

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1536

H. P. 1180

House of Representatives, March 26, 1979

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Huber of Falmouth.

Cosponsor: Mr. Howe of South Portland.

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 Business Regulation and which shall be located at Southern Maine Vocational-Technical Institute campus in South Portland.

§ 9102. Authority

The testing laboratory shall have the authority to:

1. **Testing.** Test, list and label energy related equipment for manufacturers;
2. **Product approval.** Work with manufacturers, representatives of governmental, public and private agencies and special interest groups for product approval, training, code compliance and education on new energy-related equipment;
3. **Copyright; patent.** Copyright or patent, or both, as needed to protect its ideas and equipment;
4. **Listing directory.** Publish a listing directory;
5. **Listing labels.** Sell listing labels;
6. **Reports.** Provide test reports to manufacturers;
7. **Consultant services.** Act as a consultant to manufacturers and agents in an advisory capacity; and
8. **Leases; purchases.** Lease or purchase or construct any items or space deemed necessary for its operation by the board of directors as established by section 9105 and approved by the department. All leasing, purchasing or constructing expenses shall be paid for by fees collected from manufacturers or agents.

§ 9103. Application for testing

1. **Application.** Manufacturers desiring to have their products tested shall submit a product testing application to the testing laboratory.
2. **Contents.** The application shall include:
 - A. The name and address of the manufacturers;
 - B. The name and model number of the product or products to be tested; and
 - C. A brief description of the product and its intended use.
3. **Data.** Upon request of the testing laboratory, the manufacturer shall also provide blueprints, wiring diagrams, piping diagrams, engineering data, installation and operating instructions and other similar information.
4. **Confidential files.** This information shall be confidential and shall remain on file with the testing laboratory.
5. **Review and test cost.** Applications shall be reviewed for product testing and the manufacturer shall be provided with an estimated test cost.

§ 9104. Product testing procedures; liability

Products submitted to the testing laboratory for testing shall be tested in accordance with the appropriate test criteria, except when testing for an approval agency, and the approval agency has established published test criteria, the latter shall be used.

1. **Liability.** The testing laboratory shall not be liable for damages incurred to a manufacturer's product while in the testing laboratory's possession.

§ 9105. Organization and employees

1. **Board of directors.** The testing laboratory shall be under the direction of a board of directors. The board shall consist of the following members:

- A. The State Fire Marshal or his designee;
- B. One member of the Oil Burnermen's Licensing Board, elected by the membership of that board;
- C. One member of the Board of Boiler Rules, elected by the membership of that board;
- D. Two representatives of manufacturers of energy related equipment appointed by the Governor;
- E. Two representatives of companies involved in the installation, but not in the manufacture of energy related equipment appointed by the Governor;
- F. Two representatives of the public appointed by the Governor; and
- G. The Director of Southern Maine Vocational-Technical Institute or his designee.

2. **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.

3. **Ex officio member.** The Commissioner of Business Regulation shall be an ex officio member of the board.

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. **Duties of the board of directors.** The board of directors shall have the following powers and duties:

- A. To hire, subject to the Personnel Law, such employees as it deems necessary to carry out the purposes of this chapter;
- B. To establish appropriate equipment testing criteria and testing standards for the testing laboratory;
- C. To establish all fees for testing done by the testing laboratory and to publish a schedule of testing fees;
- D. To make such rules and regulations, subject to the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, as the board of directors shall deem necessary to carry out the purposes of this chapter; and

E. To do such other things as are necessary to perform its duties under this chapter.

§ 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 MEN

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 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.

3. Apprentice solid fuel burner man. "Apprentice solid fuel burner man" 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 man.

4. **Approved.** “Approved” shall mean acceptable to the Oil and Solid Fuel Burner Men’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. 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 any heating plant equipped with a furnace or boiler using coal or wood, or both, as fuel. Fireplace stoves, radiant room heaters and stoves designed exclusively for heating and cooking and not attached to a central heating system are excluded from this chapter.

Solar equipment, including all accessory equipment, is excluded from this chapter, except for that part of a heating system that may contain an auxiliary oil or solid fuel burner.

6. **Equipment installations.** “Equipment installations” shall mean the installation, alteration or repair of oil or solid fuel burning equipment, as defined in this chapter, in residential, school, hospital, municipal and state-owned buildings, charitable and commercial dwellings and public meeting place central heating plants, direct-fired water heaters, residential-type range burners and space heaters, including accessory equipment relating only to the safety of the installation, electrical wiring in connection therewith from a suitable distribution panel or disconnect switch and steam and condensate, or supply and return water, and make-up water pipe connections to the equipment.

7. **Journeyman oil burner man.** “Journeyman oil burner man” shall mean a person who is licensed under this chapter to clean, service, alter or repair oil burning equipment. A journeyman oil burner man shall install oil burning equipment only under the supervision of a master oil burner man 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 man.** “Master oil burner man” 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.

9. **Master solid fuel burner man.** “Master solid fuel burner man” 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 man'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 Men'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 man in charge of installation shall be responsible for ascertaining total conformance to the standards. Whenever any state oil and solid fuel inspector shall find a person installing or assisting in an oil or solid fuel burner installation, the person shall, on request of the inspector, provide evidence of being properly licensed, when required by this chapter and, if unable to provide the evidence, shall furnish the inspector with his full name and address.

§ 2314. Municipal licenses not required; municipal permits

No municipality, provisions in charters to the contrary, shall require oil or solid fuel burner men 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 burner inspectors

State oil and solid fuel 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, at all reasonable hours, for purposes of examination of the burner installation, may 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 inspector 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 Men's 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 inspector or decision of the board, a court may order appropriate injunctive relief.

§ 2316. 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 or solid fuel burner inspector concerning oil or solid fuel burner installations as provided by this chapter, he shall be punished by a fine of not less than \$5 for each day's neglect.

§ 2317. Violations; penalty

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

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 Licensing Board, as heretofore established and in this chapter called the "board," shall consist of an executive secretary, who shall be the Commissioner of Business Regulation or a representative appointed by the commissioner, with the approval of a majority of the board, 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 men 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 men 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 coal or wood 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 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, last 2 sentences, as enacted by PL 1977, c. 356, § 5, are repealed as follows:

~~The board may establish fees and charges necessary for covering the costs incurred for approving and testing equipment. The manufacturer or his representative shall be required to pay all fees and charges established by the board~~

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 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 or solid fuel burning equipment may be made by qualified mechanics of that trade who do not hold an oil or solid fuel burner man's license. The installation 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 man having responsibility for the installations;

4. **Engineers and operators.** A person either holding an engineer's or boiler operator'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 who owns and operates a small business which uses a heating or process steam boiler or heating equipment of any capacity or a person employed by companies under the jurisdiction of the Public Utilities Commission or the United States Atomic Energy Commission whose facilities are subject to inspection under Title 26, chapter 5, subchapter II, Article 4; or a person operating an oil burning water tube boiler with outputs of 20,000 pounds of steam per hour capacities and above or attending oil or solid fuel burning equipment of greater than 500,000 BTUs per hour input, except in schools, hospitals, municipal and state-owned buildings, charitable and commercial dwellings and public meeting places; and

5. **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-§ 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 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. 16. 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 **man's or master solid fuel burner man's** 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. 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 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. 17. 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 as to a master ~~oil~~ burner man and biennially on March 31st as to other licenses.

STATEMENT OF FACT

It is the purpose of this bill to amend Title 32, chapter 33, in order to spell out the board's jurisdiction over solid fuel central heating systems, approval of the equipment, licensing of installers, inspections of products in the field and to eliminate unnecessary language.

This bill also places the Energy Testing Laboratory under the control of the Department of Business Regulation and establishes a board of directors whose members shall be appointed by the Governor and shall be responsible for developing testing criteria for the approval of energy-related equipment.