

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)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
SECOND REGULAR SESSION

(Filing No. H-1019)

COMMITTEE AMENDMENT "A " to H.P. 1921, L.D. 1982, Bill,
"AN ACT Clarifying the Statutes Relating to Municipalities."

Amend the Bill by striking out everything after section 1
and before the emergency clause and inserting in its place the
following:

'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is repealed and the following enacted in its place: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 guber-
natorial election and addressed to the municipal officers, as de-
fined in Title 30, section 1901, sub section 7, prior to the
annual municipal elections or annual town meeting, shall notify
the inhabitants of their respective municipalities to meet, in
the manner prescribed by law for the calling and holding of muni-
cipal elections or town meetings, at the time for holding the
annual town meeting or annual municipal election, 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)

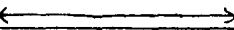
6. Shall this municipality or unincorporated place authorize the sale of spirituous and vinous liquor on Sunday for consumption on the premises of establishments licensed to sell spirituous liquor for consumption on the premises?

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 Sec-

retary 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 MRS §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. 36 MRS §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:

~~k~~---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.

Statement of Fact

This amendment provides the following:

Section 1 of the bill, requiring the county treasurer to transfer moneys collected for dog fines to the ~~Treasurer~~ of the municipality where the offense is committed, has not been amended.

Section 2, as amended, amends the local option law on liquor questions by:

1. ~~providing~~ that elections shall be held on liquor questions at the annual town meeting or at the annual municipal elections;
 2. ~~requiring~~ that the voting process be in accordance with sections Title 30, ~~2061~~, 2062 and 2065, requiring printed ballots, or Title 21 procedure for cities; and
 3. ~~requiring~~ that petitions be submitted to municipal officers or plantation assessors no later than 21 days before the annual town meetings or municipal elections.
- Section 3 of the amendment repeats section 8 of the bill which clarifies the legislative intent to encourage interlocal agreements as a means of solving problems common to several municipalities at the local level.

Section 4 of the amendment repeats section 10 of the bill which makes it clear that municipal officers may permit their plumbing inspectors to waive certain on-site evaluations by an ordinance passed by the municipal officers. Although the plumbing code already permits this waiver authorization, it was unclear in Title 30 what procedure was to be used. The amended language clearly conforms to the plumbing code.

Section 5 of the amendment repeats section 11 of the bill which makes it clear that malfunctioning drains, sewer lines and pipes are a part of domestic sewerage disposal units which can be classified as a nuisance.

Section 6 of the amendment, which includes section 12 of the bill, makes a language change in the statute which deals with granting of variances to municipal zoning ordinances. It clarifies the distinction between the statutory "standards" or guidelines and further "limitations" on the granting of variances which municipalities may enact. It also adds a 4th guideline in determining undue hardship.

Sections 7, 8, and 9 require certified mail, return receipt requested for mailed notices regarding tax liens. This will ensure adequate proof of the notice without requiring registering mail.

Sections 10 and 11 require certified mail, return receipt requested, for mailed notices on liens relating to unpaid sewerage charges. It ensures that the cost of this mailing may be recovered from the person withholding sewerage charges and allows a \$1 fee for the Treasurer for mailing the notice. It also eliminates notification of non residents by newspaper publication.

Reported by the Committee on Local and County Government.

Reproduced and distributed under the direction of the Clerk of the House.

2/8/78

(Filing No. H-1019)