

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE  
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**  
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examiner has executed the certificate provided for under this section may be detained in a hospital for a reasonable period of time not to exceed 18 hours pending endorsement by a judge or justice; provided that, where the person was informally admitted under section 2290, the head of the hospital shall undertake to secure the endorsement forthwith upon execution of the certificate by the examiner, and that, where the person is sought to be involuntarily admitted under this section, the person or persons transporting him to the hospital shall undertake to secure the endorsement forthwith upon execution of the certificate by the examiner.

Effective July 6, 1978

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## CHAPTER 630

### AN ACT Clarifying the Statutes Relating to Municipalities.

**Emergency Preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies have created uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary to resolve such uncertainties and confusion to prevent any injustice or hardship on the people of Maine; 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**Sec. 1.** 7 MRSA § 3705, last sentence, is repealed and the following enacted in its place:

All fines imposed shall be paid into the treasury of the county where the offense is committed and shall be transmitted by the county treasurer to the treasurer of the municipality where the offense is committed unless otherwise provided.

**Sec. 2.** 28 MRSA § 101, as last amended by PL 1977, c. 211, §§ 4 and 5; c. 292, §§ 1, 2 and 3; and c. 496, § 39, is repealed and the following enacted in its place:

**§ 101. Form of question and ballot**

The municipal officers of cities and towns and the assessors of plantations, upon receipt of a petition signed by at least 15% of the voters voting in that municipality in the last gubernatorial election and addressed to the municipal officers, as defined in Title 30, section 1901, subsection 7, at least 21 days prior to holding any general election, are empowered and directed to notify the inhabitants of their respective municipalities to meet, in the manner prescribed by law, to vote upon any one or all of the following questions.

1. Shall state stores for the sale of liquor be operated by permission of the State Liquor Commission in this city or town? (State Liquor Store)
2. Shall licenses be granted in this city or town for the sale herein of spirituous and vinous liquor to be consumed on the premises of establishments qualified to sell spirituous and vinous liquor for consumption on the premises?
3. Shall licenses be granted in this city or town for the sale herein of malt liquor (beer, ale and other malt liquor) to be consumed on the premises of establishments qualified to sell malt liquor for consumption on premises?
4. Shall licenses be granted in this city or town for sale herein of malt liquor (beer, ale and other malt liquor) and table wine not to be consumed on the premises of establishments qualified to sell malt liquor and wine for consumption off the premises?
5. Shall state stores and special agency stores for the sale of liquor be operated by permission of the State Liquor Commission in this city, or town on Sunday? (State Liquor Store)
6. Shall this municipality or unincorporated place authorize the sale of spirituous and vinous liquor on Sunday for consumption on the premises of establishments licensed to sell spirituous liquor for consumption on the premises?
7. Shall this municipality or unincorporated place authorize the sale on Sunday of malt liquor (beer, ale and other malt liquor) to be consumed on the premises of establishments licensed to sell malt liquor for consumption on the premises?
8. Shall this municipality or unincorporated place authorize the sale on Sunday of malt liquor (beer, ale and other malt liquor) and table wine to be consumed off the premises of establishments licensed to sell malt liquor and wine for consumption off the premises?

Each question in this section shall apply to both full-time and part-time licensed establishments.

Except as otherwise provided therein, the petition process and the voting at meetings held in towns and plantations shall be held and conducted in accordance

with Title 30, sections 2061, 2062 and 2065, even though the town or plantation has not accepted the provisions of section 2061, and the voting at meetings held in cities shall be held and conducted in accordance with Title 21. No referendum questions, except those set out in this section, may be printed on this ballot. Return of the results shall be made to the office of the Secretary of State, who shall forward the results to the State Liquor Commission.

Where a municipality has voted in favor of accepting or not accepting a ballot question, the vote shall be effective until repealed according to the procedure established in the next paragraph. No local option vote shall be taken on the same question more often than once in any 2-year period.

The decisions of the voters of any municipality in regard to the questions set forth in this section prior to the effective date of this section shall remain valid unless changed by the procedure established in the first paragraph. In a municipality where a new vote is taken subsequent to July 29, 1976, the disapproval of a new privilege shall not void the existing privilege granted by a prior vote unless the petition and ballot clearly indicate that that is the intention of the petition. The vote shall become effective the first day of the month following the certification of the vote by the office of the Secretary of State. All licenses issued and outstanding on the effective date of the local option vote shall immediately be surrendered to the Bureau of Alcoholic Beverages by the holder. A refund shall be made for that portion of the unused fee paid.

Sec. 3. 30 MRSA § 1953, sub-§ 5, is amended by adding at the end a new sentence to read:

**It being the intent of the Legislature to avoid the proliferation of special purpose districts and inflexible enabling statutes, the Legislature directs that the courts and the Attorney General liberally construe this chapter toward that end.**

Sec. 4. 30 MRSA § 3221, Sub-§ 1, ¶ B, 1st sentence, as repealed and replaced by PL 1977, c. 286 § 2, is repealed and the following enacted in its place:

**Any municipality may provide, by an ordinance enacted after notice and hearing by its municipal officers, that the plumbing inspector may waive the site evaluation requirement as provided in Title 22, section 42, subsection 3.**

Sec. 5. 30 MRSA § 4359, 1st ¶, is amended to read:

**Malfunctioning domestic sewage disposal units, including septic tanks, cesspools, cisterns, dry wells, drainage beds, drains, sewer lines and pipes and the like, have become a menace to the health and general welfare of the citizens of this State, and are declared to be a nuisance.**

Sec. 6. 30 MRSA § 4963, sub-§ 3, as repealed and replaced by PL 1977, c. 280, is amended to read:

3. **Variance.** A variance may be granted by the board only where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words "undue hardship" as used in this subsection mean:

- A. That the land in question cannot yield a reasonable return unless a variance is granted;
- B. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; ~~and~~
- C. That the granting of a variance will not alter the essential character of the locality ; ~~and~~
- D. That the hardship is not the result of action taken by the applicant or a prior owner.**

A municipality may, in a zoning ordinance, adopt additional ~~standards for~~ **limitations on the granting of a variance, including, but not limited to, a provision that a variance may only be granted for a use permitted in a particular zone.**

**Sec. 7. 36 MRSA § 942, 2nd ¶, 1st sentence, as amended by PL 1977, c. 479, § 17, is further amended to read:**

The tax collector may, after the expiration of 8 months and within one year after the date of original commitment of a tax, give to the person against whom said tax is assessed, or leave at his last and usual place of abode, or send by ~~registered mail~~ **certified mail, return receipt requested**, to his last known address, a notice in writing signed by said tax collector or bearing his facsimile signature, stating the amount of such tax, describing the real estate on which the tax is assessed, alleging that a lien is claimed on said real estate to secure the payment of the tax, and demanding the payment of said tax within 10 days after service or mailing of such notice with \$1 for said tax collector for making the demand together with the ~~registered mail~~ **certified mail, return receipt requested, fee.**

**Sec. 8. 36 MRSA § 942, 4th ¶ ; 5th ¶, as repealed and replaced by PL 1977, c. 422, § 2; and the 6th ¶, are amended to read:**

At the time of the recording of the tax lien certificate in the registry of deeds, in all cases the tax collector shall file with the municipal treasurer a true copy of the tax lien certificate and shall send by ~~registered mail~~ **certified mail, return receipt requested**, to each record holder of a mortgage on said real estate, to his last known address, a true copy of the tax lien certificate. If the real estate has not been assessed to its record owner, the tax collector shall send by ~~registered mail~~ **certified mail, return receipt requested**, a true copy of the tax lien certificate to the record owner.

The costs to be paid by the taxpayer shall be the sum of the fees for recording

and discharge of the lien as established by Title 33, section 751, subsection 10, plus \$2 and all ~~registered-mail~~ **certified mail, return receipt requested**, fees. Upon redemption, the municipality shall prepare and record a discharge of the tax lien mortgage.

The municipality shall pay the tax collector \$1 for the notice, \$1 for filing the tax lien certificate and the amount paid for ~~registered-mail~~ **certified mail, return receipt requested**, fees. The fees for recording the tax lien certificate and for discharging the tax lien mortgage shall be paid by the municipality to the register of deeds.

**Sec. 9. 36 MRSA § 943, 5th ¶, 1st sentence**, as amended by PL 1975, c. 770, § 205, is further amended to read:

The municipal treasurer shall notify the party named on said tax lien mortgage not more than 45 days nor less than 30 days previous to the foreclosing date of the said tax lien mortgage, in a writing left at his last and usual place of abode or sent by ~~registered or~~ **certified mail, return receipt requested**, to his last known address of the impending automatic foreclosure, indicating within the notice the exact date of foreclosure.

**Sec. 10. 38 MRSA § 1208, 2nd ¶, 4th and 5th sentences**, as enacted by PL 1965, c. 310, are repealed and the following enacted in their place:

The treasurer, when a rate, toll, rent or other charge has been committed to him for collection, may, after the expiration of 3 months and within one year after the date when the same became due and payable, give to the owner of the real estate served, or leave at his last and usual place of abode, or send by certified mail, return receipt requested, to his last known address, a notice in writing signed by the treasurer stating the amount of that rate, toll, rent or other charge, describing the real estate upon which the lien is claimed and stating that a lien is claimed on the real estate to secure the payment of the rate, toll, rent or other charge and demanding the payment of the rate, toll, rent or other charge within 30 days after service or mailing, with \$1 for the treasurer for mailing the notice together with the certified mail, return receipt requested, fee. For the purpose of this section, a mobile home is defined as real estate.

**Sec. 11. 38 MRSA § 1208, 2nd ¶, next to last sentence**, as enacted by PL 1965, c. 310, is amended to read:

At the time of the recording of any such certificate in the registry of deeds as ~~heretofore~~ provided, the treasurer shall file in the office of the district a true copy of such certificate and shall mail a true copy thereof by ~~registered or~~ **certified mail, return receipt requested**, to each record holder of any mortgage on said real estate, addressed to such record holder at his last and usual place of abode.

**Sec. 12. Validation.** Any vote taken at a 1978 annual town meeting, pursuant to the procedures of Title 28, section 101, first paragraph, as amended by Public Law



1977, chapter 496, section 39, shall be deemed valid for the purpose of Title 28, section 101.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 9, 1978

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## CHAPTER 631

**AN ACT to Provide Municipalities with Standards for the Installation of Wood Stoves.**

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

5 MRSA § 5005, sub-§ 1, ¶ N is enacted to read:

N. In cooperation with the Office of the State Fire Marshal and other interested parties, prepare proposed standards for the installation of stoves designed exclusively to burn wood for the purposes of heating or cooking, but shall not include wood stoves designed as furnaces attached to a central heating system. A hearing shall be held, preceded by reasonable notice to the public, on these proposed standards and they shall be modified as deemed necessary in response to the public hearing. The Office of Energy Resources shall make these standards available to those municipalities which desire to regulate the installation of wood stoves, pursuant to their powers as expressed in Title 30, section 2151.

Effective July 6, 1978

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## CHAPTER 632

**AN ACT to Facilitate the Making of Decrees by the Industrial Accident Commission.**

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

Sec. 1. 39 MRSA § 99, 4th sentence, as amended by PL 1977, c. 613, § 2, is further amended to read: