

MAINE STATE LEGISLATURE

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New Draft of H. P. 1180, L. D. 1536
FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1662

H. P. 1476

House of Representatives, June 4, 1979

Reported by Mr. Sprowl from the Committee on Business Legislation. Printed
under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT Restructuring the Oil Burner Men's Licensing Board and Providing for
the Testing of Energy-related Equipment.**

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

Sec. 1. 10 MRSA Pt. 12 is enacted to read:

PART 12

ENERGY

CHAPTER 1001

ENERGY TESTING LABORATORY OF MAINE

§ 9101. Establishment

There is established the Energy Testing Laboratory of Maine, hereinafter referred to as the "testing laboratory," within the Department of Educational and Cultural Services.

§ 9102. Authority

1. Testing laboratory; authority. The testing laboratory shall be under the direction of a board of directors which shall have the authority to set policies concerning testing, product approval, labeling, reporting, consultant services,

hiring subject to the Personnel Law and other matters relating to the operation of the testing laboratory.

2. Board. The board of directors shall consist of the following members:

A. State Fire Marshal or his designee;

B. One member of the Oil Burner Technicians Licensing Board, elected by the membership of the board;

C. One member of the Board of Boiler Rules, elected by the membership of the board;

D. One representative of manufacturers of energy related equipment appointed by the Governor;

E. One representative of companies involved in the installation, but not in the manufacture of energy related equipment appointed by the Governor;

F. One representative of the public appointed by the Governor;

G. One member from an insurance company's safety inspection department appointed by the Governor;

H. The Commissioner of Business Regulation or his designee;

I. One member of the College of Engineering and Science of the University of Maine at Orono, selected by the dean of the college; and

J. The Director of the Office of Energy Resources or his designee.

3. Term of office. Members of the board who are appointed or elected shall be appointed or elected for terms of 2 years and shall serve until their successors are selected and qualified.

4. Compensation; expenses. Members of the board shall receive no compensation but shall be reimbursed for necessary expenses incurred in the discharge of their duties at the same rates as would apply to employees of the State, subject to appropriations made.

5. Review by State Board of Education. Any decision of the board of directors will be subject to review by the State Board of Education.

6. Study to be conducted. The board of directors shall conduct a study with regard to the scope and operations of the testing laboratory to assist in the enactment of additional legislation governing its operation. This study shall be submitted to the Governor and the 110th Legislature.

§ 9106. Fees

The manufacturer or his representative shall be required to pay all fees and charges, set by the board of directors, for services rendered by the testing laboratory. All fees and charges shall be paid to the testing laboratory upon request.

All fees received by the testing laboratory shall be paid to the Treasurer of State who shall place them in a separate account and they shall be used for carrying out the purposes of this chapter or as otherwise directed by the board of directors.

§ 9107. Records

The testing laboratory shall keep records of all tests conducted and all moneys received and disbursed by it.

Sec. 2. 32 MRSA c. 33, 2nd line is amended to read:

~~OIL BURNER MEN~~

OIL AND SOLID FUEL BURNER TECHNICIANS LICENSING BOARD

Sec. 3. 32 MRSA c. 33, sub-c. I, as amended, is repealed.

Sec. 4. 32 MRSA c. 33, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

GENERAL PROVISIONS

§ 2311. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Accessory equipment. "Accessory equipment" shall mean equipment, materials and controls which are not integral parts of the oil or solid fuel burning unit but which are connected thereto and have the potential to affect the safety of the oil or solid fuel burning equipment.

2. Apprentice oil burner technician. "Apprentice oil burner technician" shall mean a person who is licensed under this chapter to assist in making oil burner installations, repairs and servicing of oil burning equipment under the direct supervision of a master or journeyman oil burner technician. An apprentice oil burner technician may clean oil burners and oil burning equipment without direct supervision.

3. Apprentice solid fuel burner technician. "Apprentice solid fuel burner technician" shall mean a person who is licensed under this chapter to assist in making solid fuel burner installations, repairs and service of solid fuel burning equipment under the direct supervision of a master solid fuel burner technician.

4. Approved. "Approved" shall mean acceptable to the Oil and Solid Fuel Burner Technician's Licensing Board as to design, construction, installation and safety for its intended use. Equipment in conformance with the Board of Boiler Rules shall be considered as meeting the definition of this subsection. Devices listed for a specific purpose by Underwriters Laboratories, Inc., or other nationally recognized testing agencies, shall be considered as meeting the definition of this subsection. Upon receipt of evidence indicating that equipment so tested may not meet the definition of this subsection, the board may review the

determinations made by such agencies. All other equipment shall be submitted to the board for review. The board shall not label or require any person or group to label equipment in the name of the board.

5. Equipment for burning oil and solid fuel. "Equipment for burning oil and solid fuel" shall mean the device or arrangement designed to deliver and prepare the oil, coal or wood fuel for burning in a combustion chamber. Wood burning fireplace stoves, room heaters and stoves designed exclusively for heating and cooking and not attached to a central heating system are excluded from this chapter.

Any heating or cooling equipment operated by means of solar energy is excluded from this chapter.

6. Equipment installations. "Equipment installations" shall mean the installation, alteration or repair of oil and solid fuel burning equipment, as defined in this chapter, including accessory equipment as relating only to the safety of the installation. Associated electrical equipment shall be wired in compliance with the rules of the Electricians' Examining Board.

7. Journeyman oil burner technician. "Journeyman oil burner technician" shall mean a person who is licensed under this chapter to clean, service, alter or repair oil burning equipment. A journeyman oil burner technician shall install oil burning equipment only under the supervision of a master oil burner technician licensed under this chapter. Applicants for a license of this classification shall present evidence satisfactory to the board of at least one year's practical experience and related knowledge, or a certificate of completion of at least 1,000 hours of instruction in related courses approved by the Department of Educational and Cultural Services, completed at a Maine vocational technical institute, a Maine vocational region or a Maine regional vocational-technical center.

8. Master oil burner technician. "Master oil burner technician" shall mean a person who is licensed under this chapter to engage in the business of installing or servicing oil burning equipment. Applicants for a license of this classification shall present to the board satisfactory evidence that they have 4 years of practical experience and related knowledge, or such other requirement as the Oil and Solid Fuel Burner Technician's Licensing Board may establish.

9. Master solid fuel burner technician. "Master solid fuel burner technician" shall mean a person who is licensed under this chapter to engage in the business of installing and servicing solid fuel burning equipment. An applicant for a license of this classification shall be a person who shall present to the board satisfactory evidence of at least 2 years of practical experience and related knowledge; or a person having a master oil burner technician's license issued under this chapter who shall present to the board satisfactory evidence of knowledge of solid fuel burning equipment; or a person having a bachelor degree in engineering from an accredited university who shall present to the board satisfactory evidence of knowledge of solid fuel burning equipment.

10. Solid Fuel. "Solid fuel" shall mean coal and wood only in any solid physical form.

§ 2312. Approval process

No oil or solid fuel burning central heating equipment shall be sold or offered for sale in this State unless the equipment is approved by the Oil and Solid Fuel Burner Technician's Licensing Board. Equipment not conforming to section 2311, subsection 4, may be required by the board to be tested by either a nationally recognized testing agency, the Energy Testing Laboratory of Maine or by a qualified industrial company acceptable to the applicant and the board. All approved equipment shall be listed by the board.

§ 2313. Installations to conform to standards

No installation of oil or solid fuel burning equipment as defined in this chapter shall be made in the State unless the installation complies with the then current edition of the National Fire Protection Association Standard No. 31 and with all other standards and regulations adopted by the board. Whenever oil or solid fuel burning equipment, accessory equipment or installation thereof are separately contracted, the master burner technician in charge of installation shall be responsible for ascertaining total conformance to the standards. Whenever any state oil and solid fuel compliance officer shall find a person installing or assisting in an oil or solid fuel burner installation, the person shall, on request of the compliance officer, provide evidence of being properly licensed, when required by this chapter and if unable to provide the evidence, shall furnish the compliance officer with his full name and address and, if applicable, the full name and address of the master in charge.

§ 2314. Municipal licenses not required; municipal permits

No municipality, provisions in charters to the contrary, shall require oil or solid fuel burner technician to be municipally licensed, but no municipality shall issue a permit for an oil or solid fuel burner installation unless satisfied that the person applying for the permit complies with the requirements of this chapter.

§ 2315. State oil and solid fuel compliance officers

State oil and solid fuel compliance officers, upon written complaint of any owner, lessee or tenant of a building, state fire inspector, fire chief, fire department inspector, personnel of an electric utility or local electrical inspector, or whenever they shall deem it necessary, for purposes of examination of the burner installation, may at all reasonable hours enter into and upon all buildings or premises within their jurisdiction and inspect the buildings or premises. The inspectors may enter any building only with the permission of the person having control thereof or, after hearing, upon order of the court. Whenever any such compliance officer shall find any burner installation in any building or structure which does not comply with the requirements of this chapter, he shall order the burner to be removed or remedied, and the order shall forthwith be complied with by the owner or occupant of that building or structure. The owner or occupant

may, within 7 days, appeal to the Oil and Solid Fuel Burner Technician Licensing Board, which shall, within 10 days, review the order and file its decision thereon, which decision shall be complied with within such time as may be fixed in the decision of the board. In the event any person, firm or corporation fails or refuses to carry out any such order of any oil or solid fuel burner compliance officer or decision of the board, a court may order appropriate injunctive relief.

§ 2316. Failure to comply with order of compliance officer

If the owner or occupant of any building neglects or refuses, without justification, for more than 10 days to comply with any order of an oil or solid fuel burner compliance officer concerning oil or solid fuel burner installations as provided by this chapter, he commits a civil violation for which a forfeiture of not less than \$5 for each day's neglect may be adjudged.

§ 2317. Violations, forfeiture

Any person, firm or corporation who makes an oil or solid fuel burner installation without having first obtained a license, as provided by this chapter; any person, firm or corporation who employs an unlicensed person, unless the work is exempted by this chapter; any person who procures any license wrongfully or by fraud; or any person, firm or corporation who violates the provisions of this chapter, rules or regulations promulgated thereunder, or standards adopted by the board, commits a civil violation for which a forfeiture of not more than \$500 may be adjudged.

Sec. 5. 32 MRSA § 2351, first ¶, as last amended by PL 1975, c. 771, § 352, is further amended to read:

An Oil and Solid Fuel Burner Men's Technician's Licensing Board, as heretofore established and in this chapter called the "board," shall consist of an executive secretary, who shall be **ex officio**, the Commissioner of Business Regulation or a representative appointed by the commissioner, with the approval of a majority of the board, **the Commissioner of Public Safety or a representative** and 5 other members, hereinafter called the "appointive members," who shall be appointed by the Governor.

Sec. 6. 32 MRSA § 2351, 2nd ¶, as amended by PL 1975, c. 575, § 30, is repealed and the following enacted in its place:

Three of the appointive members shall be oil burner technicians who are active in the trade. One of the members shall have at least 5 years' experience and the other 2 members shall have at least 10 years' experience as such. Two of the oil burner technician members shall be appointed from a slate, at the time of each such appointment, of 3 persons nominated by the Maine Oil Dealers Association. One of the appointive members shall be a representative of the solid fuel burning industry and one shall be a representative of the public.

Sec. 7. 32 MRSA § 2351, 3rd ¶, first sentence, as repealed and replaced by PL 1973, c. 384, is amended to read:

The appointive members shall be appointed for terms of ~~2~~ 4 years.

Sec. 8. 32 MRSA § 2352, 2nd ¶, as repealed and replaced by PL 1973, c. 384, is amended to read:

Oil and solid fuel burner ~~inspectors~~ **compliance officers** appointed under this section shall have the same powers throughout the several counties of the State, as sheriffs have in their respective counties, relating to enforcement of the provisions of this chapter, standards adopted thereunder and rules or regulations promulgated thereunder.

Sec. 9. 32 MRSA § 2353, next to last sentence, as enacted by PL 1977, c. 356, § 5, is repealed and the following enacted in its place:

The board may establish fees and charges necessary for covering the costs incurred for approving equipment.

Sec. 10. 32 MRSA § 2355, 2nd ¶, last sentence, as amended by PL 1973, c. 303, § 3, is further amended to read:

The Administrative Court Judge shall have the power to suspend or revoke the license of any licensed oil or solid fuel burner ~~man~~ **technician** who is found guilty of:

Sec. 11. 32 MRSA § 2355, sub-§ 2, first sentence, as repealed and replaced by PL 1973, c. 384, is amended to read:

Any gross negligence, incompetency or misconduct in the performance of the work of making ~~oil~~ burner installations.

Sec. 12. 32 MRSA § 2401, as last repealed and replaced by PL 1973, c. 384, is amended to read:

§ 2401. License required

No installation or servicing of oil and solid fuel burner equipment shall ~~hereafter~~ be made, except as provided in this chapter, unless made by a person licensed by the board.

Sec. 13. 32 MRSA § 2401-A is enacted to read:

§ 2401-A. Exceptions

The licensing provisions of this chapter shall not apply to the following:

1. Electricians. Any electrician duly licensed under chapter 17 insofar as the installation of electrical equipment or the performance of any electrical work involved in the installation of oil or solid fuel burners is concerned;

2. Plumbers. Any plumber duly licensed under chapter 49 insofar as the work covered by that chapter is involved;

3. Mechanics. The installation of piping, sheet metal and other specialized equipment and services associated with the oil and solid fuel burning equipment

may be made by qualified mechanics of those trades who do not hold an oil or solid fuel burner technicians license. The installations shall conform to the standards, rules and regulations of the board and shall be made under the supervision of a master oil or solid fuel burner technician having responsibility for the installations;

4. **Engineers and operators.** A person holding an engineer's license issued under Title 26, section 178, or working under the general supervision of one so licensed while performing such oil or solid fuel burner repair and maintenance as is necessary in the steam or heating plant where he is employed, provided such work is performed in compliance with section 2313 or a person employed by companies under the jurisdiction of the Public Utilities Commission or the United States Nuclear Regulatory Commission whose facilities are subject to inspection under Title 26, chapter 5, subchapter II, Article 4;

5. **Plants.** A person operating oil or solid fuel burning equipment of greater than 10,000,000 BTU's per hour input;

6. **Personal abode.** Nothing in this chapter shall prevent a person from making an oil or solid fuel burner installation in a single family residence occupied or to be occupied by him as his bona fide personal abode, providing that installation conforms with the National Fire Protection Association Standard No. 31.

Sec. 14. 32 MRSA § 2402, sub-§ 1, first sentence, as amended by PL 1977, c. 694, § 593, is further amended to read:

The board may make such reasonable rules and regulations as it deems suitable, pursuant to the applicable provisions of the Maine Administrative Procedure Act, Title 5, section 8051 et. seq., for the issuance of various types and classes of license to cover the various types of oil **and solid fuel** burner installations as set forth in section ~~2304~~ 2311.

Sec. 15. 32 MRSA § 2402, sub-§ 2, ¶¶ A, B and C, as repealed and replaced by PL 1975, c. 767, § 41, are amended to read:

- A. Master, original license, ~~\$25~~ **\$32.50**; biennial renewal fee, ~~\$50~~ **\$65**;
- B. Journeyman, original license, ~~\$10~~ **\$12.50**; biennial renewal fee, ~~\$20~~ **\$25**; and
- C. Apprentice, original license, ~~\$5~~ **\$7.50**; biennial renewal fee, ~~\$10~~ **\$15**.

Sec. 16. 32 MRSA § 2402, sub-§ 4, as last repealed and replaced by PL 1973, c. 384, is amended to read:

4. **Certificate.** All persons licensed by the board shall receive a certificate thereof under the seal of the board, which shall state the facts and which must be publicly displayed at the principal place of business of said oil **or solid fuel** burner ~~man~~ technician or, if no such place of business, must be carried on the person and displayed at any time upon request, as long as said person continues in the business as defined.

Sec. 17. 32 MRSA § 2403, as amended by PL 1977, c. 356, § 6, is further amended to read:

§ 2403. Examinations

Applicants for a master or journeyman's oil burner **technician or master solid fuel burner technician** license shall present to the executive secretary of the board a written application for examination, containing such information as the board may require, accompanied by a fee of ~~\$5~~ **\$10**. Examinations shall be in whole or in part in writing, shall be conducted by the board and shall be of a thorough and practical character commensurate with the responsibilities of the type license applied for.

Examinations may include questions on the standards of the Oil and Solid Fuel Burner ~~Men's Technician's~~ Licensing Board, **applicable National Fire Protection Association Standards** and provisions of the National Electrical Code as may be applicable to ~~oil burner~~ the installations and ~~oil burner~~ the equipment. Any person failing to pass his first examination **in any one category** may be reexamined ~~at any subsequent meeting of the board at a time agreeable to the board~~ upon payment of the examination fee.

Sec. 18. 32 MRSA § 2404, **first sentence**, as repealed and replaced by PL 1975, c. 767, § 42, is amended to read:

All licenses shall expire biennially on ~~September 30th~~ **December 31st** as to a master ~~oil burner man technician~~ and biennially on ~~March 31st~~ **June 30th** as to other licenses.

Sec. 19. 32 MRSA § 2405 is enacted to read:

§ 2405. Grandfather clause

Six months from the effective date of this section all persons performing installations, services or repairs of solid fuel burning equipment, or assisting therein, shall be licensed, unless exempted, under this chapter. Solid fuel master licenses may be issued without examination to persons furnishing to the board evidence of at least one year's practical experience in the installation, service and repair of solid fuel burning equipment. Persons who have not completed the required one year of practical experience within 6 months of the effective date of this section shall obtain a solid fuel apprentice license and shall be required to be examined before being licensed as a solid fuel master.

STATEMENT OF FACT

The purposes of this amendment are to:

1. Keep the energy testing laboratory in the Department of Educational and Cultural Services;
2. Revise the membership of the laboratory's board of directors and its authority;

3. Require a study of the operation of the laboratory for submission to the 110th Legislature;
4. Revise various definitions in the Oil and Solid Fuel Burner Technician's Licensing Board chapter;
5. Revise the membership of the licensing board;
6. Expand the information oil burner installers must give to compliance officers;
7. Require that the board's representative from the solid fuel industry come from the "burning" part of the industry rather than from the "supplier" side (wood cutter, wood seller);
8. Allow the board to set fees for approving equipment;
9. Remove an unnecessary description in the bill which is already covered by that section;
10. Correct numerous grammatical problems and technical areas (e. g., uses "technical" in place of "man"); and
11. Increase the board's licensing fees.