

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 1137

H.P. 815

House of Representatives, March 22, 2021

**An Act To Limit the Governor's Emergency Powers by Requiring a
Two-thirds Vote of the Legislature To Continue an Emergency after
90 Days**

(EMERGENCY)

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LEMELIN of Chelsea.

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

3 **Whereas,** under Maine law, a declaration of a state of emergency may be issued in
4 30-day increments; and

5 **Whereas,** the Governor proclaimed a state of emergency on March 15, 2020 to
6 authorize the use of emergency powers related to the COVID-19 pandemic; and

7 **Whereas,** the Governor issued extensions of the state of emergency on April 14, 2020,
8 May 13, 2020, June 10, 2020, July 8, 2020, August 5, 2020, September 2, 2020, September
9 30, 2020, October 29, 2020 and November 24, 2020 and issued the 10th extension on
10 December 22, 2020; and

11 **Whereas,** to ensure the Legislature's oversight of the Governor's authority to extend
12 a state of emergency and the Governor's powers during a state of emergency, this Act
13 requires the Governor to convene the Legislature if a state of emergency or an order or rule
14 issued pursuant to the state of emergency is to be in effect for longer than 90 days; and

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

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

20 **Sec. 1. 37-B MRSA §742, sub-§1, ¶E** is enacted to read:

21 E. If an order or rule issued by the Governor, pursuant to the powers granted in
22 paragraph C, is to be in effect for longer than 90 days, the Governor shall, before the
23 80th day following the issuance of the order or rule, convene the Legislature, and the
24 Legislature must, by a 2/3 vote in each House, vote to extend the Governor's authority
25 to extend that order or rule.

26 **Sec. 2. 37-B MRSA §743, sub-§2,** as enacted by PL 1983, c. 594, §34, is amended
27 to read:

28 **2. Limitation.** ~~No~~ A state of emergency may not continue for longer than 30 days
29 unless renewed by the Governor. If the state of emergency is to be in effect for longer than
30 90 days, the Governor shall, before the 80th day following the initial declaration of the
31 state of emergency, convene the Legislature, and the Legislature must, by a 2/3 vote in each
32 House, vote to extend the state of emergency. If the Legislature does not vote to extend
33 the state of emergency, the Governor may not declare a similar, subsequent state of
34 emergency. The Legislature, by joint resolution, may terminate a state of emergency at
35 anytime any time. ~~Thereupon~~ Upon the Legislature's vote to not extend a state of
36 emergency or the Legislature's termination of a state of emergency, the Governor shall
37 issue an executive proclamation ending the state of emergency.

38 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
39 takes effect when approved.

1 **SUMMARY**

2 This bill requires the Governor to convene the Legislature if a declared state of
3 emergency is to be in effect for longer than 90 days. If the Legislature does not, by a 2/3
4 vote in each House, vote to extend the state of emergency, the Governor may not declare a
5 similar, subsequent state of emergency.

6 The bill also requires the Governor to convene the Legislature if, after a state of
7 emergency is declared, an order or rule issued by the Governor is to be in effect for longer
8 than 90 days. The Legislature must, by a 2/3 vote in each House, vote to extend the
9 Governor's authority to extend that order or rule.