

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 770

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H.P. 569

House of Representatives, March 9, 1995

**An Act to Return to Municipalities Control over Permits by Rule  
Currently Implemented by the Department of Environmental Protection.**

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Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICE of South Bristol.  
Cosponsored by Representatives: BIGL of Bucksport, BUCK of Yarmouth, CAMERON of Rumford, CHICK of Lebanon, FARNUM of South Berwick, HEINO of Boothbay, KEANE of Old Town, KNEELAND of Easton, LABRECQUE of Gorham, LANE of Enfield, LOOK of Jonesboro, LOVETT of Scarborough, LUMBRA of Bangor, MARSHALL of Eliot, PENDLETON of Scarborough, RICE of South Bristol, SPEAR of Nobleboro, UNDERWOOD of Oxford.

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

2  
4       **Sec. 1. 30-A MRSA §4452, sub-§1**, as amended by PL 1993, c. 23,  
§1, is further amended to read:

6       **1. Enforcement.** A municipal official, such as a municipal  
8 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  
10 in subsection 5, 6 ~~or~~ 7 or 8, may:

12       A. Enter any property at reasonable hours or enter any  
14 building with the consent of the owner, occupant or agent to  
inspect the property or building for compliance with the  
16 laws ~~or~~ ordinances or standards set forth in ~~subsectien~~  
subsections 5 and 8. A municipal official's entry onto  
property under this paragraph is not a trespass;

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

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

26       **Sec. 2. 30-A MRSA §4452, sub-§8** is enacted to read:

28       **8. Permit-by-rule standards.** A municipality may enforce  
30 the provisions of the permit-by-rule standards under Title 38,  
section 344, subsection 7 by instituting injunctive proceedings  
32 or by seeking civil penalties in accordance with Title 38,  
section 349, subsection 2.

34       **Sec. 3. 38 MRSA §344, sub-§7**, as amended by PL 1991, c. 804,  
36 Pt. A, §3, is further amended to read:

38       **7. Permit by rule.** The Board of Environmental Protection  
40 may permit, by rule, any class of activities that would otherwise  
require the individual issuance of a permit or approval by the  
42 board, if the board determines that activities within the class  
will have no significant impact upon the environment. Any such  
44 rule must describe with specificity the class of activities  
covered by the rule and may establish standards of design,  
46 construction or use as may be considered necessary to avoid  
adverse environmental impacts. Any such rule must require  
48 notification to the ~~commissioner~~ municipal government in which an  
activity will take place prior to the undertaking of the  
regulated activity.

2 The commissioner shall annually review activities requiring  
3 permits or approval from the department to determine whether any  
4 additional classes of activities are more effectively  
5 administered under a ~~permit-by-rule~~ permit-by-rule system. As  
6 part of this review, the commissioner shall solicit public  
7 comments on recommendations for activities to be included under  
8 permit by rule and shall review the performance of the existing  
9 ~~permit-by-rule~~ permit-by-rule program, including a review of the  
10 compliance record of the ~~permit-by-rule~~ permit-by-rule program.  
11 The commissioner shall annually recommend to the board any  
12 additional categories of permits for the board to permit by rule.

13 A municipality is the sole enforcement authority for civil  
14 violations of permit-by-rule standards. A municipal official  
15 designated under Title 30-A, section 4452, subsection 1 with the  
16 responsibility to enforce permit-by-rule standards may  
17 periodically inspect activities allowed under this subsection to  
18 ensure that the activities meet permit-by-rule standards.

## 20 STATEMENT OF FACT

21 This bill provides municipalities sole enforcement authority  
22 for civil violations of permit-by-rule standards. It also  
23 requires that notification of a permit-by-rule activity be filed  
24 with the municipality in which the activity will take place. It  
25 eliminates the requirement that the Commissioner of Environmental  
26 Protection be notified.  
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