

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date October 7, 1976

To Frank M. Hogerty, Jr., Superintendent Dept. Bureau of Insurance

From S. Kirk Studstrup, Assistant Dept. Attorney General

Subject Oil Burner Men's Licenses

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Your memorandum of September 22, 1976, requested our assistance with regard to a question raised by Mr. George Hazel of the Oil Burner Men's Licensing Board. Mr. Hazel's question concerns 32 M.R.S.A. § 2404, which reads, in pertinent part:

"Any person who fails to renew his license within a period of 90 days following the expiration date shall be required to take an examination."

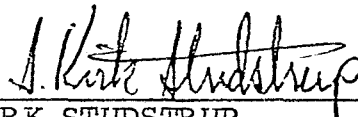
Mr. Hazel asks whether this provision "Would . . . in fact mean a Journeyman whose license was issued to expire June 30, 1976, and has not renewed by September 28, 1976 (90 days) [would] have to be reexamined?" The answer is negative.

The language of § 2404 is clear and specific on the matter of the time period for renewal of licenses without reexamination. However, Mr. Hazel's use of specific dates in his question and the fact that § 2404 was amended during this period, imply that the underlying problem is application of the section as amended to interim factual situations. Prior to amendment, § 2404 required renewal within 2 years from the issue date of the last license in order to avoid reexamination. Since the licenses were effective for 1 year, the net effect was a 1 year period after expiration within which to apply for renewal. The amendment increased the effective period for the license to 2 years, but cut the period for renewal without reexamination to 90 days following the expiration date. P.L. 1975, c. 767, § 42.

The public law chapter containing the chapter was approved April 16, 1976, but the amendment did not become effective until July 29, i.e. after the expiration date stated by Mr. Hazel. The form of the amendment was to repeal and replace § 2404. Therefore, the previous section, including its period for renewal without reexamination, was repealed on the effective date of the act. Any oil burner man whose license expires after July 29, 1976, would have 90 days from the expiration date within which to apply for a renewal without reexamination. One whose license expired before July 29, 1976, but who is still within the prior 1 year period for renewal without examination, would also be subject to the new 90 day limit. However, since the new requirement represents a substantial change and acts to decrease the previous "grace period," it is our opinion that in the latter case the 90 day period would begin on July 29, 1976. In other words, anyone whose license expired prior to July 29 and who would still have been eligible for summary renewal on that date under the prior law, would have until October 27, 1976, to renew his license without examination.

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In light of the foregoing, the answer to Mr. Hazel's question is that a Journeyman whose license expired June 30, 1976, would not have to obtain renewal by September 28 in order to avoid reexamination. However, he would have to obtain a new license by October 27 to avoid such examination.



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S. KIRK STUDSTRUP  
Assistant Attorney General

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