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Legislative	Document			<u> </u>		No. 392
H.P. 303			House o	f Repres	entatives,	January 31, 198
	ed to the Con concurrence.		State Go	overnme	nt and or	dered printed.
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		STATE	OF MA	AINE		
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AN	ACT to Cl		the Mai edure A		minist	rative
Be it en follows:	acted by	the Peo	ople of	f the	State (of Maine as
	1.5 M 524,§6	RSA §8 , is an	8052, s nended	ub-§7 to re	, as en ad:	nacted by PL
7.	Adoption	of rule	. The	agenc	y shall	l, in adopt-
						f the pro- mines neces-
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specific	findings	suppor	ting s	such c	hanges	. The ageney
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1 be submitted to the agency for consideration in 2 adopting the rule; and 3 B. This adopted rule is approved by the Attorney General as to form and legality, as required by 4 5 section 8056, within 150 days of the final date 6 by which those comments may be submitted. 7 The final date for comments may be extended if notice of doing so is published before that final date. 8 9 Sec. 2. 5 MRSA §8053, sub-§1, as amended by PL 10 1981, c. 698, §§10 ,11, is further amended to read: 11 1. Notice of rulemaking without hearing. At least 20 days prior to the adoption of any rule with-12 out hearing, the agency shall deliver or mail written 13 14 notice to: 15 A. Any person specified by the statute authoriz-16 ing the rulemaking; 17 B. Any person who has filed within the past year 18 a written request with the agency for notice of rulemaking; and 19 C. Any trade, industry, professional, interest 20 group or regional publication that the agency 21 deems effective in reaching the persons affected; 22 23 and. 24 The Secretary of State, for publication in Đ-25 accordance with subsection 5-26 Notification to subscribers under paragraph B shall 27 be by mail or otherwise in writing to the last address provided to the agency by that person. 28 Sub-29 scribers under paragraph B may request to receive a copy of each proposed rule with the written notice. 30 31 The agency shall provide the copy at the same time 32 the notice is sent. 33 Written notice shall also be given to the Secretary 34 of State, by the deadline established by him, for 35 publication in accordance with subsection 5. 36 Sec. 3. 5 MRSA §8056, sub-§1, ¶B, as amended by PL 1981, c. 524, §11, is further amended to read: 37

1B. File a certified copy of the rule and the2statement required by section 8052, subsection 5,3with the Secretary of State in a form prescribed4by the Secretary of State, which form shall be5susceptible to frequent and easy revision;

STATEMENT OF FACT

7 Section 1 of this bill clarifies when an agency 8 must adopt a rule to be effective. Previously the 9 law required an agency to "act to adopt" within 120 10 days of the final date for comments. This phrase was 11 somewhat confusing and is replaced with the more con-12 cise requirement that "the agency adopts it" (the 13 rule) within 120 days.

Apparently, the original intention of having this deadline was to let the people know when a rule was 14 15 16 finally adopted or when it could no longer be adopted 17 without an additional hearing. Thus, those inter-18 ested would not have to continually wait for a rule 19 to be adopted long after the comment period closed. 20 When an adopted rule must be approved by the Attorney 21 General, this 120-day period often becomes extended since the Attorney General's office may take addi-tional time to review the rule. This bill estab-22 23 24 lishes a limit of 150 days as the final date for adoption by an agency and approval by the Attorney 25 26 General's office. This gives the people a clear 27 deadline on which they can rely. The deadline may be extended if notice to that effect is published. 28

29 Section 2 of the bill clarifies the deadline for notifying the Secretary of State for publication of 30 31 notices of rulemaking. The existing "20-days" dead-32 line has been confused with the deadlines outlined in 33 the Maine Revised Statutes, Title 5, section 8053, 34 subsection 5, of the existing law. Currently, the 35 Secretary of State requires notice for publication to 36 be filed 7 days before actual publication.

37 Section 3 clarifies that the "written statement 38 explaining the factual and policy basis for the rule" 39 is also filed with the rule itself. While this is

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currently the practice, the law is not clear that this is required. Since the objective of the law is a to allow citizens to obtain copies of all rules in a single place, the Secretary of State's office, it is reasonable that this "basis statement" be included for their information.

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