

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2012

of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration certificate is \$1.

2. Penalty. A person who operates a boat with an expired temporary registration certificate commits a civil violation for which a fine of not less than \$50 nor more than \$250 may be adjudged.

Sec. 10. 12 MRSA §13105, sub-§1, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under this subsection. Failure to remit the funds as provided in this subsection results in the following sanctions, in addition to any other provided by law.

(1) ~~The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.~~

(2) If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

(3) If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one year, the commissioner shall:

(a) Terminate the agency for the balance of the year; and

(b) Order that the agency not be renewed for the next year.

Sec. 11. 12 MRSA §13106-A, sub-§5, ¶A, as enacted by PL 2003, c. 655, Pt. B, §394 and affected by §422, is amended to read:

A. A properly registered snowmobile may be operated on a public way only the distance necessary, but in no case to exceed ~~300~~ 500 yards, on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert.

Sec. 12. 12 MRSA §13156, sub-§2, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

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

Effective March 18, 2012.

CHAPTER 534

S.P. 563 - L.D. 1664

An Act To Amend the Election Laws

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

Sec. 1. 21-A MRSA §23, sub-§7, as amended by PL 2011, c. 342, §6, is further amended to read:

7. Ballots and other election materials. ~~The For 22 months following an election in which a candidate for a federal office is on the ballot, the clerk shall keep the ballots, envelopes and applications from voters who voted by absentee ballot and other election materials listed in section 698 other than the incoming voting list tabulation materials related to those ballots and challenge certificates, if any, in the clerk's office or other secure location under the control of the clerk for 22 months following the election, unless sooner released to the Secretary of State or required by the Secretary of State to be kept longer. Once released to the Secretary of State, they must be kept by the Secretary of State until any appeal period bearing on the validity of the election has expired. Notwithstanding this subsection, ballots used for municipal elections conducted under this Title, referenda elections or special legislative elections must be kept for 2 months.~~

Sec. 2. 21-A MRSA §23, sub-§7-A, as enacted by PL 2011, c. 342, §7, is amended to read:

7-A. Incoming voting lists. ~~The For 5 years following any election, the clerk shall keep the incoming voting lists in the clerk's office for 2 years following the election or other secure location under the control of the clerk.~~

Sec. 3. 21-A MRSA §23, sub-§7-B is enacted to read:

7-B. Absentee envelopes and applications. ~~For 2 years following any election, the clerk shall keep the absentee ballot envelopes, including the unopened envelopes containing rejected absentee ballots, the applications for absentee ballots and the list of voters who were issued absentee ballots in the clerk's office or other secure location under the control of the clerk.~~

Sec. 4. 21-A MRSA §121, sub-§1-A, as amended by PL 2005, c. 453, §12, is further amended to read:

1-A. Identification and proof. Registration applications taken by outside agencies must be transferred to the Secretary of State within 5 days of receipt. An applicant who attempts to register within 30 days of an election must be advised that the registrar might not receive the application before ~~that election~~

the deadline for mail or 3rd-person registration set forth in section 121-A, but that the applicant may register in person ~~before or on election day~~ no later than the deadline for in-person registration set forth in section 121-A.

Registration applications received by the Secretary of State from outside agencies 30 days or more before an election must be transferred to the appropriate registrar's office within 7 business days of receipt. Registration applications received by the Secretary of State from outside agencies less than 30 days before an election must be transferred to the appropriate registrar's office within 5 business days of receipt. Registration applications by mail or by a 3rd person must be received in the registrar's office by the close of business on the 21st day before election day in order for persons' names to appear on the incoming voting list for that election. The 20-day period before the election is the closed period for outside registrations. The registrar shall send the notice required by section 122 to all voters whose applications were received by mail or a 3rd person by the 21st day before election day no later than the 18th day before election day.

A person who registers ~~during the 20 days before election day or on election day~~ shall register in person and shall show proof of identity and residency. If satisfactory proof of identity and residency can not be provided to the registrar or deputy, the person's name is entered into the central voter registration system and placed on the incoming voting list and the person casts a challenged ballot. If the person shows satisfactory proof of identity and residency prior to voting on election day, the person's ballot is not challenged.

Sec. 5. 21-A MRSA §121-A is enacted to read:

§121-A. Deadline for registration

The deadline for receipt of voter registration applications submitted by mail or by a 3rd person is the close of business on the 21st day before election day. The deadline for in-person registration is the close of the polls on election day.

Sec. 6. 21-A MRSA §122, first ¶, as amended by PL 2003, c. 584, §3, is further amended to read:

A person may register ~~as a voter to vote in person~~ by appearing before the registrar by the registration deadline in section 121-A, proving that the person meets the qualifications of section 111, subsections 1 to 3, and filing an application provided by the registrar containing the information required by section 152 or 154, if applicable. Township residents may register as provided in section 156.

Sec. 7. 21-A MRSA §125, as amended by PL 1997, c. 436, §24, is further amended to read:

§125. Notice of schedule

The registrar shall publish the schedule established under section 122, subsection 6 or as changed by the municipal officers under subsection 8, in a newspaper having general circulation in the municipality ~~at least 7~~ 10 to 15 business days before the schedule becomes effective election day, except that, in municipalities with a population of 2,500 or fewer, ~~the publication of the time schedule by the registrar is discretionary rather than compulsory~~ may be done by another means the registrar considers sufficient to provide adequate notice to the residents of the municipality.

Sec. 8. 21-A MRSA §129, sub-§3, as amended by PL 1995, c. 459, §15, is further amended to read:

3. Failure to notify. If a voter fails to notify the registrar of a change of name or change of address before the close of registrations election day, the voter must appear before the registrar on election day and follow the procedure outlined in section 661 if the voter wishes to vote, unless the registrar has already made the correction in following the procedure prescribed by section 128. If the voter wishes to exercise the right to vote, the voter must vote using the ballot or ballots for the new polling place, if applicable, on election day.

Sec. 9. 21-A MRSA §130, as amended by PL 2005, c. 453, §22, is further amended to read:

§130. Applications for voter registration

A person who completes ~~an~~ a voter registration application for registration to vote, as provided in section 152, may mail the application or have the application delivered to the registrar in the person's municipality of residence before the ~~closed period for the acceptance of~~ deadline for mail or 3rd-person registrations in the person's municipality section 121-A, to be entered into the central voter registration system and placed on the incoming voting list prior to the next election; except that applications completed under section 122, subsection 5 may be delivered during the closed period for immediate placement on the incoming voting list.

Sec. 10. 21-A MRSA §156, sub-§2, as amended by PL 2001, c. 310, §12, is further amended to read:

2. Voting. The township voter may vote in the town in which the voter is registered in any election for offices of or questions concerning the unorganized territory in which the voter resides. The voter may not vote at a municipal election or on a liquor option question. If the voter registers in a town outside the voter's state representative district, state senatorial district, county or county commissioner district ~~or county~~, the voter may vote for the offices of Representative to the

Legislature, State Senator or any county office by using a ballot provided under section 606-A.

Sec. 11. 21-A MRSA §196-A, sub-§1, ¶E, as enacted by PL 2009, c. 564, §8, is amended to read:

E. The Secretary of State or a registrar may make available, upon the request of any other governmental or quasi-governmental entity, certain voter information for that entity's authorized use only. The following information may be provided in electronic form and free of charge: the voter's name, year of birth, residence address, mailing address, electoral districts, voter status, date of registration or date of change of the voter record if applicable, voter record number and any special designations indicating uniformed service voters, overseas voters or township voters. Data made available under this paragraph may not be used for solicitation or for purposes other than the governmental or quasi-governmental entity's authorized activities and may not be redistributed.

Authorized uses of the data by the Legislature include providing voter information to a Legislator for purposes of communicating with the Legislator's constituents and conducting legislative business.

Sec. 12. 21-A MRSA §355, sub-§1, as amended by PL 2011, c. 239, §2, is further amended to read:

1. Consent. The consent must contain a statement signed by the candidate that the candidate will accept the nomination of the ~~primary~~ general election. The Secretary of State shall provide a form on which the consent of the candidate is made that must include a list of the statutory and constitutional requirements of the office sought by the candidate. The statement may be printed as a part of the nomination petition.

Sec. 13. 21-A MRSA §605-A, sub-§2, ¶D, as enacted by PL 2011, c. 342, §15, is amended to read:

D. The Treasurer's Statement must be prepared according to Title 5, section 152 to accompany ballots containing any statewide bond issues. The Secretary of State ~~must include~~ shall supply written instructions ~~on to each referendum ballot that municipality, which may be provided to an absentee voter to~~ indicate where the voter may view the Treasurer's Statement on the Secretary of State's publicly accessible website.

Sec. 14. 21-A MRSA §606-A, as amended by PL 1995, c. 459, §45, is further amended to read:

§606-A. Special provisions for out-of-district voters

A voter who registers and votes under section 156 in a municipality outside ~~his~~ the voter's state represen-

tative district, state senatorial district, county or county commissioner district ~~or county~~, may vote for the offices of Representative to the Legislature, State Senator or any county office by using a ballot obtained under this section.

1. Clerk to notify. The clerk of a municipality in which voters have registered or enrolled under section 156 since the last statewide election shall notify the Secretary of State of those registrations and enrollments at least 60 days before ~~any~~ the next statewide election. For registrations and enrollments that occur less than 60 days before a statewide election, the clerk shall notify the Secretary of State immediately.

2. Secretary of State to furnish ballots. The Secretary of State shall review the number of votes cast at the last election of that type by persons registered and enrolled under section 156 when determining the number of ballots to be furnished to each municipality. These ballots must contain the names of the nominees or candidates for offices in the electoral divisions in which the voters registered under section 156 reside. After receiving notification from the clerk of township voter registrations or enrollments that occur less than 60 days before a statewide election, the Secretary of State shall furnish additional ballots to the municipality as needed. If there is not sufficient time to provide the municipality with the correct ballot style for a township voter, the Secretary of State shall instruct the clerk to provide a ballot to the voter in the manner prescribed by section 604.

3. Voter to use proper ballot. The election clerk in charge of the ballots at each voting place shall ~~insure~~ ensure that each voter, registered in that municipality under section 156, who resides in a different electoral division obtains and uses the proper ballot provided under this section ~~or a ballot provided in the manner prescribed by section 604.~~

4. How furnished. Ballots provided under this section ~~shall~~ must be furnished to voting places in accordance with section 606.

5. County referendum. If a township resident registers under section 156 in a municipality outside ~~his county commissioner district, or outside his~~ the resident's county in the case of a county referendum, the commissioners of ~~his~~ the resident's county shall perform the duties of the Secretary of State under this section and section 752, subsection 1, paragraph B. The clerk of a municipality in which these voters have registered or enrolled under section 156 shall notify the county commissioners of those registrations and enrollments ~~at least 120 days before any election for county commissioner or~~ for the determination of a county referendum question in the same manner as the notification to the Secretary of State under subsection 1.

Sec. 15. 21-A MRSA §673, sub-§1, ¶A, as amended by PL 2007, c. 455, §32, is further amended to read:

A. A voter or an election official may challenge another voter only upon personal knowledge or a reasonably supported belief that the challenged voter is unqualified. Only the following reasons for challenges may be accepted by the warden. The challenged person:

- (1) ~~Is not a registered voter;~~
- (2) Is not enrolled in the proper party, if voting in a primary election;
- (3) Is not qualified to be a registered voter because the challenged person:
 - (a) Does not meet the age requirements as specified in sections 111, subsection 2 and section 111-A;
 - (b) Is not a citizen of the United States; or
 - (c) Is not a resident of the municipality or appropriate electoral district within the municipality;
- (4) Registered to vote during the closed period or on election day and did not provide satisfactory proof of identity and residency to the registrar pursuant to section 121, subsection 1-A, except that only an election official may challenge for this reason;
- (5) Did not properly apply for an absentee ballot;
- (6) Did not properly complete the affidavit on the absentee return envelope;
- (7) Did not cast the ballot or complete the affidavit before the appropriate witness;
- (8) Communicated with someone as prohibited by section 754-A, subsection 1, paragraph B or subsection 3, paragraph B or D;
- (9) Did not have the ballot returned to the clerk by the time prescribed;
- (10) Voted using the name of another;
- (11) Committed any other specified violation of this Title; or
- (12) Voted using the wrong ballot for the appropriate electoral district or political party, if applicable.

Sec. 16. 21-A MRSA §711, sub-§4, as enacted by PL 2011, c. 342, §28, is amended to read:

4. Authority to open tamper-proof ballot security containers. After giving notice to the state chair of each political party, the Secretary of State may au-

thorize the municipal clerk, in the presence of one or more witnesses ~~and in the presence of the warden and an election clerk~~ from each of the major parties, to open the sealed tamper-proof ballot security containers as described in section 609 holding used ballots to retrieve the incoming voting list or a copy of any election return forms that were improperly sealed in the containers. If there is a recount requested for a local election that was held at the same time as a state election, the Secretary of State may authorize these election officials to open the sealed tamper-proof ballot security containers to remove any local ballots that were sealed in the containers of state ballots, except that any requested state recount must be held prior to such authorization. The Secretary of State also may authorize these election officials to review and make copies of tabulation sheets that would assist in properly reporting or correcting the results recorded on election night, as well as to review machine-tabulated ballots that were hand counted because they were not read by the tabulator or because they contained write-in votes, and to correct errors in the hand tabulation. The clerk must reseal the containers and secure them for the remainder of the time required for retention of ballots under section 23.

Sec. 17. 21-A MRSA §753-B, sub-§2, ¶B, as enacted by PL 2011, c. 399, §23, is amended to read:

B. To an immediate family member or to a 3rd person if the absentee ballot was requested by telephone or by electronic means;

Sec. 18. 21-A MRSA §753-B, sub-§2, ¶D, as enacted by PL 2011, c. 399, §23, is amended to read:

D. To any voter, immediate family member or 3rd person whose request was received in the municipal office after the 3rd business day before election day, unless the voter signs an application, designed by the Secretary of State, stating one of the following reasons for requesting an absentee ballot ~~on that day after the deadline~~:

- (1) Unexpected absence from the municipality during the entire time the polls are open on election day;
- (2) Physical disability ~~or an incapacity or illness that has resulted in the voter's being unable to leave home or a treatment facility~~; or
- (3) Inability to travel to the polls if the voter is a resident of a coastal island ward or precinct; or
- (4) An incapacity or illness that has resulted in the voter's being unable to leave home or a treatment facility.

Sec. 19. 21-A MRSA §753-B, sub-§4, as amended by PL 2011, c. 40, §1, is further amended to read:

4. Duplicate ballot. The clerk may issue a duplicate state absentee ballot to an applicant if the initially issued ballot has not already been marked and returned to the clerk, the applicant requests one by an acceptable method outlined in this subchapter and:

A. The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot. Good cause does not include an applicant's decision to change the applicant's vote after the applicant has returned the ballot to the clerk; or

B. An absentee ballot for the applicant that was furnished to a designated 3rd person was not returned to the clerk's office within the time limit provided in subsection 3. If a ballot for an applicant is not returned to the clerk within that time limit, the clerk shall mail or hand deliver a ballot to that applicant and may not issue another ballot to the applicant except for good cause as provided in this subsection. This paragraph does not affect the deadline for delivery of absentee ballots under section 755.

The clerk may issue a 2nd state absentee ballot to a voter from whom the clerk has received a return envelope apparently containing a state absentee ballot when the State has provided the clerk with replacement ballots to reflect the removal of a candidate's name or the addition of a new candidate's name or the correction of an error or when the absentee ballot envelope has a defect in the affidavit that would cause the ballot to be rejected. When a 2nd state absentee ballot is issued to a voter under this section, the clerk must write the words "second ballot issued" on the return envelope.

Sec. 20. 21-A MRSA §753-B, sub-§5, as corrected by RR 2001, c. 2, Pt. A, §28, is amended to read:

5. Alternate method of balloting by residents of certain licensed facilities. The municipal clerk shall designate one or more times during the 30-day period prior to an election during which the municipal clerk shall be present in each licensed nursing home subject to the provisions of Title 22, chapter 405; licensed residential care facility subject to the provisions of Title 22, chapter 1664; and assisted housing program subject to the provisions of Title 22, chapter 1664, in the municipality for the purpose of conducting absentee voting by residents of these facilities. The licensed residential care facilities or assisted housing programs referred to in this subsection are those that are licensed as Level II facilities to have 6 or more beds. The clerk shall designate which areas in these facilities constitute the voting place, the voting booth

and the guardrail enclosure. Sections 681 and 682 apply to voting in these facilities within the areas designated by the clerk.

Sec. 21. 21-A MRSA §777-A, as amended by PL 2009, c. 563, §3, is further amended to read:

§777-A. Registration and enrollment

~~Uniformed~~ Notwithstanding the registration deadline in section 121-A, uniformed service voters or overseas voters may register or enroll at any time by completing a federal or state voter registration application form and filing it with the registrar or the Secretary of State in person, by mail or by electronic means authorized by the Secretary of State.

Sec. 22. 21-A MRSA §781-A, as amended by PL 2009, c. 563, §7, is further amended to read:

§781-A. Absentee ballot application; procedure on receipt

~~Upon~~ Notwithstanding the absentee ballot application deadline in section 753-B, subsection 2, paragraph D, upon receipt of an application or written request for an absentee ballot from a uniformed service voter or overseas voter that is accepted pursuant to section 753-A or section 783, the clerk or the Secretary of State shall immediately issue an absentee ballot and return envelope by the authorized means designated by the voter in the application. If the ballot is to be transmitted to the voter by mail, the clerk or the Secretary of State shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope. The Secretary of State shall provide a return envelope that moves free of postage under federal law.

See title page for effective date.

CHAPTER 535

H.P. 1247 - L.D. 1695

**An Act To Provide Additional
In-store Space for Maine's
Businesses by Removing
License and Permit Posting
Requirements**

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

Sec. 1. 22 MRSA §1552-A, as amended by PL 1997, c. 305, §1, is further amended to read:

§1552-A. Production of license; notices

1. Production of licenses. A licensee shall ~~publicly display~~ make available a copy of the license on the premises ~~and on each machine to which the license applies~~ for inspection by the commissioner, the com-