

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 2120

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S.P. 759

In Senate, February 25, 2020

### **An Act Regarding Sales of Alcohol in Municipalities and Unincorporated Places**

(AFTER DEADLINE)

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator LUCHINI of Hancock.  
Cosponsored by Senator: TIMBERLAKE of Androscoggin.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** current law requires that a municipality hold a referendum to authorize  
4 the sale of liquor in that municipality; and

5           **Whereas,** current law requires the county commissioners for an unincorporated  
6 place to determine whether or not to authorize the sale of liquor in that unincorporated  
7 place; and

8           **Whereas,** based upon the affirmative referendum or decision, the Department of  
9 Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery  
10 Operations is authorized to issue a license to a qualified establishment in that  
11 municipality or unincorporated place; and

12           **Whereas,** the bureau has recently become aware that it does not have proof of a  
13 referendum or decision in some municipalities and unincorporated places that have  
14 licensed establishments, endangering the ability of these currently licensed businesses to  
15 continue to be licensed by the bureau; and

16           **Whereas,** it is imperative that this legislation take effect as soon as possible to avoid  
17 irreparable harm to businesses that have complied with all requirements but could lose  
18 their licenses to sell liquor due to inadequate record keeping; and

19           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
20 the meaning of the Constitution of Maine and require the following legislation as  
21 immediately necessary for the preservation of the public peace, health and safety; now,  
22 therefore,

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

24           **Sec. 1. 28-A MRSA §121, sub-§1,** as amended by PL 2017, c. 475, Pt. C, §8, is  
25 repealed and the following enacted in its place:

26           **1. Petition.** A petition for a local option election must be signed by 30 voters in that  
27 municipality. All petition signatures must have been signed since the last general  
28 election. The petition must be addressed to and received by the municipal officers at least  
29 60 days before holding any primary, special statewide, general or municipal election or  
30 town meeting.

31           **Sec. 2. 28-A MRSA §121, sub-§1-A** is enacted to read:

32           **1-A. Vote of municipal officers.** As an alternative to the petition process in  
33 subsection 1, the municipal officers may vote to hold a local option election, which must  
34 be conducted pursuant to subsection 3, including one or more of the questions specified  
35 in section 123.

36           **Sec. 3. 28-A MRSA §121, sub-§2,** as enacted by PL 1987, c. 45, Pt. A, §4, is  
37 amended to read:

1           **2. Meeting.** Upon receipt of a petition, or in accordance with a vote of the municipal  
2 officers pursuant to subsection 1-A, the municipal officers shall notify the inhabitants of  
3 their respective municipalities to meet in the manner prescribed by law. The meeting  
4 shall must be held to vote upon any or all of the questions contained in section 123.

5           **Sec. 4. 28-A MRSA §125** is enacted to read:

6           **§125. Failure to provide proof of authorization of sale of liquor**

7           **1. Demand of proof.** A municipality or, for an unincorporated place, the county  
8 commissioners, within 90 days following a request by the bureau, shall provide proof of  
9 authorization of the sale of liquor either by a local option election conducted pursuant to  
10 this chapter, including the affirmative answer to the applicable questions in section 123,  
11 or by a vote of the county commissioners pursuant to section 122, including whether for  
12 consumption on the premises where sold or off the premises where sold.

13           **2. Prohibition of licensing.** Beginning July 1, 2022, the bureau may not issue a  
14 license to a person located in a municipality or unincorporated place that fails to provide  
15 proof of authorization of the sale of liquor pursuant to subsection 1.

16           **3. Effect of failure to notify municipality or unincorporated place of**  
17 **nonconformance.** If, by October 1, 2020, the bureau fails to notify a municipality or  
18 unincorporated place in which there is a licensed establishment or agency liquor store that  
19 the bureau does not have a record of an affirmative vote or decision to authorize the sale  
20 of liquor in that municipality or unincorporated place, then, notwithstanding subsection 2,  
21 the bureau may not fail to license or renew the license of a licensed establishment or  
22 agency liquor store in that municipality or unincorporated place solely because the  
23 municipality or unincorporated place has failed to provide proof of compliance with this  
24 chapter in accordance with this section.

25           **Sec. 5. Temporary waiver of approval to issue license to sell liquor for**  
26 **municipalities and unincorporated places with licensed establishments or**  
27 **agency liquor stores.** Notwithstanding the Maine Revised Statutes, Title 28-A, section  
28 453, subsection 1, paragraph A; section 1051, subsection 2; section 1201, subsection 4;  
29 and any other provision of law to the contrary, the Department of Administrative and  
30 Financial Services, Bureau of Alcoholic Beverages and Lottery Operations is authorized  
31 to issue licenses to sell liquor in an authorized municipality or authorized unincorporated  
32 place as specified in this section.

33           **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
34 following terms have the following meanings.

35           A. "Agency liquor store" has the same meaning as in Title 28-A, section 2,  
36 subsection 1.

37           B. "Authorized municipality" or "authorized unincorporated place" means a  
38 municipality or unincorporated place, respectively, in which a licensed establishment  
39 or agency liquor store is operating as of March 1, 2020.

40           C. "Bureau" has the same meaning as in Title 28-A, section 2, subsection 6.

1 D. "Licensed establishment" has the same meaning as in Title 28-A, section 2,  
2 subsection 15.

3 E. "Liquor" has the same meaning as in Title 28-A, section 2, subsection 16.

4 F. "Local option election" means a local option election conducted pursuant to Title  
5 28-A, chapter 5.

6 G. "Unincorporated place" has the same meaning as in Title 28-A, section 2,  
7 subsection 33.

8 **2. Temporary waiver of authorization to sell liquor by local option or decision.**

9 An authorized municipality or authorized unincorporated place is deemed to have  
10 complied with the procedures established in Title 28-A, chapter 5 relevant to the  
11 municipality or unincorporated place to authorize the bureau to issue a license for the  
12 type of licensed establishment or agency liquor store operating in that municipality or  
13 unincorporated place as of March 1, 2020.

14 If an authorized municipality does not have a record of a local option election conducted  
15 pursuant to Title 28-A, chapter 5 authorizing the sale of liquor, that municipality shall  
16 conduct a local option election prior to July 1, 2022 in compliance with Title 28-A,  
17 sections 121 and 123. If an authorized unincorporated place does not have a record of an  
18 authorization of sales by the county commissioners pursuant to Title 28-A, section 122,  
19 subsection 2, the county commissioners shall determine whether to authorize or refuse to  
20 authorize the sale of liquor in that unincorporated place prior to July 1, 2022 in  
21 compliance with Title 28-A, section 122.

22 **3. Notification by bureau of noncompliance.** The bureau, no later than October 1,  
23 2020, shall notify, by first class mail, an authorized municipality or authorized  
24 unincorporated place that the bureau does not have a record of authorization of the sale of  
25 liquor by a local option election in that municipality or by a decision of the county  
26 commissioners in that unincorporated place.

27 **Emergency clause.** In view of the emergency cited in the preamble, this  
28 legislation takes effect when approved.

29 **SUMMARY**

30 Current law requires a municipality through a local option election to affirmatively  
31 authorize the licensing of businesses to sell liquor in that municipality. In an  
32 unincorporated place, the county commissioners must decide whether to authorize or not  
33 authorize the licensing of businesses to sell liquor in that unincorporated place. Based on  
34 the type of sales authorized in that municipality or unincorporated place, the Department  
35 of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery  
36 Operations issues licenses to the establishments or agency liquor stores in that  
37 municipality or unincorporated place.

38 Since a municipality or unincorporated place may not be able to provide proof that  
39 the sale of liquor was authorized in that municipality or unincorporated place, despite the  
40 presence in that municipality or unincorporated place of establishments licensed by the

1 bureau, the continuation of licensing by the bureau is in jeopardy. In order to prevent the  
2 loss of licensing, this bill provides a window, until July 1, 2022, for a municipality or  
3 unincorporated place to either provide the bureau with proof of an affirmative vote or  
4 decision or to hold a local option election or, in the case of an unincorporated place, to  
5 authorize the sale of liquor. This bill requires the bureau, no later than October 1, 2020,  
6 to notify a municipality or unincorporated place that has a business licensed by the bureau  
7 in it that the bureau does not have a record of a local option vote or decision authorizing  
8 the sale of liquor in that municipality or unincorporated place. In order to continue as a  
9 municipality or unincorporated place in which the sale of liquor is authorized, that  
10 municipality or unincorporated place must either provide proof of a local option election  
11 or decision authorizing the sale of liquor or, before July 1, 2022, hold a local option  
12 election to authorize the sale of liquor or, in the case of an unincorporated place, decide  
13 affirmatively to authorize the sale of liquor. Beginning July 1, 2022, if a municipality or  
14 unincorporated place that has been notified of noncompliance fails to affirm the  
15 authorization to sell liquor, the bureau is prohibited from licensing an establishment or  
16 agency liquor store in that municipality or unincorporated place. If the bureau fails to  
17 notify by October 1, 2020 a municipality or unincorporated place in which there is a  
18 business licensed by the bureau that the municipality or unincorporated place is in  
19 noncompliance with the requirement to hold a local option election or issue a decision  
20 authorizing the sale of liquor in that municipality or unincorporated place, then the bureau  
21 may not fail to continue to license a business based on that noncompliance.

22 This bill also makes the following changes to the laws regarding the authorization of  
23 the sale of liquor in a municipality.

24 1. It reduces the number of signatures of voters needed on a petition to hold a local  
25 option election to determine whether the sale of liquor is authorized in a municipality  
26 from 15% of the number of votes cast in the last gubernatorial election in that  
27 municipality to signatures of 30 voters in that municipality.

28 2. It allows the municipal officers in a municipality to hold a local option election.