

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)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1412

H. P. 1329

House of Representatives, April 2, 1975

On Motion of Mr. Cooney of Sabattus, referred to the Committee on State Government. Sent up for concurrence and 1,500 copies ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Palmer of Nobleboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Relating to Forester Registration and Licensing.

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

32 MRSA c. 75 is enacted to read:

CHAPTER 75

FORESTER REGISTRATION AND LICENSING

§ 5001. Purpose

It is the purpose of this chapter to protect the public by improving the standards relative to the practice of forestry; to protect the public from unqualified practitioners; and to help insure the proper management of the forest resources of the State.

§ 5002. Use of title

Except as specifically authorized, no person shall engage in the practice of forestry as defined in this chapter or in any manner advertise or hold himself out as engaged in such practice, without first being licensed as a registered professional forester under this chapter. Nothing in this chapter shall be construed as preventing or prohibiting any person from managing or otherwise conducting forestry practices on land owned, leased, rented or held by such person; nor shall anything herein prohibit any regular employee or official of any person, corporation, agency, institution or other entity from engaging in forestry practices on lands owned, leased, rented or held by such person, corporation, agency or other entity; nor shall anything herein prohibit any graduate of a school of forestry from practicing forestry under supervision of a registered professional forester, nor shall anything herein

prohibit employees of the State of Maine and the Government of the United States from practicing for said government.

§ 5003. Definitions

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

1. Board. "Board" shall mean the Maine State Board of Registration for Professional Foresters.

2. Forestry. "Forestry" shall mean the science, the art and the practice of managing, harvesting and using, for human benefit primarily, the natural resources which occur on and in association with forest land.

3. Registered professional forester. "Registered professional forester" shall mean a person who has registered and is licensed under the provisions of this chapter.

4. The practice of forestry. "The practice of forestry" shall mean any professional services relating to forestry requiring the application of forestry principles and techniques. Such services shall include but not be limited to investigations, consultations, development of forest management plans, responsible supervision of forest management, forest utilization, forest economics or other forestry activities as carried out in connection with any public or private lands. Forestry instructional and educational activities shall be exempted. The practice of forestry shall not include services rendered for wages or for salary for the cutting, hauling, handling or processing of forest products, or wages, salary or payments received for timber stand improvements or other silvicultural activities on the forest lands of the owner thereof, or on the forest land of another.

§ 5004. Board of registration

A State Board of Registration for Professional Foresters is established to administer the provisions of this chapter. The initial board shall consist of 5 professional foresters who shall be selected and appointed by the Governor, with the advice and consent of the Executive Council and shall be qualified as required by section 5005. The 5 initial board members shall be appointed for terms of one, 2, 3, 4 and 5 years respectively. Upon expiration of the terms of any initial board member, the Governor shall, with the advice and consent of the Executive Council, appoint for a 5-year term a registered professional forester meeting the requirements of section 5005. Each board member shall hold office until the expiration of the term for which the member is appointed or until such member's successor is appointed and qualified. The Governor shall select the initial board members from a list of 10 nominees recommended by the Maine Chapter of the Society of American Foresters. Subsequent board members shall be selected by the Governor from a list of 5 nominees recommended by the Maine Chapter of the Society of American Foresters.

§ 5005. Qualifications of board members

Each board member shall be a United States Citizen and State of Maine resident, a member or Fellow of the Society of American Foresters and shall have practiced forestry for at least 10 years.

§ 5006. Compensation and expenses of board members

Members of the board shall serve without compensation, but shall receive expenses as provided for all state employees.

§ 5007. Removal of board members; vacancies

The Governor with the advice and consent of the Executive Council may remove any board member for misconduct, incompetency, neglect of duty or for any other sufficient cause. Vacancies in membership of the board shall be filled for the unexpired term in the same manner as for a full-term appointment.

§ 5008. Meetings of the board

The members of the initial board shall be appointed within 60 days after the effective date of this chapter. Subsequent appointments shall be made within 30 days of any vacancy. The board shall hold a meeting within 30 days after its first members are appointed and thereafter the board shall hold at least 2 regular meetings each year. Notice of all meetings shall be given as the bylaws of the board provide. The board shall elect annually, a chairman, a vice-chairman and a secretary. A quorum of the board shall consist of at least 3 members. All business that comes before the board and requires a vote must be approved by a majority vote of the entire board. Regular meetings shall be called by the chairman and special meetings can be called by the board.

§ 5009. Bylaws and procedures

The board shall have the power to make and promulgate all bylaws and rules reasonably necessary for the proper performance of its duties and the regulations of the proceedings brought before it so long as such bylaws and rules do not conflict with the Constitution and statutes of this State. The board shall adopt and have an official seal. The chairman, under his hand and seal of the board, may subpoena witnesses and compel their attendance, and may require the production of books, papers and documents in cases involving the suspension or revocation of a license or practicing forestry or offering to practice under the title of registered forester without a license. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to testify or to produce such books, papers and documents as may be deemed necessary and pertinent, the board may present its complaint to the Superior Court, setting forth the facts and thereupon such court shall, in a proper case, issue its subpoena to such person, requiring his attendance before such court and there to testify or to produce such books, papers and documents as may be deemed necessary and pertinent by the court. Any person failing or refusing to obey the subpoena or order of the said court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the court.

§ 5010. Receipts and disbursements

The secretary of the board shall receive and account for all moneys derived under this chapter and shall pay the same to the Treasurer of State, who

shall keep such moneys in a separate fund to be known as the "Registered Professional Foresters Fund." Bills for all expenses incurred by members of the board in the performance of their duties under this chapter shall be approved by the board and paid in accordance with the accounting laws and disbursing procedures of the State.

The board may make other expenditures from this fund upon itemized vouchers approved by the chairman of the board, which in the opinion of the board are reasonably necessary for the proper performance of its duties under this chapter.

§ 5011. Records and reports

The board shall keep a record of its proceedings and a register of applications for registration. Such register shall show the name, age, residence and business address of each applicant, the date of application, his education and other qualifications, whether or not an examination was required, whether the application was rejected, whether a license was granted, the date of action of the board and such other information as the board shall deem necessary. Annually, on or before the first day of August, the board shall submit to the Governor a report of its transactions during the preceding fiscal year. A roster showing the names and places of business of all registered professional foresters shall be prepared by the secretary of the board during the month of January of each year and shall be furnished to persons upon their request.

§ 5012. General requirements for registration

The minimum qualifications and requirements for registration as a registered professional forester shall be as follows:

1. School or college. Graduation from a curriculum in forestry of 4 years or more in a school or college approved by the board, and a specific work record of an additional 3 years' experience in forestry work of a character satisfactory to the board indicating that the applicant is competent to practice forestry;

2. Examination. Successfully passing a written or oral examination designed to show the knowledge and skill approximating that obtained through graduation from a 4-year curriculum in forestry approved by the board, and a specific record of 8 years or more in forestry of such character that is satisfactory to the board indicating that the applicant is competent to practice forestry. Applicants who have not completed 4 years of formal education at an institution approved by the board may receive credit for one year's work experience for each year of successful academic work.

3. Engaged in the practice. Any person who shall have been engaged in the practice of professional forestry as defined in section 5003, subsection 3 for at least 8 years in a period of 12 years immediately preceding the effective date of this chapter shall be eligible for registration as a registered professional forester without reference to the provisions set forth in subsections 1 and 2, provided such person shall file an application with the board within 18 months of the effective date of this chapter.

§ 5013. Applications; fees

Applications for registration shall be made on forms prescribed and furnished by the board, and shall contain statements made under oath as a citizenship, residence, the applicant's education, a detailed summary of his technical experience, and shall contain the names of not less than 5 references, 3 or more of whom shall be foresters having personal or professional knowledge of his forestry experience. The registration fee for a license as a registered professional forester shall be fixed by the board, but shall not exceed \$25, 1/2 of which fee shall accompany the application, the balance to be paid before the issuance of the license. Should the applicant fail to remit the remaining balance within 30 days after being notified by registered mail that his application has been accepted, he shall forfeit the right to have a license so issued and said applicant may be required to again submit an original application and upon payment of an original fee. Should the board deny the issuance of a license to any applicant, the fee deposited shall be retained by the board as an application fee.

§ 5014. Examination; reexamination; fee

When written or oral examinations are required, they shall be at such time and place as the board may determine. The methods and procedure shall be prescribed by the board. A candidate failing an examination may apply for reexamination at the expiration of 6 months and shall be entitled to one reexamination without payment of additional fee. Subsequent reexaminations may be granted upon payment of a fee to be fixed by the board, but not in excess of \$25.

§ 5015. Issuance of license; endorsement of documents

The board shall issue a license upon payment of the registration fee as provided herein to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. Licenses shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and secretary under the seal of the board. The issuance of a license by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered professional forester while said license remains unrevoked or unexpired. Plans, maps and reports issued by the registrant shall be endorsed with his name and license number during the life of the registrant's license, but it shall be a misdemeanor for anyone to endorse any document with said name and license number after the license of the registrant named thereon has expired or has been revoked or suspended, unless said license has been renewed or reissued. It shall be a misdemeanor for any registered professional forester to endorse any plan, map or report unless he shall have actually prepared such plan, map or report, or shall have been in the actual charge of the preparation thereof.

§ 5016. Expiration and renewal of license

Licenses shall expire on the 31st of December next following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify, at his last registered

address, every person registered under this chapter of the date of the expiration of his license and the amount of the fee that shall be required for its renewal for one year, such notice to be mailed at least one month in advance of the date of the expiration of said license. The board shall, each year, fix the annual renewal fee for licenses, which fee shall not exceed the sum of \$25. Renewal of licenses for the following year may be effected at any time during the month of December of the year in which such license has been issued for renewal by payment of the renewal fee fixed by the board. Such license may also be renewed within the ensuing 6 months by payment of an additional fee of \$1 per month, or fraction thereof, that the fixed renewal is delayed beyond the month of December. The board shall make an exception to the foregoing renewal provision in the case of a person who is in the Armed Services of the United States.

§ 5017. Firms; partnerships and corporations

Registration shall be determined upon a basis of individual and personal qualifications. No firms, companies, partnerships or corporations shall be registered under this chapter.

§ 5018. Reciprocity

A person not a resident of and having no established place of business in Maine, or who has recently become a resident thereof, may not practice or offer to practice forestry nor use the title, "registered professional forester," unless such person is legally registered as a forester in his own state or country and has submitted evidence to the board that he is so registered, and the state or country in which he is registered observes the same rules of reciprocity in regards to persons registered under the provisions of this chapter, and the state or country in which he is so registered has substantially equivalent requirements for registration as set forth in this chapter. It shall be the judgment of the board that these requirements for registration are of a substantially equivalent nature.

A person practicing as a registered professional forester under the provisions of this section must show proof to the board each calendar year of his continued registration as a registered forester in another state.

§ 5019. Revocation; suspension and reissuance of licenses

The board shall have the power to revoke or suspend the license of a registered professional forester who has been found guilty by the board of any deceit, misconduct, misrepresentation, fraud, incompetence or gross negligence in his practice, or has been guilty of any fraud or deceit in obtaining his registration or certification, or aids or abets any person in the violation of any provisions of this chapter or fails in any material respect to comply with the provision of this chapter.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registrant. Such charges shall be in writing, shall be sworn to by the person making them and shall be filed with the board.

The board is empowered to designate a person or persons to investigate and report to it upon said charge. Such person or persons so designated shall

be reimbursed for expenses in the same manner as prescribed for the board in section 5010.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within 3 months after the date on which they shall have been preferred.

The time and place for said hearing shall be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or sent by registered mail to the last known address of such registrant at least 30 days before the date set for the hearing. At any hearing, the accused registrant shall have the right to appear personally and be represented by council, to cross-examine witnesses appearing against him and to produce evidence and witnesses in his own defense.

If, after such hearing, 3 or more members of the board vote in favor of finding the accused guilty, the board shall suspend or revoke the license of such registrant.

The accused shall have the right to appeal a final determination of the board to the Superior Court within 10 days. Revocation or suspension of the license of the registrant may be stayed pending determination of the Superior Court only if the registrant can show cause why said revocation or suspension should be stayed.

The board, for reasons it may deem sufficient, may reissue a license to a registrant whose license has been revoked, provided 3 or more members of the board vote in favor of such reissuance. A new license to replace any license revoked, lost, destroyed or mutilated may be reissued, subject to the rules of the board, and a charge set by the board shall be made for such reissuance.

§ 5020. Violations and penalties

It shall be unlawful for any person to practice forestry or offer to practice forestry or to use in connection with his name, or otherwise assume, use or advertise any title or description that directly or indirectly conveys the impression that he is a registered professional forester in this State unless he is registered or exempt in accordance with the provisions of this chapter. Any person who shall present, or attempt to use as his own, the license of another, or any person who shall give any false or forged evidence to the board or any member thereof in obtaining a license, or any person who shall attempt to use an expired, suspended or revoked license, or any person, firm, partnership or corporation who shall violate any provision of this chapter shall be guilty of a misdemeanor; and upon conviction, shall be fined not less than \$100 or more than \$200 for each offense. The board, or any person or persons designated by the board to act on its behalf, is empowered to prefer charges for any violation of this chapter in any court of competent jurisdiction in any county in the State in which such violation shall have occurred. It shall be the duty of all duly constituted officers of the law of the State, or of any political subdivisions thereof, to enforce the provisions of this chapter and to prosecute any persons, firms, partnerships or corporations violating the same. The Attorney General shall act as legal advisor to

the board and shall render such legal assistance as may be necessary in carrying out the provisions of this chapter.

FISCAL NOTE

This Act is intended to be self-supporting and all initial moneys necessary to establish this board of registration are to be returned to the State.

STATEMENT OF FACT

The purpose of this bill is to improve standards of forestry; prohibit unqualified practitioners and help insure proper forest management.