



125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1647

S.P. 546

In Senate, December 21, 2011

**An Act To Define "Person Aggrieved" in Proceedings before the
Department of Environmental Protection and the Maine Land Use
Regulation Commission**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 19, 2011. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.

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

2 **Sec. 1. 12 MRSA §682, sub-§6-A** is enacted to read:

3 **6-A. Person aggrieved.** "Person aggrieved" means a person that the commission
4 determines has suffered or may suffer an actual or imminent injury as a result of a
5 licensing or other decision of the commission. For the purposes of this subsection,
6 "injury" means a decision of the commission that adversely and directly affects or will
7 adversely and directly affect an aggrieved person's property, pecuniary or personal rights.

8 **Sec. 2. 38 MRSA §341-D, sub-§4, ¶A,** as enacted by PL 1989, c. 890, Pt. A, §13
9 and affected by §40, is amended to read:

10 A. Final license or permit decisions made by the commissioner when a person
11 aggrieved by a decision of the commissioner appeals that decision to the board within
12 30 days of the filing of the decision with the board staff. The board staff shall give
13 written notice to persons that have asked to be notified of the decision. The board
14 may allow the record to be supplemented when it finds that the evidence offered is
15 relevant and material and that:

16 (1) ~~An interested party~~ A person aggrieved seeking to supplement the record has
17 shown due diligence in bringing the evidence to the licensing process at the
18 earliest possible time; or

19 (2) The evidence is newly discovered and could not, by the exercise of diligence,
20 have been discovered in time to be presented earlier in the licensing process.

21 The board is not bound by the commissioner's findings of fact or conclusions of law
22 but may adopt, modify or reverse findings of fact or conclusions of law established
23 by the commissioner. Any changes made by the board under this paragraph must be
24 based upon the board's review of the record, any supplemental evidence admitted by
25 the board and any hearing held by the board;

26 **Sec. 3. 38 MRSA §361-A, sub-§3-D** is enacted to read:

27 **3-D. Person aggrieved.** "Person aggrieved" means a person that the department
28 determines has suffered or may suffer an actual or imminent injury as a result of a
29 licensing or other decision of the department. For the purposes of this subsection, "injury"
30 means a decision of the department that adversely and directly affects or will adversely
31 and directly affect an aggrieved person's property, pecuniary or personal rights.

32 **SUMMARY**

33 This bill provides a definition of "person aggrieved" in the laws governing the Maine
34 Land Use Regulation Commission and the Department of Environmental Protection. It
35 also provides that a person aggrieved, rather than an interested party, may seek to
36 supplement the record in an appeal to the Board of Environmental Protection.