

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1990

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Legislative Document

No. 1

H.P. 1

House of Representatives, December 4, 1990

Reported by Representative PARADIS for the Commission on Codification of Rules pursuant to Public Law 1989, chapter 636.

Reference to the Joint Standing Committee on State and Local Government suggested and printing ordered under Joint Rule 18.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

---

An Act to Codify the Rules of Maine.

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

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4       **Sec. 1. 1 MRSA §501-A, first ¶,** as repealed and replaced by PL 1987, c. 402, Pt. A, §2, is amended to read:

6           The publications of all agencies and the University of Maine  
8           System and the Maine Maritime Academy may be printed, bound and  
10          distributed, subject to Title 5, sections 43 to 46. The State  
12          Purchasing Agent may determine the style in which such  
14          publications may be printed and bound, with the approval of the  
16          Governor. At least 55 copies of any annual or biennial report,  
18          not included in the Maine State Government Annual Report provided  
20          for in Title 5, sections 43 to 46, shall must be delivered to the  
22          State Librarian, immediately upon receipt by the State Purchasing  
24          Agent for exchange and library use; the balance of the number of  
26          each such report shall must be delivered by the State Purchasing  
28          Agent to the agency preparing the report. Any agency or  
          legislative committee issuing publications shall deliver 18  
          copies of all publications to the State Librarian. These copies  
          ~~shall be~~ are furnished at the expense of the issuing agency.  
          Publications not furnished upon request will be reproduced at the  
          expense of the issuing agency. The agency or committee preparing  
          a publication shall ~~have the authority to~~ may determine the date  
          on which a publication may be released, except as may be  
          otherwise provided by law. The Secretary of State shall deliver  
          18 copies of the codified rules of Maine, including supplements  
          to those rules and replacement volumes, to the State Librarian at  
          no cost to the State Librarian.

30       **Sec. 2. 5 MRSA §8053-A, sub-§4,** as enacted by PL 1989, c. 574,  
32       §5, is amended to read:

34       **4. Adopted rules.** When an agency adopts rules, it shall  
36       provide a copy of the adopted rules, the statement required by  
38       section 8052, subsection 5, and the checklist required by section  
          8056-A to the Secretary of State who shall ~~compile~~ codify the  
          adopted rules by agency.

40       **Sec. 3. 5 MRSA §8056, sub-§3, ¶A-1,** as enacted by PL 1979, c.  
42       425, §9, is amended to read:

44       A-1. Compile, edit, index and arrange for publication and  
46       distribution all current rules of state agencies. The  
48       Secretary of State shall codify the rules of all state  
          agencies in accordance with subsection 7. This codification  
          must be maintained on an electronic text file database.  
          ~~Compilations--shall~~ Codifications must be supplemented or  
          revised at least annually; and

2           **Sec. 4. 5 MRSA §8056, sub-§3, ¶B,** as enacted by PL 1977, c.  
551, §3, is amended to read:

4           B. Supply, at actual cost, annually updated copies of  
6 complete sets of rules of an agency to any person who has  
written request for such sets of rules-; and

8           **Sec. 5. 5 MRSA §8056, sub-§3, ¶C** is enacted to read:

10           C. Codifications of the rules and any supplements or  
12 replacement volumes may be made available through  
arrangements with a publisher.

14           **Sec. 6. 5 MRSA §8056, sub-§§7 and 8** are enacted to read:

16           **7. Codification of the rules.** The Secretary of State shall  
18 codify all current rules of state agencies and maintain an  
20 up-to-date codification through supplements or replacement  
22 volumes. The codification and any supplements or replacement  
24 volumes, printed and published under contract or by the Secretary  
26 of State, constitute prima facie evidence of the rules if the  
28 publication has been certified by the Secretary of State as  
provided in subsection 8 and the certification is indicated in  
accompanying notes to the publication. If any supplements or  
replacement volumes are published regarding a specific rule, only  
that rule or portion of a rule contained in the latest  
publication constitutes, prima facie, a state agency rule.

30           The codification of the rules must be published in a paper format  
32 and, to the extent resources are available, in an electronic  
34 format; except that codification of the rules may not be  
36 published in loose-leaf paper format or in hardbound paper  
format. The codification must contain a table of contents, an  
index and a history, and may contain any other features desirable  
to provide assistance in utilizing the codification.

38           The Secretary of State shall mandate the form for drafting rules  
40 to be used consistently by all state agencies.

42           **8. Certification of codified rules.** The Secretary of State  
44 may certify the codification of rules and any supplements or  
46 replacement volumes to that codification to be a correct  
48 transcript of the text of the original rules. To allow any  
50 codification of the rules to be read in evidence, the  
52 codification and any supplement or replacement volume must  
contain a printed certificate of the Secretary of State that it  
is a correct transcript of the text of the original rules. A  
facsimile of the signature of the Secretary of State imprinted by  
or at the direction of the Secretary of State has the same  
validity as a written signature of the Secretary of State.

2 Any publication of a rule or rules that is not certified by the  
3 Secretary of State must bear the following notice conspicuously  
4 on that publication: "These rules are (This rule is) not  
5 certified by the Secretary of State and this is not an official  
6 copy of the rules (rule)."

7 Sec. 7. 5 MRSA §§8056-A, sub-§§2 and 3, as enacted by PL 1989,  
8 c. 574, §6, are amended to read:

9  
10 2. **Technical assistance.** The Secretary of State shall  
11 develop uniform drafting instructions for use by all agencies  
12 that propose rules under this subchapter and shall compile those  
13 instructions in a drafting manual. In addition, the Secretary of  
14 State shall provide assistance to any agency regarding the  
15 mandatory form for drafting of rules and supporting materials and  
16 the other requirements of this subchapter.

17 3. **Report.** The Secretary of State shall report to the  
18 Governor and the joint standing committee of the Legislature  
19 having jurisdiction over state and local government prior to  
20 February 1st of each year with respect to rule-making activities  
21 for the prior year. The report shall must include statistical  
22 information on agency rule-making activities, agency experience  
23 with procedural requirements of this subchapter, an evaluation of  
24 the codification process, impact of the codified set of rules on  
25 state agencies and users of the rules, and recommendations for  
26 improvements to the rule-making process. In preparing the  
27 report, the Secretary of State shall solicit comments from  
28 agencies and their legal counsels, the Director of Legislative  
29 Oversight and the public on this subchapter and recommended  
30 improvements.  
31

### 32 33 34 STATEMENT OF FACT

35  
36 This bill implements the recommendations of the Commission  
37 on Codification of Rules. It requires the Secretary of State to  
38 codify the rules of state agencies and authorizes certification  
39 of that codification as prima facie evidence of the rules in  
40 court. It further mandates a uniform drafting style and format  
41 for all state agencies adopting rules. It also provides for  
42 marketing and distribution of the codification and ensures that  
43 the State Librarian, who now receives 18 copies of the rules,  
44 will continue to receive 18 copies of codified rules. Finally,  
45 it directs the Secretary of State to report annually to the  
46 Legislature on the progress of implementing the codification and  
47 its impact on users.  
48