



# HOUSE OF REPRESENTATIVES

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Senator Carney, Representative Kuhn, and esteemed members of the Judiciary Committee, my name is Mike Soboleski, and I proudly represent House District 73. I come before you today to express my opposition to LD 1408, "An Act to Codify Judicial Deference to Agency Interpretations."

This bill represents an effort to codify The Chevron Doctrine, which was recently overturned by the Supreme Court as being inconsistent with the judiciary's fundamental duty to interpret law, into state law. Maine has two options regarding Agency Rule Making, Routine Technical and Major Substantive. We are the only state in the nation that delegates rule making authority the way we do. Let me emphasize that – no state in the nation gives rule making authority solely to the agency that benefits the most from those rules, like Maine does. And, right now working Mainers are paying a heavy price for the Department of Labor's interpretation of Routine Technical Rulemaking as they have applied it to Paid Family Medical Leave.

In context, The 1984 Chevron Doctrine, *Chevron USA vs Natural Resource Defense Council*, required courts to defer to an agency's reasonable interpretations of ambiguous statutes when the agency was authorized to administer statute.

That ruling was challenged in 2024 by the *Loper Bright Enterprises v. Raimondo* case where the Supreme Court overturned Chevron Doctrine stating it was inconsistent with the court's fundamental duty to interpret law.

LD1408 proposes to adopt a two-part analysis for courts to follow when construing statutes or rules within an agency's domain:

- 1) Unambiguous Statute Rules or Laws: Where the plain language of the statute or rule is clear and unambiguous, the court must give effect to its plain meaning, in alignment with the intent of the legislative body. This approach ensures that statutory or regulatory language is respected and upheld in its original form.

2) Ambiguous Statute or Rules: Whereby ambiguity exists in the language of the statute or rule by two or more reasonable interpretations, the bill mandates judicial deference to the agency's interpretation provide that:

- a) The interpretation addresses issues within the agency's specialized expertise; and
- b) The interpretation is reasonable and consistent with the statutes purpose.

However, this bill significantly undermines Maine's already controversial framework in several critical ways:

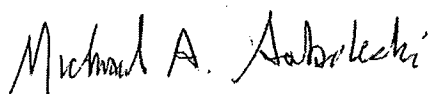
- Erodes the Major Substantive Rule System: By prioritizing agency deference, the bill diminishes the importance of legislative oversight in critical rulemaking Processes.
- Impedes Judicial Oversight: It creates barriers for courts to act directly in disputes over rule interpretation, weakening checks and balances.
- Contradicts Fundamental Judicial Principles: It disregards the Judiciary's core duty to interpret laws impartially, instead favoring agency interpretations.

Moreover, LD 1408 may also raise significant concerns under federal law. By requiring judicial deference to state agency, interpretation the bill could be in conflict with the Supremacy clause of the United States Constitution, which establishes federal law as the "supreme law of the land". Specifically, this codification of agency deference might contradict rulings such as *Loper Bright Enterprises v. Raimondo*, wherein the Supreme Court clearly limited the scope of Chevron-style deference. Adopting a state law that essentially reinstates the Chevron Doctrine could be viewed as an attempt to circumvent federal judicial precedent, thereby creating legal vulnerabilities and opening the door to constitutional challenges.

Maine must rethink its delegation of rulemaking authority to align with national standards, foster fairness for business and the public, and ensure legislative oversight for rules with significant commercial impacts. Major policies affecting commerce and livelihoods must be addressed transparently by the legislature, not left to agency discretion. Let us chart a course forward toward accountability and balanced governance, and above all, ensure major rules that affect commerce are dealt with by the Legislature.

Thank you.

Sincerely,



Michael A. Soboleski  
State Representative