

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 1388**

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H. P. 1235

House of Representatives, April 7, 1977

Reported by Mr. Bustin from Committee on Election Laws and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Clarify the Marking of Ballots.**

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

Sec. 1. 21 MRSA § 701, sub-§ 2, §§ A and F, as amended by PL 1973, c. 160, §§ 1 and 2, are further amended to read:

**A. Instructions printed.** The following instructions must be printed in bold type at the top of the ballot: "MAKE A CROSS (X) IN OR A CHECK MARK (✓) IN **OR BLACKEN COMPLETELY** THE SQUARE AT THE LEFT OF THE NAME OF THE CANDIDATE FOR WHOM YOU WISH TO VOTE. FOLLOW DIRECTIONS AS TO THE NUMBER OF CANDIDATES TO BE NOMINATED FOR EACH OFFICE. YOU MAY VOTE FOR A PERSON WHOSE NAME DOES NOT APPEAR ON THE BALLOT BY WRITING IT OR PASTING A STICKER WITH HIS NAME ON IT IN THE PROPER BLANK SPACE, AND MARKING A CROSS (X) IN OR A CHECK MARK (✓) IN **OR BLACKENING COMPLETELY** THE PROPER SQUARE AT THE LEFT. DO NOT ERASE NAMES. NAMES WRITTEN IN OR ON STICKERS MUST SHOW THE MUNICIPALITY OF RESIDENCE OF EACH WRITE-IN CANDIDATE."

**F. Squares printed.** A square must be printed at the left and close to the name of each candidate or write-in space, so that a voter may designate his choice clearly by a cross (X) or a check mark (✓) or a complete blackening of the square.

**Sec. 2.** 21 MRSA § 702, sub-§ 2, ¶¶ C and H, as amended by PL 1973, c. 160, §§ 5 and 6, are further amended to read:

**C. Further instructions.** The following instructions must be printed in bold type at the top of the ballot: "MAKE A CROSS (X) IN OR A CHECK MARK (✓) IN OR **BLACKEN COMPLETELY** THE SQUARE AT THE LEFT OF THE NOMINEE FOR WHOM YOU WISH TO VOTE. FOLLOW DIRECTIONS AS TO THE NUMBER OF NOMINEES TO BE ELECTED TO EACH OFFICE. YOU MAY VOTE FOR A PERSON WHOSE NAME DOES NOT APPEAR ON THE BALLOT BY WRITING IT IN THE PROPER BLANK SPACE AND MARKING A CROSS (X) IN OR A CHECK MARK (✓) IN **OR BLACKENING COMPLETELY** THE PROPER SQUARE AT THE LEFT. DO NOT ERASE NAMES. NAMES WRITTEN IN MUST SHOW THE MUNICIPALITY OF RESIDENCE OF EACH WRITE-IN CANDIDATE."

**H. Squares printed.** A square must be printed at the left and close to the name of each nominee or write-in space, so that a voter may designate his choice clearly by a cross (X) or a check mark (✓) ~~in~~ ~~it~~ or a complete blackening of the square.

**Sec. 3.** 21 MRSA § 702, sub-§ 5, as amended by PL 1975, c. 730, § 1, is further amended to read:

**5. Referendum questions on separate ballot.** Referendum questions must be printed on a separate ballot. Two squares must be printed at the right of any referendum question submitted, with "Yes" above one and "No" above the other, so that a voter may designate his choice clearly by a cross or a check mark or a complete blackening of the square.

**Sec. 4.** 21 MRSA § 921, first sentence is amended to read:

A voter shall mark his ballot at a primary election with a cross (X) or with a check mark (✓) or with a complete blackening of the square according to the following provisions:

**Sec. 5.** 21 MRSA § 922, first sentence, as enacted by 1971, I.B. § 5, is amended to read:

A voter shall mark his ballot at a general election with a cross (X) or with a check mark (✓) or with a complete blackening of the square according to the following provisions:

**Sec. 6.** 21 MRSA § 922, sub-§ 1, as amended by PL 1973, c. 414, § 40, is amended to read:

**1. Individual square method.** He shall ~~make a cross or a check~~ place the mark in the square at the left and close to each nominee for whom he wishes to vote, regardless of political designation, but must follow directions as to the number of nominees to be elected to each office.

**Sec. 7.** 21 MRSA § 925, sub-§ 2, ¶ E, is enacted to read:

E. Fictitious or other names. If a voter writes in a write-in square an obviously fictitious name, the name of a deceased person, or the name of a well-known person from outside the State who could not be a candidate for office, the vote for that office shall not be counted.

Sec. 8. 21 MRSA § 925, sub-§ 3, ¶ B, is repealed.

Sec. 9. 21 MRSA § 925, sub-§ 4 is enacted to read:

4. Determination of choice possible. If a voter marks his ballot in a manner which differs from the instructions at the top of the ballot but in such a manner that it is possible to determine the voter's choice, then the vote for the office or question concerned shall be counted.

A. When a voter has clearly manifested an intention to make a distinguishing mark, or to mark his ballot in a manner inconsistent with an honest purpose, or to act in a fraudulent manner, then the ballot is void. A mark made on or in the square which differs from the instructions at the top of the ballot but which clearly indicates the voter's choice shall not be considered a distinguishing mark. A name written in as described in subsection 2, paragraph E. shall not be considered a distinguishing mark.

#### STATEMENT OF FACT

Sections 1 through 6 of the new draft add to the law a 3rd alternative to the current cross or check mark for marking a ballot, the complete blackening in of the square.

Section 7 provides that the writing in of the name of a fictitious or deceased person or a well-known person from outside the State invalidates only the vote for that office and does not void the whole ballot.

Section 8 repeals the present provision on distinguishing marks.

Section 9 provides that if a voter marks his or her ballot in a manner which differs from the instructions given on the ballot, but if it is still possible to determine the choice, then the vote shall be counted. It also provides that when a voter has clearly manifested an intention to make a distinguishing mark, then the ballot is void. A mark made on the square which is not in accordance with the instructions but which manifests a clear intent is a valid vote.