

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
S.P. 527 - L.D. 1642

An Act Regarding Local Option Elections

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 approve the sale of liquor in that municipality; and

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

Whereas, it recently became clear that a large number of municipalities would have to conduct new local option elections due to changes in terminology that occurred in 1976 relating to types of establishments requiring liquor licenses; and

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

Whereas, conducting local option elections to affirm that the pre-1977 local option vote should be extended to all establishment types constitutes a significant financial and administrative burden for many municipalities; 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 for reasons beyond their control; 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 §125, sub-§1, as enacted by PL 2019, c. 672, §4, is amended to read:

1. Prohibition on licensing. ~~The~~ 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.

Sec. 2. 28-A MRSA §125, sub-§4, as enacted by PL 2019, c. 672, §4, is amended to read:

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.

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;

B. Evidence submitted by the relevant municipality under subsection 3; and

C. The bureau's records of local option elections in the municipality.

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.

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