

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)

New Title
New Draft of: S. P. 692, L. D. 1812
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 2002

S. P. 798

In Senate, March 12, 1980

Six Members from the Committee on State Government and printed under Joint Rules No. 2.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

**AN ACT to Assure Compliance with Existing Laws Affecting Disabled Persons'
Access to Certain Buildings Open to the Public.**

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

Sec. 1. 1 MRSA § 2501, sub-§§ 5 and 25 are enacted to read:

5. Title 5.

A. Title 5, section 4593, sub-§ 3 is repealed on January 1, 1984.

25. Title 25.

A. Title 25, section 2396, sub-§ 6-A is repealed on January 1, 1984.

B. Title 25, section 2700 is repealed on January 1, 1984.

C. Title 25, section 2701, sub-§§ 1-A and 5 are repealed on January 1, 1984.

D. Title 25, section 2702 is repealed on January 1, 1984.

E. Title 25, section 2703, sub-§§ 1 and 6 are repealed on January 1, 1984.

F. Title 25, section 2705 is repealed on January 1, 1984.

G. Title 25, section 2706 is repealed on January 1, 1984.

Sec. 2. 1 MRSA § 2502, as enacted by PL 1977, c. 492, § 1, and PL 1977, c. 547, § 1, is amended by adding at the end the following new paragraph:

The legislative committee having jurisdiction over statutory provisions affecting the State Fire Marshal shall prepare and submit to the Legislature, within 30 legislative days after the convening of the last regular session prior to the date set out in section 2501 for repeal of those provisions, a report evaluating the advisability of retaining the statutory provision. The report shall include the information required in section 2503 and drafts of legislation, to accommodate the statutory provisions repealed to existing law.

Sec. 3. 5 MRSA § 4593, sub-§ 3 is enacted to read:

3. Advisory review of plans for compliance with public accommodations provisions. No construction, remodeling or enlarging of any public accommodation or place of employment subject to this section may commence until 30 working days after sending by certified mail, return receipt requested, to the State Fire Marshal of plans and specifications for the construction, remodeling or enlarging, pursuant to Title 25, section 2396, subsection 6-A. This subsection shall apply only to construction, remodeling or enlarging begun after January 1, 1981.

Sec. 4. 25 MRSA § 2396, sub-§ 6-A is enacted to read:

6-A. Advisory review for compliance with disabled persons' access laws. The State Fire Marshal shall provide advisory review of plans and specifications submitted to him pursuant to section 2703, subsection 6, and Title 5, section 4593, subsection 3. Not later than 15 working days after receipt of any plans and specifications pursuant to either law, he shall send by certified mail, return receipt requested, to the person requesting review an advisory comment stating whether the plans and specifications are consistent with the appropriate law and, if not consistent, what changes would make them consistent. The fee for examination of each submission of a set of plans and specifications is \$15.

The State Fire Marshal may conduct on-site inspections of buildings constructed, remodeled or enlarged after January 1, 1981, which are subject to chapter 331, or Title 5, section 4593, to determine whether there is compliance with these laws.

The State Fire Marshal shall provide whatever assistance is requested by the Board for Barrier Free Design.

The State Fire Marshal may employ, subject to the Personnel Law, special and clerical assistance to carry out this subsection.

Sec. 5. 25 MRSA § 2700 is enacted to read:

§ 2700. Statement of purpose

Existing laws require that certain public and private buildings meet standards of accessibility which will permit safe use by disabled persons. Uneven

enforcement and a lack of awareness of barrier-free design requirements have resulted in many instances of new construction that do not meet minimal accessibility standards.

It is the intent of the Legislature to reaffirm the state's commitment to these laws and to promote compliance with them, by establishing a procedure for advisory review of construction plans for those buildings, subject to the laws, and creating a Board for Barrier Free Design to inform and provide technical assistance to public and private persons and institutions toward these ends.

This statement of intent applies to the public accommodations' provisions of the Human Rights Act, Title 5, chapter 337, subchapter V, and to this chapter.

Sec. 6. 25 MRSA § 2701, sub-§ 1-A is enacted to read:

1-A. Barrier free design. "Barrier free design" means the planning and design of public and private buildings and facilities to provide safe, independent and appropriate access to and use of the built environment by people with physical disabilities.

Sec. 7. 25 MRSA § 2701, sub-§ 5-A is enacted to read:

5-A. 1979 Standards of construction. "1979 Standards of construction" means the standards set forth by the American National Standards Institute in the publication "Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," (ANSI A 117-1961 (R 1971)), in effect on November 1, 1979, except as otherwise exempted or provided by the National Fire Protection Association's Life Safety Code 101.

Sec. 8. 25 MRSA § 2702, as last amended by PL 1979, c. 248, §§ 4-9, is further amended by inserting before the first sentence, a new sentence to read:

All building affected by this chapter which are constructed, remodeled or enlarged after January 1, 1981, shall be in substantial compliance with 1979 standards of construction referred to in section 2701, subsection 5-A, including the standards of subsections 1 to 11 of this section.

Sec. 9. 25 MRSA § 2702, first ¶, as repealed and replaced by PL 1977, c. 80, § 2, is amended to read:

All other buildings affected by this chapter shall be in substantial compliance with standards of construction, including the following.

Sec. 10. 25 MRSA § 2703, sub-§ 1, as amended by PL 1973, c. 571, § 58, is further amended to read:

1. State. Where state funds are used, including for buildings rented or leased by the State pursuant to agreements concluded after January 1, 1981, the ~~Director of Public Improvements~~ State Fire Marshal; except, in respect to elementary and secondary school buildings, it shall be the Commissioner of Educational and Cultural Services;

Sec. 11. 25 MRSA § 2703, sub-§ 6 is enacted to read:

6. **Advisory review.** No construction, remodeling or enlarging of any building subject to this chapter may commence and no rental or leasing agreement by the State, subject to subsection 1, may be concluded until 30 working days after sending by certified mail, return receipt requested, to the State Fire Marshal of plans and specifications for the construction, remodeling or enlarging pursuant to section 2396, subsection 6-A. This paragraph shall apply only to construction, remodeling or enlarging begun after January 1, 1981.

Sec. 12. 25 MRSA §§ 2705 and 2706 are enacted to read:

§ 2705. Board for Barrier Free Design

1. **Created; purpose.** There is created the Board for Barrier Free Design for the purpose of promoting, and providing education and technical assistance for, the planning, design, construction and use of public and private buildings and facilities to provide safe, independent and appropriate access to and use of the built environment by people with physical disabilities. The board shall be located for administrative purposes within the Department of Public Safety. Other departments and agencies of the State or its political subdivisions shall assist where appropriate in the implementation of this chapter.

2. **Members.** The board shall consist of:

A. The following 5 members to be appointed by the Governor:

- (1) Two physically disabled persons who have demonstrated an understanding of and a commitment to barrier free design;
- (2) One person who is a nominee of groups within the State which are representative of the owners of buildings and facilities subject to the provisions of this chapter or Title 5, section 4593;
- (3) One person who is a building inspector pursuant to section 2351; and
- (4) One registered architect; and

B. The following 2 members to serve ex officio:

- (1) The Chairman of the Governor's Committee on Employment of the Handicapped or a member of the committee designated by the chairman; and
- (2) The Chairman of the Maine Human Rights Commission or a member of the commission designated by the chairman.

3. **Terms.** Of the appointed members first appointed, one shall serve for 2 years, 2 shall serve for 3 years each and 2 shall serve for 4 years each. Thereafter, the Governor shall appoint members for 4-year terms. The Governor shall fill a vacancy, in the same manner as the original appointment, for the balance of the unexpired term. The Governor may dismiss any member for cause. No appointed member may serve for more than 3 consecutive terms.

4. **Meetings; quorum.** The board shall meet as soon as practicable after appointment and elect one of its appointed members as chairman, who shall serve for a term of 2 years and until a successor is elected. The board shall meet not less than 4 times annually and at such other times as may be designated by the chairman. Four voting members of the board shall constitute a quorum at all meetings.

§ 2706. **Duties of board**

The board shall:

1. **Education and assistance.** Provide education and technical assistance to the State Fire Marshal and other government officials, designers, architects, building inspectors, builders and the public for the purpose of promoting barrier free design generally and compliance with legal requirements, including this chapter and Title 5, section 4593;

2. **Symbol of access.** Issue, for display at the entrance of all buildings meeting the requirements of this chapter or Title 5, section 4593, as required by law, the international symbol of access, as adopted by the Rehabilitation International's World Congress in 1969, as amended; and

3. **Studies.** Conduct studies, hold hearings, publish reports and recommend legislation relating to the accessibility and utilization of buildings and facilities by disabled persons.

Sec. 13. P&SL 1975, c. 19 is repealed.

Sec. 14. **Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1980-81

PUBLIC SAFETY, DEPARTMENT OF

Positions	(2)
Personal Services	\$24,067
All Other	5,256
Capital Expenditures	1,647
Total	<hr/> \$30,970

FISCAL NOTE

The appropriation included in this bill will be offset by receipt of fees for advisory review by the State Fire Marshal. These fees are expected to be at least \$4,500 per year.

STATEMENT OF FACT

Existing statutes require that certain public and private buildings meet standards of accessibility which will permit safe use by disabled persons. Uneven enforcement and a lack of awareness of barrier free design requirements result in many instances of new construction that does not meet even minimal accessibility standards.

The purpose of this bill is to promote compliance by establishing a procedure for advisory review of construction plans of those buildings subject to the accessibility provisions of existing laws. This bill does not expand the scope of these laws or establish anything to compel their observance.

Specifically, this bill:

1. Requires persons who plan to build or remodel buildings now subject to these laws to obtain the advice of the State Fire Marshal, whether or not their plans are consistent with statutory standards of construction for barrier free design. This bill requires nothing more than advice;

2. Establishes a Board for Barrier Free Design. This 7-member voluntary board will provide education and technical assistance in the area of architectural accessibility. The board also will monitor compliance with accessibility laws and report its findings to the Legislature. Members will serve without compensation;

3. Provides an appropriation to the State Fire Marshal for 2 positions for carrying out the plan review function. This will be offset in part by fees for plans reviewed;

4. Clarifies that the current law covering state buildings does cover rented and leased buildings, and requires the State Fire Marshal to be responsible for administering the law covering those buildings; and

5. Provides for an automatic sunset termination of this Act by January 1, 1984.