

CHAPTER 5

LOCAL OPTION

§121. Local option election in a municipality

A local option election in a municipality shall be held in the following manner. [PL 1987, c. 45, Pt. A, §4 (NEW).]

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. [PL 2019, c. 672, §1 (RPR).]

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. [PL 2019, c. 672, §2 (NEW).]

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 must be held to vote upon any or all of the questions contained in section 123. [PL 2019, c. 672, §3 (AMD).]

3. Conduct of election. Except as provided in this section, the petition process and the voting at elections held in towns and plantations must be held and conducted in accordance with Title 30-A, sections 2528, 2529 and 2532, even if the town or plantation has not accepted the provisions of section 2528. The voting at elections held in cities must be held and conducted in accordance with Title 21-A. No referendum questions except those set out in section 123 may be printed on the ballot. The municipal clerk shall make a return of the results, certify the results and send it to the office of the Secretary of State. The Secretary of State shall forward the results to the bureau. [PL 1997, c. 373, §29 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 147, §1 (AMD). PL 1993, c. 608, §§2,3 (AMD). PL 1997, c. 373, §29 (AMD). PL 2017, c. 475, Pt. C, §8 (AMD). PL 2019, c. 672, §§1-3 (AMD).

§122. Unincorporated places

1. No local option election. No local option election may be held in unincorporated places. [PL 1989, c. 158, §2 (RPR).]

2. Authorization of sales. The county commissioners may, after holding a public hearing:

A. Authorize or refuse to authorize the sale of liquor to be consumed on the premises where sold; and [PL 1987, c. 342, §17 (NEW).]

B. Authorize or refuse to authorize the sale of liquor to be consumed off the premises where sold. [PL 1987, c. 342, §17 (NEW).]

[PL 1987, c. 342, §17 (NEW).]

3. Approval of licenses. The county commissioners may refuse to approve a liquor license application on the ground that the license is not warranted for any substantial public convenience, necessity or demand.

[PL 1987, c. 342, §17 (NEW).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 147, §2 (AMD). PL 1987, c. 342, §17 (RPR). PL 1989, c. 158, §2 (AMD).

§123. Local option questions

Any one or more of the following questions may be voted on in a local option election held under section 121. Each question applies to both full-time and part-time licensed establishments. [PL 1987, c. 342, §18 (RPR).]

1. Sale of liquor for consumption on the premises on days other than Sunday. Shall this municipality authorize the State to issue licenses for the sale of liquor to be consumed on the premises of licensed establishments on days other than Sunday?

[PL 1997, c. 373, §30 (AMD).]

2. Sale of spirits for off-premises consumption on days other than Sunday. Shall this municipality authorize the State to permit the sale of spirits for off-premises consumption on days other than Sunday?

[PL 2021, c. 658, §61 (AMD).]

2-A. Sale of malt liquor and wine for consumption off the premises on days other than Sunday. Shall this municipality authorize the State to issue licenses for the sale of malt liquor and wine to be consumed off the premises of licensed establishments on days other than Sunday?

[PL 1997, c. 373, §30 (AMD).]

3. Sale of liquor for consumption on the premises on Sundays. Shall this municipality authorize the State to issue licenses for the sale of liquor to be consumed on the premises of licensed establishments on Sundays?

[PL 1997, c. 373, §30 (AMD).]

4. Sale of spirits for off-premises consumption on Sundays. Shall this municipality authorize the State to permit the sale of spirits for off-premises consumption on Sundays?

[PL 2021, c. 658, §62 (AMD).]

4-A. Sale of malt liquor and wine for consumption off the premises on Sundays. Shall this municipality authorize the State to issue licenses for the sale of malt liquor and wine to be consumed off the premises of licensed establishments on Sundays?

[PL 1997, c. 373, §30 (AMD).]

5. Operation of state liquor stores and agency liquor stores on Sunday.

[PL 1987, c. 342, §18 (RP).]

6. Sale of spirits to be consumed on the premises on Sunday.

[PL 1987, c. 342, §18 (RP).]

7. Sale of malt liquor and wine to be consumed on the premises on Sunday.

[PL 1987, c. 342, §18 (RP).]

8. Sale of malt liquor and wine for consumption on the premises on Sunday.

[PL 1987, c. 342, §18 (RP).]

9. Operation of bottle clubs.

[PL 1987, c. 342, §18 (RP).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §18 (RPR). PL 1991, c. 95, §§1-4 (AMD). PL 1997, c. 373, §30 (AMD). PL 2013, c. 368, Pt. V, §§24, 25 (AMD). PL 2021, c. 658, §§61, 62 (AMD).

§124. Results of vote

1. Determination vote. If the results of an election held under section 121 show that:

A. A majority of the votes cast in any municipality on any local option question is in the affirmative, the bureau may issue licenses of the type authorized by the affirmative vote in that municipality; [PL 2001, c. 471, Pt. B, §14 (AMD).]

B. A majority of the votes cast in any municipality on any local option question is in the negative, the bureau may not issue licenses of the type denied by the negative vote in that municipality; or [PL 2001, c. 471, Pt. B, §14 (AMD).]

C. The vote is tied on any local option question, the law remains as it was before the voting. [PL 1997, c. 373, §31 (AMD).]

[PL 2021, c. 658, §63 (AMD).]

2. Effective date. The vote is effective on the first day of the month following the certification of the vote to the Secretary of State.

[PL 1987, c. 45, Pt. A, §4 (NEW).]

3. Existing licenses. The holder of any license issued and outstanding on the effective date of the local option vote that denies issuance of that type of license and specifically indicates that the existing privilege is to be voided shall immediately surrender it to the bureau. The bureau shall refund that portion of the unused fee paid.

[PL 1997, c. 373, §32 (AMD).]

4. Repeal or reconsideration. When a municipality has voted to accept or reject any local option question, the vote is effective until repealed by a new petition and vote as required by section 121 or 122. A negative vote on a question repeals existing privileges only if the petition clearly indicates an intent that it do so. No local option vote may be taken on the same question more than once in any one-year period.

[PL 2001, c. 471, Pt. B, §15 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 623, §5 (AMD). PL 1991, c. 95, §5 (AMD). PL 1991, c. 377, §15 (AMD). PL 1997, c. 373, §§31,32 (AMD). PL 2001, c. 471, §§B14,15 (AMD). PL 2021, c. 658, §63 (AMD).

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

1. Prohibition on licensing. 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.

[PL 2021, c. 137, §1 (AMD).]

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.

[PL 2019, c. 672, §4 (NEW).]

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.

[PL 2019, c. 672, §4 (NEW).]

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. 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; [PL 2021, c. 137, §2 (NEW).]
- B. Evidence submitted by the relevant municipality under subsection 3; and [PL 2021, c. 137, §2 (NEW).]
- C. The bureau's records of local option elections in the municipality. [PL 2021, c. 137, §2 (NEW).]

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.

[PL 2021, c. 137, §2 (AMD).]

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.

[PL 2019, c. 672, §4 (NEW).]

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.

[PL 2019, c. 672, §4 (NEW).]

SECTION HISTORY

PL 2019, c. 672, §4 (NEW). PL 2021, c. 137, §§1, 2 (AMD).

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