

# MAINE STATE LEGISLATURE

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## STATE OF MAINE 28 MRSA §101

Inter-Departmental Memorandum Date August 24, 1976

To Keith H. Ingraham, DirectorDept. Bureau of Alcoholic BeveragesFrom Phillip M. Kilmister, AssistantDept. Attorney GeneralSubject Interpretation of 28 M.R.S.A. § 101

In your memorandum under date of July 30, 1976, you ask in essence whether or not special town meetings may be held to vote on local option liquor questions. The answer to said question is in the negative!

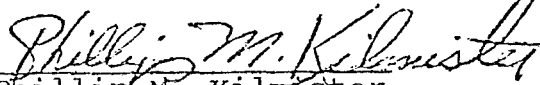
Unfortunately, the Legislative Record is silent as to whether or not the Legislature ever intended to allow for the consideration of local option questions through the initiation of petitions which would mandate the holding of elections solely to determine such questions.

The answer to your inquiry can only be derived from an objective construction of the amended language of 28 M.R.S.A. § 101, and an analysis of the results which flow from interpreting said statutory language.

I believe it would be an unreasonable construction of the language of 28 M.R.S.A. § 101 to conclude that the petition process may be utilized to mandate or dictate that municipal officers must call elections upon the presentment to them of every successive petition. Such a conclusion could lead to a proliferation of town meetings or municipal elections during the course of any year which would render our local option provisions a veritable shambles.

A more reasonable construction of the recently amended language of 28 M.R.S.A. § 101 would be to conclude that although all local option questions must be resolved through the election procedures provided by town meetings or city elections, the initiation of a local option petition must not dictate when an election is to be held.

The applicable language of Section 5 of Chapter 741 of the Public Laws of 1975, effective as of July 29, 1976, provides for the presentment of petitions for the resolution of local option questions and sets forth outermost and minimum limits of 45 and 30 days respectively, prior to the holding of "the municipal election or town meeting." The annual town meeting or regularly established municipal elections as set forth in the various city charters, are the local option forums envisioned by the Legislature. To hold otherwise, as noted above, would render meaningless the establishment of any time provisions for presentation of petitions, and would render equally meaningless, any reference to local elections, since the institution of a petition, would, ipso facto, dictate that an election be held.

  
Phillip M. Kilmister  
Assistant Attorney General