

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 73, L.D. 103, Bill, "An Act to Utilize Local Enforcement Mechanisms for Land Use Violations"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 30-A MRSA §4452, sub-§1, as amended by PL 1991, c. 732, §1, is further amended to read:

1. **Enforcement.** A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building inspector, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance set forth in subsection 5 ~~or~~ 6 or 7, may:

A. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances set forth in subsection 5. A municipal official's entry onto property under this paragraph is not a trespass;

B. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and

C. When specifically authorized by the municipal officers, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the official is authorized to enforce.

Sec. 2. 30-A MRSA §4452, sub-§7 is enacted to read:

COMMITTEE AMENDMENT

2 7. Natural resources protection laws. A code enforcement
3 officer, authorized by a municipality to represent that
4 municipality in District Court and certified by the Commissioner
5 of Human Services under section 4221 as familiar with court
6 procedures, may enforce the provisions of the natural resources
7 protection laws, Title 38, chapter 3, subchapter 1, article 5-A,
8 by instituting injunctive proceedings or by seeking civil
9 penalties in accordance with Title 38, section 349, subsection 2.

10 **Sec. 3. State and local cooperation.** Whenever possible, the
11 Department of Environmental Protection shall notify municipal
12 code enforcement officers or other appropriate municipal
13 officials of violations of the natural resource protection laws,
14 the Maine Revised Statutes, Title 38, chapter 3, subchapter I,
15 article 5-A in that municipality. The Commissioner of
16 Environmental Protection and municipalities that intend to
17 enforce violations of the natural resources protection laws
18 pursuant to the Maine Revised Statutes, Title 38, section 480-R,
19 subsection 2, are encouraged to discuss options for resolving
20 violations in a manner that ensures compliance with laws of the
21 State while promoting cooperation between state and municipal
22 government.

23 **Sec. 4. Application.** This Act may not be construed in any way
24 to limit the Department of Environmental Protection's
25 responsibility or authority to enforce the environmental laws of
26 the State, and it may not be construed to require any
27 municipality to enforce any provision of the natural resource
28 protection laws.'

31 STATEMENT OF FACT

32
33 This amendment replaces the bill. The amendment allows a
34 certified code enforcement officer to enforce the natural
35 resources protection laws if that person is authorized by a
36 municipality to represent the municipality in District Court and
37 is certified by the Commissioner of Human Services as familiar
38 with court procedures. The Maine Rules of Civil Procedure, Rule
39 80K govern proceedings in District Court for prosecutions of land
40 use violations and permit persons who are not attorneys to
41 prosecute land use violations if they are authorized by the
42 municipality and certified as being familiar with court
43 procedures.

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45 The amendment is permissive and does not require any
46 municipal enforcement of the natural resource protection laws or
47 any additional certification or training of code enforcement
48 officers. The amendment does not limit or affect the ability or
49 the duty of the Department of Environmental Protection to enforce
50 environmental laws.

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COMMITTEE AMENDMENT "A" to H.P. 73, L.D. 103

2 The amendment also encourages the department and
municipalities that choose to exercise local natural resource
4 protection laws enforcement authority to discuss options for
resolving violations of those laws in a manner that ensures
6 compliance with laws of the State while promoting cooperation
between state and municipal government.

Reported by the Committee on Energy and Natural Resources
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