

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 915

H. P. 652

House of Representatives, February 15, 1973

Referred to Committee on Legal Affairs. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Stillings of Berwick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Revising the Laws Relating to Oil Burner Men's Licensing.

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

R. S., T. 32, c. 33, repealed and replaced. Chapter 33 of Title 32 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

CHAPTER 33

OIL BURNER MEN

SUBCHAPTER I

GENERAL PROVISIONS

§ 2301. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and phrases shall have the following meanings:

1. **Apprentice oil burner man.** "Apprentice oil burner man" 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 man. An apprentice oil burner man may clean oil burners and oil burning equipment without direct supervision.

2. **Journeyman oil burner man.** "Journeyman oil burner man" shall mean a person who is qualified under this chapter to clean, service and repair oil burning equipment. He shall install oil burner equipment only under the

supervision of a master oil burner man, who shall be responsible for ensuring that such installation is in accordance with the National Fire Protection Association Standard No. 31 and other applicable standards and regulations adopted by the board governing such installations and such master oil burner man shall provide the board with a written certification setting forth the location of the installation and that such installation does satisfy all requirements of the board. Applicants for a license of this classification shall present evidence of at least one year's practical experience to the board.

3. Master oil burner man. "Master oil burner man" shall mean a person qualified under this chapter engaging in or about to engage in the business of installing or servicing oil burning equipment and who presents to the board satisfactory evidence that he has 4 years of practical experience.

4. Oil burner installations. "Oil burner installations" shall mean the installation, alteration or repair of oil burning equipment, including industrial, commercial and domestic type central heating plants, and domestic type range burners and space heaters and further including all accessory equipment, control systems, whether electric, thermostatic or mechanical, electrical wiring in connection therewith to a suitable distribution panel or disconnect switch, but excluding all other electrical equipment or work in the building or structure where the above equipment is installed, and shall include hot and cold water connections to existing piping in the same room but not beyond any existing branch connections supplying water.

§ 2302. 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 burners is concerned;

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

3. Plants. The maintenance and operation of oil burner installations in or about industrial, manufacturing or electrical generating plants or any buildings owned or any buildings owned or maintained by them or by facilities operated by a public utility;

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

§ 2303. Installations to conform to standards

No oil burning equipment of whatever type shall hereafter be installed in this State unless it conforms to the standards adopted by the board. No installation of such equipment shall hereafter be made unless such 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 any such inspector shall find a person installing or assisting in an oil burner installation, such person shall, on request of such inspector, provide evidence of being properly licensed, when required by this chapter, and if unable to provide such evidence, shall furnish such inspector with his full name and address.

§ 2304. Municipal licenses not required; municipal permits

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

§ 2304-A. State oil burner inspectors

State oil burner inspectors, 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, at all reasonable hours, for purposes of examination of the oil burner installation, may enter into and upon all buildings or premises within their jurisdiction and inspect the same. Such 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 inspector shall find any oil burner installation in any building or structure which does not comply with the requirements of this chapter, he shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such building or structure.

Such owner or occupant may, within 24 hours, appeal to the Oil Burner Men's Licensing Board, which shall, within 10 days, review such order and file its decision thereon, which decision shall be complied with within such time as may be fixed in said decision of said board. In the event any person, firm or corporation fails or refuses to carry out any such order of an oil burner inspector or decision of said board, a court may order appropriate injunctive relief.

§ 2304-B. Failure to comply with order of inspector

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 burner inspector concerning oil burner installations as provided by this chapter, he shall be punished by a fine of not less than \$5 for each day's neglect.

§ 2305. Violations; penalty

Any person, firm or corporation who makes an oil 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 adopt-

ed by the board, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500.

SUBCHAPTER II LICENSING BOARD

§ 2351. Appointment; vacancies; removal; compensation

An Oil Burner Men's Licensing Board, as heretofore established and in this chapter called the "board", shall consist of an executive secretary, who shall be the Commissioner of Public Safety or a representative appointed by said commissioner, with the approval of a majority of the board, and 4 other members, hereinafter called the "appointive members," who shall be appointed by the Governor with the advice and consent of the Council.

Two of said appointive members shall be appointed from a slate, at the time of each such appointment, of 3 persons nominated by the Maine Oil Heating Equipment Dealers Association. All of said appointive members shall be oil burner men who are active in the trade. Two shall have had at least 5 years' and the other 2 at least 10 years' experience as such.

The appointive members shall be appointed for terms of 2 years. As the term of each appointive member expires, he may be reappointed or a new member appointed.

Any vacancy in said board caused by death, resignation or removal of any member shall be filled by the appointment of a person qualified as was the board member being replaced, to hold office during the unexpired term of the member whose place is thus filled.

Any appointive member of said board may be removed from office by the Governor, with the advice and consent of the Council.

The members of the board, other than state employees, shall each be allowed the sum of \$30 per day and their necessary traveling expenses for actual attendance at meetings of the board held for the purposes of examining candidates, hearings on complaints or conducting business required of the board.

Annually, in the month of January, the 4 appointive members of the board shall choose one of their members as chairman.

The executive secretary shall be a voting member of the board.

§ 2352. Employees

The Commissioner of Public Safety, with the advice and consent of the board, shall be empowered to appoint, subject to the Personnel Law, such employees as may be necessary to carry out this chapter. Any persons so employed shall be located in the Department of Public Safety and under the administrative and supervisory direction of the Commissioner of Public Safety.

Oil burner inspectors 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.

§ 2353. Meetings; rules and regulations

The board shall hold regular meetings semiannually and such other meetings as they determine are necessary. Said board shall keep proper records of its proceedings and shall be authorized to adopt standards and rules and regulations as it shall deem necessary for the holding of examinations and for carrying out this chapter, and to provide for reciprocity of licensing with similar boards of other states which maintain standards at least equal to this State.

§ 2354. Disposal of fees

All fees received by the board shall be paid by the executive secretary to the Treasurer of State to be used for carrying out this chapter. Any balance of said fees shall not lapse, but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

§ 2355. Investigation of complaints; suspension or revocation of licenses

The board shall investigate all complaints made to it and all cases of non-compliance with or violation of this chapter.

The board shall have the authority, after hearing, to suspend a license until the complaint can be heard by the Administrative Hearing Commissioner. The Administrative Hearing Commissioner shall have the power to suspend or revoke the license of any licensed oil burner man who is found guilty of:

1. Fraud or deceit. The practice of fraud or deceit in obtaining a license;
2. Negligence or misconduct. Any gross negligence, incompetency or misconduct in the performance of the work of making oil burner installations. Continued failure to conform to standards or rules and regulations adopted by the board shall be prima facie evidence of such gross negligence or incompetency. Any license suspended by the board or suspended or revoked by the Administrative Hearing Commissioner shall be immediately surrendered to the board and held during any period of suspension, or if revoked, until reinstated as provided in this chapter.

There shall be no appeal from the failure of the board to issue a license as a result of an applicant failing to pass an examination where the results of said examination have been unanimously certified by the board to be correct.

The board, for reasons it may deem sufficient, may reissue a license to any person whose license has been revoked, provided a majority of the board vote in favor of such reissuance.

§ 2356. Records

The board shall keep a record of the name and residence of all persons licensed under this chapter, and a record of all moneys received and dis-

bursed by it. Said records or duplicates thereof shall be open for inspection during office hours.

SUBCHAPTER III LICENSES

§ 2401. License required

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

§ 2402. Rules; fees; application; certificates

1. Rules and regulations. The board may make such reasonable rules and regulations as it deems suitable for the issuance of various types and classes of license to cover the various types of oil burner installations as set forth in section 2301. A license may cover one or more or all types of installations. The board may make such reasonable rules and regulations as it deems suitable concerning the term and type of experience required by candidates for examination.

2. Fees.

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|----------------|-------|
| A. Master, | \$25; |
| B. Journeyman, | \$10; |
| C. Apprentice, | \$ 5. |

3. Application. The board shall issue a license, upon payment of the proper fee, to any person who applies therefor, presenting evidence that he has the required experience for that type of license and who has satisfactorily met the examination requirements of the board.

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 burner man 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.

§ 2403. Examinations

Applicants for a master or journeyman's oil burner license shall present to the chairman of the board a written application for examination, containing such information as the board may require, accompanied by a fee of \$5. 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 Burner Men's Licensing Board, provisions of the National Electrical Code as may be applicable to oil burner installations and oil burner equipment. Any person failing to pass his first examination may be reexamined at any subsequent meeting of the board upon payment of the examination fee.

§ 2404. Renewals

All licenses shall expire on December 31st of each year as to a master oil burner man and on June 30th as to other licenses. They may be renewed on an annual basis without further examination upon the payment of the proper fee. Any person who fails to renew his license within a period of 2 years from the date of issuance of his last license shall be required to take an examination.

STATEMENT OF FACT

The purpose of this bill is to clarify responsibilities and authority of oil burner men, the Oil Burner Men's Licensing Board and the Commissioner of Public Safety, as well as remove ambiguities from the law.