

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2245

H.P. 1618

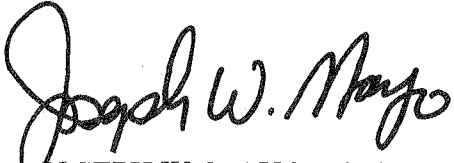
House of Representatives, March 3, 1998

An Act Requiring Notification of Option to Request Judicial Review.

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.
Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative WHEELER of Bridgewater.
Cosponsored by Senator MICHAUD of Penobscot and
Representatives: BUNKER of Kossuth Township, CLUKEY of Houlton, DONNELLY of
Presque Isle, KNEELAND of Easton, O'NEAL of Limestone, TUTTLE of Sanford, Senators:
CAREY of Kennebec, KIEFFER of Aroostook.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 Whereas, it is essential that persons aggrieved by agency
6 action are immediately notified of their right to judicial
review; and

8 Whereas, unless such persons are immediately notified of
10 their right to judicial review, the short period of time to file
a petition for review might lapse; and

12 Whereas, in the judgment of the Legislature, these facts
14 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
16 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

20 **Sec. 1. 5 MRSA §11001**, as amended by PL 1979, c. 127, §40 is
22 further amended to read:

24 **§11001. Right to review; notification of right to review**

26 1. **Agency action.** Except where when a statute provides for
direct review or review of a pro forma judicial decree by the
28 Supreme Judicial Court or where when judicial review is
specifically precluded or the issues therein limited by statute,
30 any person who is aggrieved by final agency action shall ~~be~~ is
entitled to judicial review thereof in the Superior Court in the
32 manner provided by this subchapter. Upon final agency action,
the agency must notify the parties of their right to judicial
34 review and the deadlines for filing a petition for review.
Preliminary, procedural, intermediate or other nonfinal agency
36 action shall ~~be~~ is independently reviewable only if review of the
final agency action would not provide an adequate remedy.

38 2. **Failure or refusal of agency to act.** Any person
40 aggrieved by the failure or refusal of an agency to act shall ~~be~~
is entitled to judicial review thereof in the Superior Court. The
42 relief available in the Superior Court shall ~~must~~ include an
order requiring the agency to make a decision within a time
44 certain.

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

SUMMARY

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This bill requires an agency to notify parties to agency proceedings of their right to judicial review and the deadlines for filing a petition for review.