

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 679

6  
7 H.P. 476

House of Representatives, February 26, 1985

8 Reference to the Committee on Business and Commerce suggested and  
9 ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Gwadosky of Fairfield.

11 Cosponsored by Representative Lacroix of Oakland, Representative  
Telow of Lewiston and Representative Allen of Washington.

12 STATE OF MAINE  
13

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

17 AN ACT to Provide for Flexibility in the  
18 Application of State Regulations  
19 Affecting Small Business.  
20

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

23 § 8053-A is enacted to read:

24 §8053-A. Regulatory flexibility

25 1. Regulatory flexibility analysis. When a rule  
26 is proposed, the proposing agency shall prepare and  
27 make available for public comment a regulatory flexi-  
28 bility analysis which, at a minimum, contains the  
29 following:

30 A. A description of the problem the rule is ad-  
31 ressing and the specific objectives of the rule;

32 B. A description of the small businesses to  
33 which the rule applies;

1 C. A description of the reporting, record keep-  
2 ing and other compliance requirements of the pro-  
3 posed rule;

4 D. A description of the compliance costs that  
5 may be required by the proposed rule;

6 E. An identification, to the extent practicable,  
7 of all relevant state rules and federal rules  
8 which may duplicate, overlap or conflict with the  
9 proposed rule;

10 F. A description of any significant alternatives  
11 to the proposed rule which accomplishes the  
12 stated objectives of the applicable laws; and

13 G. A description of differing compliance or re-  
14 porting requirements or timetables that could re-  
15 duce the cost of the proposed rule.

16 2. Performance standards; reporting and record-  
17 ing requirements. The proposing agency shall consid-  
18 er the use of performance standards rather than de-  
19 sign standards and the use of differing reporting and  
20 record keeping requirements for small businesses.

21 3. Definition. For the purposes of this section  
22 the term "small businesses" means any private busi-  
23 ness which is independently owned, operated and em-  
24 ployes 100 persons or fewer.

25 STATEMENT OF FACT

26 Regulatory flexibility was one of the top recom-  
27 mendations of the Blaine House Conference on Small  
28 Business. An executive order was issued in 1981, to  
29 provide for some regulatory flexibility analysis, but  
30 this order expired in 1982 and has not been renewed.

31 This bill is modeled after the executive order  
32 and regulatory flexibility laws adopted in other  
33 states. It requires agencies to consider the impacts  
34 of proposed rules on small businesses and to consider  
35 alternatives that reduces the cost of compliance, but  
36 still accomplish law requirements of the proposed

1 rule. The bill recognizes that small businesses do  
2 not have the financial and personnel resources of a  
3 large business and that a rule can impose significant  
4 costs on a small business that could be reduced by  
5 adopting different reporting, record-keeping and com-  
6 pliance timetables.

7 This bill also requires agencies to consider the  
8 use of performance standards rather than design  
9 "cookbook" requirements. Performance standards are  
10 generally considered to be less onerous and expensive  
11 than design standards yet performance standards still  
12 achieve law requirements.

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