

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1285

S.P. 448

March 9, 2007

**An Act To Amend the Laws Regarding Appeals from Decisions  
Issued by the Workers' Compensation Board**

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Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator WESTON of Waldo.  
Cosponsored by Senator: DOW of Lincoln.

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

2 **Sec. 1. 39-A MRSA §322**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected  
3 by §§9 to 11, is amended to read:

4 **§322. Appeal from decision of hearing officer**

5 **1. Appeals.** Any party in interest may present a copy of the decision of a hearing  
6 officer ~~or a decision of the board, if the board has reviewed a decision pursuant to section~~  
7 ~~320~~, to the clerk of the Law Court within 20 days after receipt of notice of the filing of  
8 the decision by the hearing officer ~~or the board~~. Within 20 days after the copy is filed  
9 with the Law Court, the party seeking review by the Law Court shall file a petition  
10 seeking appellate review with the Law Court that sets forth a brief statement of the facts,  
11 the error or errors of law that are alleged to exist and the legal authority supporting the  
12 position of the appellant.

13 ~~**2. Procedures.** The Law Court shall establish and publish procedures for the review~~  
14 ~~of petitions for appellate review of decisions of the board.~~

15 **3. Discretionary appeal; action.** Upon the approval of 3 or more members of a  
16 panel consisting of no fewer than 5 Justices of the Law Court, the petition for appellate  
17 review may be granted. If the petition for appellate review is denied, the decision of the  
18 ~~board~~ hearing officer is final. The petition must be considered on written briefs only.

19 If the petition for appellate review is granted, the clerk of the Law Court shall notify the  
20 parties of the briefing schedule consistent with the Maine Rules of Civil Procedure and in  
21 all respects the appeal before the Law Court must be treated as an appeal in an action in  
22 which equitable relief has been sought, except that there may be no appeal upon findings  
23 of fact. The Law Court may, after due consideration, reverse, modify or affirm any  
24 decision of the ~~board~~ hearing officer.

25 **Sec. 2. 39-A MRSA §322-A** is enacted to read:

26 **§322-A. Appeal from decision of board**

27 **1. Appeals.** If the board has reviewed a decision pursuant to section 320, any party  
28 in interest aggrieved by the final determination of the board may appeal therefrom to the  
29 Law Court. The party seeking review shall present a copy of the decision of the board to  
30 the clerk of the Law Court within 20 days after receipt of notice of the filing of the  
31 decision by the board. Within 20 days after the copy is filed with the Law Court, the  
32 party seeking review by the Law Court shall file a petition seeking appellate review with  
33 the Law Court that sets forth a brief statement of the facts, the error or errors of law that  
34 are alleged to exist and the legal authority supporting the position of the appellant.

35 **2. Procedures.** The Law Court shall establish and publish procedures for the review  
36 of petitions for appellate review of decisions of the board. The clerk of the Law Court  
37 shall notify the parties of the briefing schedule consistent with the Maine Rules of Civil  
38 Procedure and in all respects the appeal before the Law Court must be treated as an  
39 appeal in an action in which equitable relief has been sought, except that there may be no

1 appeal upon findings of fact. The Law Court may, after due consideration, reverse,  
2 modify or affirm any decision of the board.

3

### **SUMMARY**

4 Under current law, if the Workers' Compensation Board reviews the decision of a  
5 hearing officer, the Maine Supreme Judicial Court has discretion to review the decision of  
6 the board, upon the appeal of an aggrieved party. This bill changes the procedure and  
7 provides instead that a party aggrieved by such a decision of the Workers' Compensation  
8 Board may appeal that decision to the Maine Supreme Judicial Court as a matter of right.