 1. 28-A MRSA §121, sub-§1, as amended by PL 2017, c. 475, Pt. C, §8, is repealed and the following enacted in its place:

1. Petition. A petition for a local option election must be signed by 30 voters in that municipality or by a number of voters equal to at least 5% of the number of votes cast in that municipality in the last gubernatorial election, whichever is fewer. All petition signatures must have been signed since the last general election. The petition must be addressed to and received by the municipal officers at least 60 days before holding any primary, special statewide, general or municipal election or town meeting.

Sec. 2. 28-A MRSA §121, sub-§1-A is enacted to read:

1-A. Vote of municipal officers. As an alternative to the petition process in subsection 1, the municipal officers may vote to hold a local option election, which must be conducted pursuant to subsection 3, including one or more of the questions specified in section 123.

Sec. 3. 28-A MRSA §121, sub-§2, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

2. Meeting. Upon receipt of a petition, or in accordance with a vote of the municipal officers pursuant to subsection 1-A, the municipal officers shall notify the inhabitants of their respective municipalities to meet in the manner prescribed by law. The meeting shall must be held to vote upon any or all of the questions contained in section 123.

Sec. 4. 28-A MRSA §125 is enacted to read:

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

1. Prohibition on licensing. 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.

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.

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.

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. In making this final determination, the bureau shall consider evidence submitted by the relevant municipality under subsection 3 and the results of any local option election conducted in that municipality in compliance with this chapter subsequent to the preliminary determination made by the bureau under subsection 2. The bureau shall post a copy of the final determination for each municipality on its publicly accessible website.

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.

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.

Sec. 5. Temporary waiver of approval to issue license to sell liquor for municipalities with licensed retail establishments. Notwithstanding the Maine Revised Statutes, Title 28-A, section 125, subsection 1; section 453, subsection 1, paragraph A; and any other provision of the law to the contrary, until July 1, 2022, the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations is authorized to issue, renew or transfer licenses to sell liquor in an authorized municipality or authorized unincorporated place as specified in this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Agency liquor store" has the same meaning as in Title 28-A, section 2, subsection 1.
- B. "Authorized municipality" means a municipality in which a licensed establishment or agency liquor store was operating between March 1, 2017 and March 1, 2020 but

for which the bureau does not have a record of a local option decision authorizing the issuance of licenses to that type of establishment or agency liquor store, respectively.

C. "Authorized unincorporated place" means an unincorporated place in which a licensed establishment or agency liquor store was operating between March 1, 2017 and March 1, 2020 but for which the bureau does not have a record of a local option decision authorizing the issuance of licenses to that type of establishment or agency liquor store, respectively.

D. "Bureau" has the same meaning as in Title 28-A, section 2, subsection 6.

E. "Licensed establishment" has the same meaning as in Title 28-A, section 2, subsection 15.

F. "Local option decision" means a local option election conducted pursuant to Title 28-A, chapter 5 or former Title 28, section 101 or a decision to authorize the issuance of retail liquor licenses in an unincorporated place pursuant to Title 28-A, section 122 or former Title 28, section 103.

G. "Unincorporated place" has the same meaning as in Title 28-A, section 2, subsection 33.

2. Temporary waiver of local option election or county commissioner authorization requirement. Until July 1, 2022, an authorized municipality is deemed to have complied with the procedures established in Title 28-A, chapter 5 to authorize the bureau, in that municipality, to issue an initial license, renew a license or transfer a license for any type of licensed establishment or agency liquor store that was operating in that municipality between March 1, 2017 and March 1, 2020. Until July 1, 2022, the county commissioners of an authorized unincorporated place are deemed to have complied with the procedures established in Title 28-A, chapter 5 to authorize the bureau, in that unincorporated place, to issue an initial license, renew a license or transfer a license for the sale of liquor to an establishment for on-premises consumption, if an establishment for on-premises consumption was operating in that unincorporated place between March 1, 2017 and March 1, 2020, or to an establishment for off-premises consumption, if an establishment for off-premises consumption was operating in that unincorporated place between March 1, 2017 and March 1, 2020.

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