

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1548

S. P. 485

In Senate, March 29, 1979

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

Presented by Senator Clark of Cumberland.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Amend the Oil Burner Men's Licensing Board's Authority to Include Regulation of Oil and Solid Fuel Equipment and the Licensing of Service People.

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

Sec. 1. 32 MRSA c. 32 is enacted to read:

CHAPTER 32

OIL AND SOLID FUEL LICENSING BOARD

SUBCHAPTER I

GENERAL PROVISIONS

§ 2261. Requirements

The requirements of this chapter shall not apply to the installation, maintenance or operation of wood or coal fired ranges and stoves or solar equipment when not used in conjunction with oil fired equipment.

This chapter shall not apply to wood burning low, medium or high heat industrial appliances as defined by the National Fire Protection Association Standard No. 31.

§ 2262. Definitions

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

1. **Accessory equipment.** "Accessory equipment" shall mean equipment which is connected to and has the potential to effect the operation of oil and solid fuel burning equipment and shall include, but not be limited to, fans, blowers, pumps, motors, fuel valves, flow control valves, metering valves, heat reclaimers, solar equipment, stack dampers, fuel economizers, flue connectors, controls, combustion improvers, antipollution devices, draft inducers or regulators used on or in conjunction with oil and solid fuel burning equipment and solid fuel units on or attached to oil 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 service of oil burning equipment under the direct supervision of a master or journeyman.

3. **Approved.** "Approved" shall mean acceptable to the Oil and Solid Fuel Licensing Board as to design, construction, installation and safety for its intended use as required by the standards adopted by the board, which are NFPA 31 and the additional standards.

4. **Central heating appliance.** "Central heating appliance" shall mean a stationary flue connected to a boiler or furnace.

5. **Central heating systems.** "Central heating systems" shall mean residential, commercial and industrial central heating systems using oil, wood or coal as the primary fuel to be used to heat a fluid which is to be conveyed to desired areas by one of the following means: Natural circulation; pumps; fans; blowers; etc., which may be connected to distribution ducts or piping.

6. **Commercial.** "Commercial" shall mean firms engaged in marketing, finance and service.

7. **Equipment installations.** "Equipment installations" shall mean the installation, alteration or modification of oil, wood or coal burning equipment, as defined in this chapter, including industrial, commercial and residential type central heating systems, stoves, except wood and coal stoves as defined in this chapter, and residential type range oil burners and oil space heaters, and further including all accessory equipment, control systems, whether electric, thermostatic or mechanical, electrical wiring in connections therewith to a suitable distribution panel or disconnect switch, but excluding all other electrical equipment or work in the building or structure where the 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, that supply water.

8. **Industrial.** "Industrial" shall mean businesses that are engaged in producing things by extraction from the earth and forest, by fabrication in the factory or by construction at a building site.

9. **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. The journeyman shall install oil burning equipment only under the supervision of a master oil burner man, licensed under this chapter and in the same employ, who shall be responsible for ensuring that the installation is in accordance with the National Fire Protection Association Standard No. 31 and the additional standards and regulations adopted by the board governing the installation. Applicants for a license of this classification shall present evidence of at least one year’s practical experience as a licensed apprentice in Maine or equivalent experience in other states to the board, or a certificate of completion of a course of at least 1,000 hours of instruction 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. Comparable instruction from other states may be approved by the board.

10. **Master oil burner man.** “Master oil burner man” shall mean a person qualified 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 of at least 4 years of practical experience, including 2 years’ experience as a licensed journeyman under this chapter.

11. **Oil and solid fuel burning equipment.** “Oil and solid fuel burning equipment” shall include equipment such as burners, boilers, furnaces, stoves, water heaters, portable heaters, unit heaters, ranges or any combination thereof, whether they are used in residential, commercial or industrial buildings, except wood and coal stoves, as defined in subsection 15.

12. **Residential.** “Residential” shall mean a single or duplex family home with owner in residence.

13. **Solid fuel apprentice.** “Solid fuel apprentice” shall mean a person who is licensed under this chapter to assist in making solid fuel installations, repairs and service of solid fuel burning equipment under the direct supervision of a master.

14. **Solid fuel master.** “Solid fuel master” shall mean a person qualified under this chapter to engage in the business of installing or servicing solid fuel burning equipment. Applicants for a license of this classification shall present to the board satisfactory evidence of at least one year of practical experience.

15. **Wood or coal stove.** “Wood or coal stove” shall mean any stove designed exclusively to burn wood or coal for the purposes of heating or cooking, but shall not include wood or coal stoves designed to be used as or attached to a central heating system.

§ 2263. Approval process

No oil burning equipment, coal or wood burning central heating equipment, as defined in this chapter, shall be sold or offered for sale in this State unless the equipment is approved by the Oil and Solid Fuel Licensing Board. All equipment

shall be submitted to the board for review. Devices listed for a specific purpose by Underwriters Laboratories, Inc., or any other of the board's recognized testing facility may be considered as meeting the standards of the board. The board may require the equipment to be tested. All equipment approved by the board sold or offered for sale in this State shall bear a label of the board.

§ 2264. 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 and 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. **Engineers.** Any engineer duly licensed under Title 26, section 178, insofar as the work covered in that chapter is involved; and

4. **Resident.** Any person installing oil or solid fuel burning equipment in his own single family residence which is his bona fide personal abode.

§ 2265. Installations to conform to standards

No installation of oil, wood or coal burning equipment, as defined in this chapter, shall be made unless the installation complies with the National Fire Protection Association's current pamphlet 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 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.

§ 2266. Municipal licenses not required; state and municipal permits

No municipality shall require licenses for the installation of oil and solid fuel burning equipment. The State and municipalities may require permits for the work, but shall issue them only to persons meeting the requirements of this chapter.

§ 2267. State oil and solid fuel inspectors

The state oil and solid fuel inspectors shall be empowered to enforce all of the provisions of this chapter. Inspectors, whenever they shall deem it necessary, at all reasonable hours may enter into and upon all buildings within their jurisdiction for the purpose of inspection or examination of oil and solid fuel burner installations. Inspectors may enter any building only with the permission of the person having control thereof or upon order of the court. Whenever the inspector finds any oil or solid fuel burner installation in any building or structure which does not comply with the requirements of this chapter, he shall order the equipment to be removed or remedied, and the installer, owner or occupant of the

building shall expeditiously comply with the order. The installer, owner or occupant may, within 10 days, appeal to the Oil and Solid Fuel Licensing Board, which shall 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 order of the inspector or decision of the board, a court may order appropriate injunctive relief.

§ 2268. Failure to comply with order of inspector

If the installer, 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 inspector concerning oil or solid fuel burner installations as provided by this chapter, he shall be punished by a fine of not less than \$10 for each day's neglect.

§ 2269. Violations; penalty

Any person, firm or corporation who cleans, services or installs oil or solid fuel burner equipment 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; any person, firm or corporation who sells or offers for sale unapproved equipment; or any person, firm or corporation who violates the provisions of this chapter, rules or regulations promulgated thereunder, or standards adopted by the board, commits a civil infraction for which a forfeiture of not less than \$100 nor more than \$500 shall be adjudged.

SUBCHAPTER II

LICENSING BOARD

§ 2271. Appointment; vacancies, removal; compensation

The Oil and Solid Fuel Licensing Board, as hereby 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.

Four of the appointive members shall be active in the trade and shall have at least 5 years' experience in the field. One of the members shall be appointed from a slate of 3 persons nominated by the Maine Oil Dealers Association. One of the appointive members shall be a representative of the public. The solid fuel representative shall be someone thoroughly familiar with solid fuel central heating systems.

The term of office of the appointed members is for 4 years, except that initially one member shall be appointed for one year; one member for 2 years; one member for 3 years; and 2 members for 4 years. As the term of each appointive member expires, he may be reappointed or a new member appointed.

Any vacancy in the 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 filled.

Any appointive member of the board may be removed from office by the Governor.

The members of the board, other than state employees, shall each be allowed the sum of \$50 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 5 appointive members of the board shall choose one of their members as chairman.

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

§ 2272. Employees

The Commissioner of Business Regulation shall be empowered to appoint, subject to the Personnel Law, employees as may be necessary to carry out this chapter. The employees shall include a chief inspector and any other inspectors as may be deemed necessary. Any persons so employed shall be under the Department of Business Regulation and the administrative and supervisory direction of the Commissioner of Business Regulation or his designee.

§ 2273. Meetings; rules and regulations

The board shall hold regular meetings semiannually and such other meetings as they determine are necessary. The board shall keep proper records of its proceedings and shall be authorized to adopt standards and rules and regulations as it shall deem necessary, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, for the holding of examinations and for carrying out this chapter, and to provide for the reciprocity of licensing with similar boards of other states which maintain standards at least equal to this State.

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.

§ 2274. 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 the 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.

§ 2275. Investigation of complaints; suspension or revocation of licenses

The board shall investigate all complaints made to it and all cases of noncompliance with or violations of this chapter. If the board finds that cause exists for suspension or revocation of licenses, it shall file its complaint with the Administrative Court pursuant to Title 5, section 10051, and the licensee shall be granted a right to hearing pursuant to Title 5, section 10003. The Administrative Court Judge shall have the power to suspend or revoke the license of any licensee who is found guilty of:

1. Fraud or deceit. The practice of fraud or deceit in obtaining a license; or
2. Negligence or misconduct. Any gross negligence, incompetency or misconduct in the performance of the work of making or assisting in making oil and solid fuel burner installations. Continued failure to conform to standards or rules and regulations adopted by the board or failure to comply with the order of the inspector without justification shall be prima facie evidence of such gross negligence or incompetency.

Any license suspended or revoked by the Administrative Court Judge 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 when the results of the 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 the reissuance, subject to the approval of the Attorney General's office, under Title 4, section 1151, subsection 2.

§ 2276. 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 disbursed by it. The records or duplicates thereof shall be open for inspection during office hours.

§ 2277. Reports

Not later than August 1st of each year, the board shall submit to the Commissioner of Business Regulation, for the preceding fiscal year ending June 30th, an annual report of its operations and financial position, together with such comments and recommendations as the board deems essential.

SUBCHAPTER III

LICENSES

§ 2281. License required

No installation, servicing, repairing or cleaning of oil and solid fuel burning equipment, as defined in this chapter, shall be performed, except by a person

licensed by the board or exempt from the licensing provisions. No person, firm or corporation shall engage in the business of installing oil or solid fuel burning equipment unless they have in their employ a licensed master who shall be responsible for supervision of each installation.

§ 2282. Rules, fees; application; certificates

1. Rules and regulations. The board may make such reasonable rules and regulations as it deems suitable, pursuant to the applicable provision of the Maine Administrative Procedure Act, Title 5, chapter 375, 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 2262. 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. The fee for a license shall be as follows:

A. Master, original license, \$25; biennial renewal fee \$50;

B. Journeyman, original license, \$10; biennial renewal fee \$20; and

C. Apprentice, original license, \$10, which includes educational material; biennial renewal fee, \$10.

When the unexpired term of a license of an applicant is or will be more than one year at the time of licensure, the board may require the applicant to pay an additional fee not to exceed $\frac{1}{2}$ the biennial renewal fee.

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 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 the licensed person. In the event that a licensee does not have a principal place of business, he shall present the certificate at any time upon request.

§ 2283. Examinations

Applicants for a master oil and solid fuel journeyman's oil burner 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 of a thorough and practical character commensurate with the responsibilities of the type of license applied for.

Examinations may include questions on the standards adopted by the board, which are NFPA 31 and the additional standards, or provisions of the National Electrical Code as may be applicable to the equipment installations. Any person

failing to pass his examination in any one category may be reexamined upon payment of the examination fee. Any person taking a master examination and obtaining a score of less than 70% shall not be reexamined for a 6-month period; and any person taking a journeyman examination and obtaining a score of less than 50% shall not be reexamined for a 6-month period.

§ 2284. Renewals

All master licenses shall expire biennially on December 31st and all other licenses in this chapter shall expire biennially on June 30th. The expiration dates for licenses issued under this chapter may be established at such other times as the Commissioner of Business Regulation may designate. Licenses may be renewed on a biennial basis without further examination upon the payment of the proper fee. The board shall notify everyone registered under this chapter of the date of expiration of his license and the amount of fee required for its renewal for a 2-year period. Notice shall be mailed to the person's last known address at least 30 days in advance of the expiration date of his license. Any person who fails to renew his license within a period of 90 days following the expiration date shall be required to be reexamined.

§ 2285. Grandfather clause

Six months from the effective date of this chapter all persons performing installations, services or repairs of solid fuel burning equipment, or assisting therein, shall be licensed under this chapter. Solid fuel master licenses may be issued without examination to persons furnishing to the board evidence of at least one year's practical experience in the installation, service and repair of solid fuel burning equipment. Persons who have not completed the required one year of practical experience within 6 months of the effective date of this chapter shall obtain a solid fuel apprentice license and shall be required to be examined before being licensed as a solid fuel master.

Sec. 2. 32 MRSA c. 33, as amended, is repealed.

STATEMENT OF FACT

It is the purpose of this bill to repeal Title 32, chapter 33, and enact Title 32, chapter 32, in order to spell out the board's jurisdiction over solid fuel central heating systems, approval of such equipment, licensing of installers, inspections of products in the field and to eliminate unnecessary language. This bill also provides for a chief inspector to coordinate all field inspections and oversee the testing of equipment brought before the board for approval in the State.

With the addition of a chief inspector and added per diem costs, expenditures will increase approximately \$13,000 per year. Funds are available from dedicated revenues collected by the board.