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An Act To Amend the Maine Administrative Procedure Act To Strengthen Safeguards for Small Businesses

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

Sec. 1. 5 MRSA §8052, sub-§5-A, as enacted by PL 1989, c. 574, §4, is amended to read:

5-A. Impact on small business. In adopting rules, the agencies shall seek to reduce any economic burdens through flexible or simplified reporting requirements and may seek to reduce burdens through flexible or simplified timetables that take into account the resources available to the affected small businesses. The agency may consider clarification, consolidation, or simplification of compliance or reporting requirements. For the purposes of this subsection, "small business" means businesses that have 20 or fewer employees and gross annual sales not exceeding \$2,500,000.

Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, the agency shall prepare an economic impact statement that includes the following:

- A. An identification of the types and an estimate of the number of the small businesses subject to the proposed rule;
- B. The projected reporting, record-keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;
- C. A brief statement of the probable impact on affected small businesses; and
- D. A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed rule.

Sec. 2. 5 MRSA §8053, sub-§3, ¶D, as amended by PL 1985, c. 77, §2, is further amended to read:

D. If possible, contain the express terms of the proposed rule or otherwise describe the substance of the proposed rule, stating the subjects and issues involved and indicate where a copy of the proposed rule may be obtained; ~~and~~

Sec. 3. 5 MRSA §8053, sub-§3, ¶E, as enacted by PL 1985, c. 77, §2, is amended to read:

E. Refer to the substantive state or federal law to be implemented by the rules; ~~and~~

Sec. 4. 5 MRSA §8053, sub-§3, ¶F is enacted to read:

F. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained.

Sec. 5. 5 MRSA §8057, sub-§1, as amended by PL 1985, c. 680, §5, is further amended to read:

1. Rules; exception. Rules adopted in a manner other than that prescribed by section 8052, subsections 1, 2, 3, 4, 5-A and 7 and by ~~section~~sections 8053 and 8054 shall ~~bear~~ be void and of no legal effect, ~~provided~~except that insubstantial deviations from the requirements of section 8053 shall ~~do~~ not invalidate the rule subsequently adopted. Rules in effect prior to July 1, 1978, shall become void and of

no legal effect on July 1, 1979, unless originally adopted after notice published in a newspaper of general circulation in some area of the State and opportunity for hearing or unless adopted in accordance with ~~chapter 375,~~this subchapter H.

Sec. 6. 5 MRSA §8057-A, sub-§1, ¶D, as enacted by PL 1989, c. 574, §7, is amended to read:
D. An analysis of the rule, ~~including a description of how the agency considers whether the rule would impose an economic burden on small business as described in section 8052, subsection 5-A.~~

Effective September 20, 2007