**Charles Summers**

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**U.S. Small Business Administration**

**before the**

**Joint Committee on State & Local Government**

**of the Maine Legislature**

**Regarding LD 905**

**March 28, 2007**

Chairpersons Schneider, and Barstow, members of the State & Local Government Committee, my name is Charles Summers and I am the Region I Regional Administrator for the U.S. Small Business Administration. I am pleased to be here today to testify on behalf of my colleague Steve Adams, the New England Regional Advocate for the Office of Advocacy of the U.S. Small Business Administration.

As the New England Regional Advocate, Steve represents the Office of Advocacy before state and local governments, small business groups, small business owners and their employees. He works to help identify the regulatory concerns of small business and monitor the impact of state and federal policies on small businesses at the local level. Volumes of research produced by the Office of Advocacy and others has demonstrated that an entrepreneurial environment supportive of small business is crucial to ensuring a state's economic growth and prosperity. Accordingly, Steve's mission is to see that programs and policies that encourage fair regulatory treatment of small business are developed and implemented in New England. That is why I am testifying on his behalf in support of LD 905, which will create a friendlier regulatory environment for small businesses in Maine.

The concerns of small business are not new to the Maine legislature. Most recently, the Regulatory Fairness Board was created to provide advice on how current regulations affect small businesses.[1] The legislature also created the Office of Small Business and Entrepreneurship to ensure that state government continues to recognize the importance of small businesses to the Maine's economic development.[2]

The Maine legislature's concern for small business goes back much further. Since 1989, the Maine Administrative Procedure Act has directed state agencies to consider ways of minimizing the impact of new regulations on small businesses.[3] However, current law provides no direction to agencies on how to prepare the analysis adequately. As a result, few agencies ever do it.

LD 905 seeks to correct this problem by clarifying what is expected of agencies when they are developing new regulations. It also helps to ensure that agencies get the information they need from affected small businesses to develop rules that address their regulatory need with the least harm done to Maine small businesses.

Specifically, the bill would direct regulating agencies to:

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[1] *See*, 5 MRSA § 57.
[2] *See*, 5 MRSA § 13100.
[3] *See*, 5 MRSA §8052, sub-§5-A.

- Consider the economic impact of their proposed regulation on Maine small businesses.  The legislation describes a very simple and straightforward analysis of the number of small businesses that may be affected and the cost of compliance to those businesses;
- Describe less costly or less intrusive approaches for small business considered by the agency; and
- Make this information available for public review prior to the public hearing on the regulation. This last provision will facilitate a cooperative working relationship between agencies and small businesses early in the rulemaking process. As a result, affected businesses will be able to provide agencies with information on how they will be affected by the proposed regulation and alternatives to consider.  This will benefit agencies as well because they avoid having to go back later and rewrite a rule to consider the uniqueness of small entities.

Finally, the bill would void any regulations adopted without providing the small business economic impact assessment.

Often, because of their size, the aggregate importance of small businesses in the economy is overlooked.  These amendments will ensure that state agencies look at how their proposed regulations will affect Maine small businesses, and gain timely information about alternative approaches to meet the regulatory goal without unnecessarily burdening small firms.

By adopting this measure, Maine will join a growing number of states that are working to improve the regulatory environment for their small businesses and entrepreneurs.

Around the U.S., 37 state legislatures have considered regulatory flexibility legislation since 2002, and 19 states have implemented regulatory flexibility either via Executive Order or legislation. Thus far in 2007, regulatory flexibility bill SB 55 was signed into law by Arkansas Governor Beebe. Bills are pending in 11 other states including: *Alabama* (HB 84), *Connecticut* (SB 1179), *Hawaii* (SB 188), *Illinois* (HB 302), *Massachusetts* (HB 189), *Mississippi* (HB 1229), *Montana* (SB 148), *Tennessee* (SB 55/HB 1276), *Texas* (SB 700), *Washington* (HB1525), and *New Jersey* (A 2327/SB 1335). In 2004, Rhode Island adopted the region's strongest regulatory flexibility law.

One of the many reasons that regulatory flexibility legislation is gaining popularity is because policy makers across the country are realizing that it is an important economic development tool. Many times there are alternative ways of implementing a regulation that may be less burdensome to small business without sacrificing important goals such as health, safety, and welfare issues of major importance to state governments.

On behalf of the Office of Advocacy I commend you for bringing LD 905 forward to provide a more fair and effective regulatory environment for small business in Maine.