

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

No. 1735

S.P. 678

In Senate, January 25, 1996

An Act to Clarify the Agency Rule-making Process.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator AMERO of Cumberland.

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

2 **Sec. 1. 5 MRSA §8071, sub-§1**, as enacted by PL 1995, c. 463,
4 §2, is amended to read:

6 **1. Legislative action.** All new rules authorized to be
7 adopted by delegation of legislative authority that are is
8 enacted after January 1, 1996, including new rules authorized by
9 amendment of provisions of laws in effect on that date, must be
10 assigned by the Legislature to one of 2 categories and subject to
11 the appropriate level of rule-making procedures as provided in
12 this subchapter. The Legislature shall assign the category and
13 level of review to all rules at the time it enacts the
14 authorizing legislation. The Legislature may assign different
15 categories and levels of review to different types of rules
16 authorized by the same legislation. A rule authorized for
17 adoption after January 1, 1996 that is not categorized as a
18 routine technical rule or a major substantive rule is considered
19 a major substantive rule and is subject to the level of review
20 provided in section 8072.

22 **Sec. 2. 5 MRSA §8072, sub-§§2 and 3**, as enacted by PL 1995, c.
23 463, §2, are amended to read:

24 **2. Submission of materials.** At the time an agency
25 provisionally adopts a rule, the agency shall submit to the
26 ~~Executive-Director-of-the-Legislative-Council~~ Secretary of the
27 Senate and the Clerk of the House of Representatives 20 copies of:

30 A. The full text of the rule provisionally adopted by the
31 agency with new language underlined and with language to be
32 deleted from any existing rule stricken through but clearly
33 legible;

34 B. A concise summary of the content of the rule and a
35 description and a copy of any existing rule the agency
36 proposes to amend or repeal;

37 C. A statement of the circumstances that require the rule;

38 D. A statement of the economic impact of the rule on the
39 State and its residents; and

40 E. Any other information required by law.

41 **3. Assignment to committee of jurisdiction.** Upon receipt
42 of the required copies of the provisionally adopted rule and
43 related information, the ~~Executive-Director-of-the-Legislative~~
44 ~~Council-shall-determine-the~~ Secretary of the Senate and the Clerk
45 of the House of Representatives shall jointly suggest reference

2 to a joint standing committee of the Legislature that has
jurisdiction over the subject matter of the proposed rule and
4 shall provide for publication of that suggestion in the Advance
Journal and Calendar first in the Senate and then in the House of
6 Representatives no later than the next legislative day following
receipt. After floor action on referral of the rule to committee
8 is completed, the Secretary of the Senate and the Clerk of the
House of Representatives shall send copies of the rule and
related information to each member of that committee. Each rule
10 submitted for legislative review must be reviewed by the
appropriate joint standing committee at a meeting called for that
12 purpose in accordance with legislative rules. A committee may
review more than one rule and the rules of more than one agency
14 at a meeting. The committee shall notify the affected agency of
the meeting on its proposed rules.

18 STATEMENT OF FACT

20 This bill makes changes in the provisions of the Maine
Administrative Procedure Act governing legislative review of
22 certain agency rules to:

24 1. Clarify that the review requirements apply to major
substantive rules adopted pursuant to legislative authority
26 enacted after January 1, 1996;

28 2. Establish that if new rule-making legislation fails to
indicate whether a rule is subject to legislative review, the
30 rule is subject to review automatically; and

32 3. Direct the Secretary of the Senate and the Clerk of the
House of Representatives to jointly suggest a committee of
34 reference for each rule to be reviewed by the Legislature and to
publish notice of receipt of the rule and the suggested reference
36 in the daily Calendar for action by both chambers.