

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

January 3, 1974

Peter Damborg, Deputy

John Kendrick, Assistant

Title 28, Section 101

Secretary of State

Attorney General

SYLLABUS:

The time for filing local option liquor petitions with the Secretary of State is 120 days prior to any statewide election.

FACTS:

28 M.R.S.A. § 101 contains an apparent conflict in one of its provisions. In paragraph two of § 101 certain requirements for a petition by electors of a municipality are stated, followed by the phrase "which petition shall be filed with the Secretary of State 120 days prior to any general, primary or special state-wide election". (emphasis added).

In paragraph four of § 101 the same petition is again referred to followed by the phrase "which petition shall be filed with the Secretary of State on or before the first day of July preceding the day of the biennial election." (emphasis added).

QUESTION:

When must the municipal electors' petition be filed with the Secretary of State in order to get a local option liquor question on the ballot in the municipality?

ANSWER:

120 days prior to a state-wide election.

REASON:

This conflict within § 101 arose when Chapter 359 of the Public Laws of 1973 changed the law on local option elections to permit liquor questions to be voted at any state-wide election, instead of being voted only at each biennial election. The Legislature cannot have intended coexistence of conflicting provisions. Knight v. Aroostook R.R. Co., 67 Me. 292.

There has been a repeal by implication of the older provision as to time for filing in the fourth paragraph. Knight v. Aroostook R.R. Co., supra; Opinion of Justices, 120 Me. 569.

Peter Damborg, Deputy

January 3, 1974

The correct time for filing was that made a part of Chapter 359 which became the quoted provision of paragraph two of § 101. The inconsistent fourth paragraph provision should be read out of the statute until such time as it can be changed or deleted in a new Act.

JK/mf

John Kendrick
John Kendrick
Assistant Attorney General