

MAINE STATE LEGISLATURE

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**STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION**

SENATE AMENDMENT **B** to COMMITTEE AMENDMENT "A" to S.P. 446, L.D. 1266, Bill, "An Act To Ensure Integrity in the Voting Process"

Amend the amendment by inserting before section 1 the following:

'Sec. 1. 21-A MRSA §1, sub-§13, as enacted by PL 1985, c. 161, §6, is amended to read:

13. Distinguishing mark. "Distinguishing mark" means a mark on a ballot of a type or in a place not specifically permitted by this Title, which indicates the apparent intent of the voter to make his the voter's ballot distinguishable in a manner that is fraudulent or inconsistent with an honest purpose. A stray mark on the ballot or mark made on or in the voting indicator or near the candidate's name or space for a write-in candidate that differs from the instructions at the top of the ballot is not a distinguishing mark unless it is of such a character or is made in such a manner that it manifests an intent to make the ballot distinguishable for a fraudulent or dishonest purpose. Marking the write-in space on a ballot with the name of a fictitious person, a deceased person or a person from outside the State who could not be a candidate for that office is not a distinguishing mark unless it is made in such a manner that manifests an intent to make the ballot distinguishable for a fraudulent or dishonest purpose.'

1003

SENATE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to S.P. 446, L.D. 1266

2 Further amend the amendment by inserting after section 1 the following:

4 'Sec. 2. 21-A MRSA §696, sub-§2, ¶¶D and E, as amended by PL 1997, c. 436, §101, are further amended to read:

6 D. If a voter writes in a name and municipality of residence, or pastes a sticker containing the candidate's name and municipality of residence in the write-in space pursuant to section 691, but does not mark the write-in indicator, that vote for that office may ~~not~~ be counted if a determination of choice under subsection 4 is possible.

8 E. If a voter writes in a write-in space a fictitious name, the name of a deceased person or the name of a person from outside the State who could not be a candidate for that office, the vote for that office may not be counted. ~~A name written in this manner is not a distinguishing mark.~~

10 Sec. 3. 21-A MRSA §696, sub-§3, ¶C is enacted to read:

12 C. A ballot is not defective if the Secretary of State has given prior approval for its use at the election.

14 Sec. 4. 21-A MRSA §696, sub-§4, as amended by PL 2001, c. 310, §41, is further amended to read:

16 4. **Determination of choice possible.** If a voter marks the voter's ballot in a manner that 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 must be counted. ~~A mark made on or in the voting indicator that differs from the instructions at the top of the ballot but that clearly indicates the voter's choice is not a distinguishing mark.~~

18 Sec. 5. 21-A MRSA §696, sub-§5, ¶A, as enacted by PL 2001, c. 310, §42, is amended to read:

20 A. A ballot on which a voter has ~~clearly manifested an intention to make a distinguishing mark or to mark the ballot in a manner inconsistent with an honest purpose or to act in a fraudulent manner~~ made a distinguishing mark is void.

22 Sec. 6. 21-A MRSA §696, sub-§6 is enacted to read:

24 6. Guidelines. The Secretary of State shall publish uniform guidelines for determining voter intent based on relevant

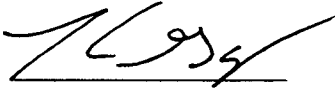
SENATE AMENDMENT

case law and provisions of this Title. These guidelines must be used as a reference by election officials in tabulating the results of state and local elections and in all recounts conducted pursuant to this Title. The guidelines must be included with the instructional materials provided to the clerk, registrar and election officials in each municipality pursuant to section 605 and must be used by the Secretary of State in the training of election officials pursuant to section 505.'

Further amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment implements the recommendations of the advisory committee to the Secretary of State, established pursuant to Resolve 2005, chapter 19, in response to the requirement in Section 301 of the federal Help America Vote Act of 2002 that each state establish uniform, nondiscriminatory standards for determining voter intent. It reorganizes the statutory provisions pertaining to distinguishing marks on ballots and incorporates the changes into the definition of "distinguishing mark" in the Maine Revised Statutes, Title 21-A, section 1. The amendment also amends the law pertaining to the counting of votes for write-in candidates. Finally, it requires the Secretary of State to publish guidelines for determining voter intent that incorporate the legal standards articulated in relevant court decisions and in statute. This document is intended to be used as a reference guide by election officials and by parties to election recounts.

SPONSORED BY: 
(Senator GAGNON)

COUNTY: Kennebec