

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 1932

S.P. 733

In Senate, December 13, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Secretary of the Senate on December 13, 1989. Referred to the Committee on Appropriations and Financial Affairs and 1,600 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CLARK of Cumberland.

Cosponsored by Representative KETOVER of Portland, Representative PENDLETON of Scarborough and Senator GAUVREAU of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Promote and Assist Barrier-free Construction in Places of Public Accommodation and Places of Employment.



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

4 Sec. 1. 5 MRSA §4594-D is enacted to read:

6 §4594-D. Public accommodations and places of employment
7 constructed, remodeled or enlarged after January 1,
8 1991

10 1. Definitions. As used in this section, unless the
11 context otherwise indicates, the following terms have the
12 following meanings.

14 A. "Builder" means the applicant for a building permit in a
15 municipality that requires such permits or the owner of the
16 property in a municipality that does not require building
17 permits.

18 B. "Design professional" means an architect or professional
19 engineer registered to practice under Title 32.

20 C. "Standards of construction" means the 1986 standards set
21 forth by the American National Standards Institute in the
22 publication "Specifications for Making Buildings and
23 Facilities Accessible to and Usable by Physically
24 Handicapped People," ANSI A 117.1-1986.

26 2. Facilities attested. This section applies to any
27 building or facility constructed or enlarged specifically as a
28 place of public accommodation or place of employment on or after
29 January 1, 1991, or when the estimated total costs for remodeling
30 or renovating an existing building exceed \$100,000, and the
31 remodeling or renovating is begun after January 1, 1991.

34 3. Application. Facilities subject to this section must
35 meet the following standards.

36 A. Places of employment or public accommodation and
37 additions to these places constructed on or after January 1,
38 1991, must meet the standards of construction.

39 B. Except for repairs undertaken in accordance with the
40 rules adopted pursuant to subsection 4, when the proposed
41 remodeling or renovation substantially affects that portion
42 of the building normally accessible to the public, places of
43 employment or public accommodation remodeled or renovated on
44 or after January 1, 1991, must meet the following 5 parts of
45 the standards of construction:

46 (1) 4.3 accessible routes;

47 (2) 4.13 doors;

2 (3) 4.29.3 tactile warnings on doors to hazardous
3 areas;

4 (4) Handicapped parking spaces in adequate number,
5 pursuant to section 4593, subsection 1, paragraph E; and

6 (5) 4.17 toilet stalls, at least one of which must be
7 a standard toilet stall configuration pursuant to ANSI
8 Figure 30(a). Any additional toilet stalls within the
9 same toilet room may be either standard stall
10 configuration, ANSI Figure 30(a), or alternate stall
11 configuration, ANSI Figure 30(b).

12
13 4. Rules. The commission may adopt, alter, amend and
14 repeal rules designed to make buildings under this section
15 accessible to, functional for and safe for use by physically
16 handicapped persons in accordance with subsection 3, and may
17 adopt, alter, amend and repeal rules designed otherwise to
18 enforce this section.

19
20 5. Training, education and assistance. The commission and
21 the Office of the State Fire Marshal shall, as necessary, develop
22 information packets, lectures, seminars and educational forums on
23 barrier-free design for the purpose of increasing the awareness
24 and knowledge of owners, architects, design professionals, code
25 enforcers, building contractors and other interested parties.

26
27 6. Mandatory plan review; certification; inspection.
28 Builders of the following newly constructed facilities must
29 submit plans to the Office of the State Fire Marshal, which shall
30 serve as the contractor for the commission for these purposes, to
31 assure that the plans meet the standards of construction required
32 by subsection 3:

33 A. Restaurants;

34 B. Motels, hotels and inns;

35 C. State, municipal and county buildings; and

36 D. Schools, elementary and secondary.

37
38 Fees for reviews shall be established by the Office of the State
39 Fire Marshal.

40
41 No building permit may be issued by the municipal authority
42 having jurisdiction to issue these permits unless the Office of
43 the State Fire Marshal approves the plans and certifies that the
44 facility covered by the mandatory plan review meets the standards
45 of construction required by this section; if, however, no
46 decision is rendered within 2 weeks of submission to the Office
47 of the State Fire Marshal, the builder may submit the building

2 permit request directly to the municipality with an attestation
3 that the plans meet the standards of construction.

4 If officials of the municipality in which the facility is
5 constructed, renovated, remodeled or enlarged inspect buildings
6 for compliance with construction standards, that inspection must
7 include an inspection for compliance with the certified plans.
8 The municipal officials shall require that the facility be
9 inspected for compliance with construction standards before the
10 municipal officials permit the facility to be occupied.

11 7. Voluntary plan review. Builders of facilities not
12 governed by subsection 6 may submit plans to the Office of the
13 State Fire Marshal to ensure that the plans meet the standards of
14 construction required by subsection 3. Fees for this review may
15 be assessed by the Office of the State Fire Marshal.

16
17 8. Waivers; variance. If the commission determines in
18 particular cases that compliance with this section and its rules
19 is not technologically feasible or would result in excessive and
20 unreasonable costs without any substantial benefit to physically
21 handicapped persons, it may provide for modification of, or
22 substitution for, these standards. In all petitions for variance
23 or waiver, the burden of proof is on the party requesting a
24 variance or waiver to justify its allowance.
25

26
27 Requests for waivers or variances for buildings covered by
28 mandatory plan review are heard by a representative of the
29 commission and a designee of the Office of the State Fire
30 Marshal. Requests for waivers or variances for other buildings
31 are heard by a representative of the commission. A decision must
32 be provided in writing to the party requesting the waiver or
33 variance.
34

35 9. Appeals. Commission decisions on requests for waivers
36 or variances are subject to review in Superior Court upon
37 petition of the aggrieved party within 30 days after the issuance
38 of the decision for which review is sought. The court may enter
39 an order enforcing, modifying or setting aside the decision of
40 the commission, or it may remand the proceeding to the commission
41 for such further action as the court may direct.
42

43 10. Report. The commission shall report to the joint
44 standing committee of the Legislature having jurisdiction over
45 human resource matters by January 1991, regarding the
46 effectiveness of efforts to provide technical assistance and
47 compliance with the standards set forth in this section requiring
48 accessibility by persons subject to this section.
49
50

