

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)

REVISED STATUTES

OF THE

STATE OF MAINE

1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Place in Pocket of Corresponding
Volume of Main Set

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1959

the party neglecting shall be denied a postponement, and the committee on elections shall proceed to determine the case by the testimony before them. (R. S. c. 5, § 90. 1959, c. 204, § 26.)

Effect of amendment.—The 1959 amendment divided the former first sentence into two sentences and added “of representatives” following “house” at the end of the present first sentence and in two places in the second sentence.

Penalties.

Sec. 99. Neglect of selectmen to deposit and post lists.—If selectmen of a town or assessors of a plantation willfully neglect to deposit a list of voters with the town or plantation clerk, or to post such lists, they shall each forfeit not less than \$50 nor more than \$100. For each day's neglect after the 20th day of October, and until the state election then next ensuing, they shall each forfeit \$30. (R. S. c. 5, § 100. 1959, c. 204, § 27.)

Effect of amendment.—The 1959 amendment divided the section into two sentences and substituted “October” for “August.”

Chapter 5-A.

Voting Machines.

Sec. 1. Definitions.—The listed terms as used in this chapter are defined as follows unless a different meaning is plainly required by the context:

“Ballot label” means that portion of the cardboard, paper or other material to be placed within the ballot frames of a voting machine containing the items required of a paper ballot.

“Presiding officer” means the warden in a city, the chairman of the board of selectmen or council in a town, and the chairman of the board of assessors in a plantation.

“Protective counter” means a separate counter built into the voting machine, which cannot be reset, which records the total number of movements of the operating lever.

“Question” means any proposition submitted to the voters.

“Write-in candidate” means a person whose name does not appear on the ballot under the office designation to which a voter may wish to elect him. (1959, c. 177.)

Sec. 2. Municipalities may obtain and use voting machines.—A municipality may obtain and use voting machines according to the following provisions:

I. Purchased or rented. The municipality may either purchase or rent voting machines.

II. Use authorized. The voting machines shall be used at each type of election authorized by the legislative body of the municipality. Once authorization has been given for use of the machines at any type of election, that authorization continues until specifically revoked by the legislative body.

III. Use in one or more districts. A municipality which is divided into more than one voting district may use voting machines in one or more of the districts as determined by its legislative body. (1959, c. 177.)

Sec. 3. Machines must meet certain requirements.—A voting machine purchased by a municipality must meet the following requirements:

I. Secrecy. It must be constructed so as to insure to each voter an opportunity to vote in secrecy.

II. Voting limited. It must permit a voter to vote once and only once for each candidate and each question for whom or on which he is entitled to vote.

III. Write-in vote. It must permit a voter to vote for a write-in candidate.

IV. Voting limited to vacancies. It must prevent a voter from voting for more persons for an office than there are offices to be filled.

V. Voting restricted at primary. It must prevent a voter from voting for the nomination of candidates of more than one party at a primary election.

VI. Unauthorized voting prohibited. It must prevent a voter from voting for any office or upon any question for whom or on which he is not entitled to vote.

VII. Change of vote permitted. It must permit a voter to change or retract a vote he has attempted to cast for any person, or any question, before his vote has been completed and registered.

VIII. Official approval required. It must be of an identical type approved by the secretary of state, the attorney general and one member of the governor's council to be designated by the governor. (1959, c. 177.)

Sec. 4. Bond required.—A payment shall not be made on the purchase price of any voting machine until the vendor has filed with the secretary of state a bond issued by a surety company in form and amount approved by the insurance commissioner in which the voting machine is specified by number, conditioned to keep the machine in good working order at the expense of the vendor for 5 years from the date of the delivery of the machine. (1959, c. 177.)

Sec. 5. Regulations by secretary of state.—The secretary of state may make reasonable rules and regulations governing the use of voting machines. Before such rules and regulations become effective they must be approved by the governor and council. (1959, c. 177.)

Sec. 6. Custody of voting machines.—The clerk of a municipality has custody of a voting machine used by the municipality.

I. Storage and maintenance. He is responsible for the proper storage and maintenance of each machine.

A. He shall have each machine locked, sealed and stored in a safe, dry building.

B. He shall have each machine kept in proper operating condition.

II. Expense of storage and maintenance. The municipality shall pay the reasonable expenses for the storage and maintenance of the machines authorized by the clerk. (1959, c. 177.)

Sec. 7. Instruction of election officials.—The clerk shall hold a meeting before an election when it is necessary to instruct election officials in the operation of voting machines.

I. Permission to use machines refused. The clerk shall not permit a voting machine to be used at any voting place, unless he is satisfied that the election officials at that voting place know how to operate the machinery properly and how to instruct a voter in operating it. (1959, c. 177.)

Sec. 8. Ballot labels for state election.—The secretary of state shall furnish the ballot labels for all except municipal elections.

I. Content of label. The ballot label must contain the names of the candidates or nominees of each political party arranged as nearly as practicable in accordance with the requirements for paper ballots.

II. Referendum question. A referendum question must be arranged so that the voter may vote for or against it. (1959, c. 177.)

Sec. 9. Ballot labels for municipal elections.—The clerk shall furnish the printed voting machine ballot labels for municipal elections.

I. Content of label. The ballot label must contain the names of nominees arranged under the proper office designations. It must conform as nearly as practicable with the other requirements of chapter 90-A, section 37, subsection V. (1959, c. 177.)

Sec. 10. Arrangement of polling place.—The municipal officers shall arrange each voting polling place as nearly as practicable with chapter 5, section 15. (1959, c. 177.)

Sec. 11. Temporary presiding officer appointed.—If there is a vacancy in the office of presiding officer at any election, the municipal officers shall appoint a qualified person to act as presiding officer during that election. (1959, c. 177.)

Sec. 12. Secrecy assured.—The presiding officer at each voting place shall not remain or allow any other person to remain where he can see how anyone votes, except a proper official whose assistance has been requested by a voter. (1959, c. 177.)

Sec. 13. Clerk to post specimen ballot labels.—The clerk shall post 2 sets of specimen ballot labels conspicuously at the voting place, before the opening of the polls on election day. (1959, c. 177.)

Sec. 14. Delivery of voting machines.—The clerk shall perform the following duties concerning the delivery of voting machines:

I. Delivery. He shall have the voting machines delivered to each voting place at least 12 hours before the opening of the polls on election day. At the time of delivery, the ballot labels must be in place on each machine.

II. Arrangements of machines. The clerk shall arrange each voting machine so that each ballot label, when not in use, and the exterior of the machine are completely visible to the election officials.

III. Machines locked. After the voting machines have been placed in the proper position at the voting place, the clerk shall make certain that each machine is ready for use when the polls open, and he shall then lock each machine.

IV. Keys to voting machines. At least ½ hour before the opening of the polls on election day, the clerk shall deliver the keys to each machine, in a sealed envelope, to the presiding officer at the voting place. (1959, c. 177.)

Sec. 15. Machines readied for voting.—When it is time for the polls to open, the presiding officer shall open the envelope containing the keys to the voting machines in the presence of a ballot clerk who is a member of another political party.

I. Counters exposed. If the number on the seal agrees with the number on the envelope, the presiding officer shall open the doors concealing the counters, inspect the machine and sign a certificate provided by the secretary of state showing that all the counters are set at 0, that the number of the protective counter agrees with the number on the envelope, and that all parts of the machine and the ballot labels are in proper condition for voting.

II. Machine satisfactory. If the machine is in satisfactory condition for voting, the presiding officer shall permit its use forthwith, after closing the doors concealing the counters. (1959, c. 177.)

Sec. 16. Directions for voting.—A voter shall follow the same procedure prior to voting as if paper ballots were being used. He is entitled to the same assistance in voting by machine as by paper ballot. (1959, c. 177.)

Sec. 17. Machines activated.—The voting machines shall be activated by the presiding officer or a ballot clerk designated by him.

I. Primary election. In a primary election, the presiding officer or in his absence a designated ballot clerk must activate each voting machine so that a voter can vote only for the candidates of the political party in which he is enrolled. (1959, c. 177.)

Sec. 18. Procedure for tabulating votes.—The following regulations outline the procedure for tabulating votes at an election in which voting machines are used:

I. Counters exposed. As soon as the polls are closed, the presiding officer shall unlock each machine to prevent further voting. He shall then open the counters on each voting machine so that anyone present can see the totals.

II. Totals announced. The presiding officer shall announce the total for each candidate in the order shown on the ballot label, for each referendum question, and for each write-in candidate. As each total is read, it shall be recorded by a ballot clerk from a political party other than that of the presiding officer.

III. Totals checked. When all the totals for a voting machine have been read and recorded, the ballot clerk shall check the totals recorded by him with those appearing on the machine. If the totals do not agree, the ballot clerk shall correct the record and call it to the attention of the presiding officer. If the totals agree the ballot clerk shall record the number of the machine at the top of the column of totals recorded from it.

IV. Machine locked. After allowing any person to compare the record with the totals shown on the machine, the presiding officer shall close and lock it with the totals remaining on it, proceed to tabulate the next machine in the same manner.

V. Absentee and physical incapacity ballots counted. After the totals for all voting machines have been recorded and checked, the absentee and physical incapacity ballots shall be counted as provided in chapter 6, section 10.

VI. Total announced. As soon as the absentee and physical incapacity ballots have been counted, the total value for each candidate and on each referendum question shall be tabulated and the result announced by the presiding officer. (1959, c. 177.)

Sec. 19. Election return.—The presiding officer shall sign an election return. The clerk shall attest it.

I. Primary election. In a primary election, the provisions of chapter 4, section 29 which are not contrary to this section apply to election returns.

II. State election. In a state election, the provisions of chapter 5, section 42 which are not contrary to this section apply to election returns. (1959, c. 177.)

Sec. 20. Procedure after election.—The following procedure shall be observed after an election at which voting machines are used.

I. Keys sealed in envelope. In the presence of a ballot clerk who is a member of another political party, the presiding officer shall enclose the keys to each voting machine in a separate envelope furnished by the clerk. The presiding officer shall write the number of each machine, the location of the voting place in which it was used, the number on the seal and the numbers registered on the protective counter on the outside of the envelope.

II. Envelopes endorsed. After sealing envelope securely, the presiding officer and the ballot clerk shall endorse their signatures on it, and the presiding officer shall see that it is returned forthwith to the clerk. (1959, c. 177.)

Sec. 21. Keys secured.—The clerk shall keep the keys to each voting machine in a vault or safe which is kept securely locked when the keys are not being removed from or replaced in it. He shall not allow any unauthorized person to have possession of the keys to any voting machine.

I. Keys returned. A person who is authorized to have possession of the keys to a voting machine shall return them to the clerk when he no longer needs them for the authorized purpose. (1959, c. 177.)

Sec. 22. Violation and penalty provision.—The following violation and penalty provisions apply to voting machines:

I. Tampering. A person who tampers with a voting machine for the purpose of causing it to operate in any other manner than it was designed to operate, shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 2 years, or by both.

II. Intentional. A person who willfully damages a voting machine shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

III. Unauthorized handling. A person who attempts to alter, operate, adjust, move, unlock or unseal a voting machine contrary to a provision of this chapter shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

IV. General penalty. A person who violates a provision of this chapter or who fails or refuses to perform a duty required by this chapter for which no penalty is provided shall be punished by a fine of not more than \$250 or by imprisonment for not more than 90 days, or by both. (1959, c. 177.)

Sec. 23. Construction.—The provisions of law relating to elections apply to all elections where voting machines are used as far as they apply and are not inconsistent with this chapter. (1959, c. 177.)

Chapter 6.

Absent Voting. Physical Incapacity Voting.

The right to vote in absentia by absentee ballot is statutory and one who exercises such statutory rights must comply substantially with the provisions of the statute. *Miller v. Hutchinson*, 150 Me. 279, 110 A. (2d) 577.

What provisions directory.—The provisions of this chapter touching the procedure to be employed at the polls and the disposition of applications and envelopes following an election are directory and not mandatory in nature. Distinction was made between acts of the voter and

acts of the election officials. The voter must comply with the statute insofar as his acts are concerned. *Opinion of the Justices*, 152 Me. 219, 130 A. (2d) 526.

Validity of ballots where election officials fail to carry out duties.—As to whether absentee voters' ballots are invalidated by the failure of election officials to carry out their duties strictly in accordance with this chapter in stated categories, see *Opinion of the Justices*, 152 Me. 219, 130 A. (2d) 526.

Sec. 2. Secretary of state to prepare ballots, blank forms, instructions, etc., for city and town clerks.

Requirements mandatory.—This section directs the city clerk to prepare an absentee voting ballot, a blank form of application for such ballot and envelopes of sufficient size to contain the ballot. Among other requirements the aforesaid envelopes are to bear on the reverse side

the required affidavit prescribed by subsection IV. These statutory requirements are mandatory. *Miller v. Hutchinson*, 150 Me. 279, 110 A. (2d) 577.

The oath required by this section is mandatory and failure of the voter to make or take such an oath, administered