

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 FIRST REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 485

7  
8 H.P. 365

House of Representatives, February 8, 1985

9 On motion of Representative Reeves of Pittston, referred to the  
10 Committee on Legal Affairs. Sent up for concurrence and ordered printed.  
Ordered sent forthwith.

11 EDWIN H. PERT, Clerk

Presented by Representative Beaulieu of Portland.  
12

13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-FIVE  
17

18 AN ACT to Clarify the Fire Prevention and  
19 Inspection Laws in Regard to Municipal  
20 Enforcement.  
21

22 Emergency preamble. Whereas, Acts of the Legis-  
23 lature do not become effective until 90 days after  
24 adjournment unless enacted as emergencies; and

25 Whereas, the State Fire Marshal's office and  
26 state attorneys prosecute violations of the fire pre-  
27 vention laws and rules on a statewide basis; and

28 Whereas, manpower available statewide is limited;  
29 and

30 Whereas, many municipalities have trained person-  
31 nel available to enforce fire prevention laws; and

32 Whereas, proper enforcement can prevent loss of  
33 life and property from fires; and

1       Whereas, the statutory scope of municipal author-  
2       ity to prosecute violations of the state laws and  
3       rules is ambiguous; and

4       Whereas, in the judgment of the Legislature,  
5       these facts create an emergency within the meaning of  
6       the Constitution of Maine and require the following  
7       legislation as immediately necessary for the preser-  
8       vation of the public peace, health and safety; now,  
9       therefore,

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

12           25 MRSA §2396, sub-§§8 and 9 are enacted to read:

13           8. Municipal enforcement. Duly appointed fire  
14           chiefs or their designees, municipal building inspec-  
15           tors and code enforcement officers may bring a civil  
16           action in the name of the municipality to enforce any  
17           of the state laws, duly promulgated state rules or  
18           local ordinances enacted pursuant to chapters 313 to  
19           321; and

20           9. Notice. In any proceeding brought by or  
21           against the State which involves the validity of a  
22           municipal ordinance, the municipality shall be given  
23           notice of the proceeding and shall be entitled to be  
24           made a party to the proceeding and to be heard. In  
25           any proceeding brought by or against the municipality  
26           which involves the validity of statute, ordinance or  
27           regulation, the Attorney General shall be served and  
28           shall be made a party to the proceeding and be enti-  
29           tled to be heard. This section shall apply to en-  
30           forcement of statutes, rules or ordinances enacted  
31           pursuant to chapters 313 to 321.

32           **Emergency clause.** In view of the emergency cited  
33           in the preamble, this Act shall take effect when ap-  
34           proved.

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## STATEMENT OF FACT

2        This bill clarifies the fire prevention and en-  
3        forcement laws to permit enforcement of state law and  
4        rules, as well as any allowed municipal ordinances,  
5        by appropriate local officials. This enforcement  
6        would be brought through filing of a civil violation  
7        by the municipality. At present, local enforcement  
8        is clearly authorized in some chapters of the fire  
9        prevention laws, leaving it ambiguous as to the scope  
10       of authority in other sections which do not specify  
11       local enforcement.

12       A provision is included for notice and an oppor-  
13       tunity for the municipality or the State to join any  
14       litigation which challenges the validity of an ordi-  
15       nance or state law or rule. This is similar to the  
16       notice provisions of the declaratory judgment law of  
17       the Maine Revised Statutes, Title 14, section 5963.

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