

MAINE STATE LEGISLATURE

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L.D. 567
(Filing No. S-126)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 237, L.D. 567, Bill, "An Act to Regulate the Installation of Fire Sprinklers"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 5 MRSA §12004-I, sub-§71-A is enacted to read:

<u>71-A. Occupations:</u>	<u>Fire Sprinkler</u>	<u>Expenses</u>	<u>32 MRSA</u>
<u>Fire Protection</u>	<u>Advisory Council</u>	<u>Only</u>	<u>\$1381</u>

Sec. 2. 32 MRSA c. 20 is enacted to read:

CHAPTER 20

FIRE SPRINKLER CONTRACTORS

§1371. Definitions

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

1. Certificate. "Certificate" means the document issued by the State Fire Marshal to a person indicating that the person is certified by the State as qualified to perform the job indicated in that document.

2. Certified responsible managing supervisor. "Certified responsible managing supervisor" means a person certified by the State as qualified to determine whether the plan and installation of fire sprinkler systems meet the standards provided by law, rule and regulation.

3. Commissioner. "Commissioner" means the Commissioner of Public Safety.

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4. Department. "Department" means the Department of Public Safety.

5. Fire sprinkler system. "Fire sprinkler system" means an assembly of overhead piping or conduits that conveys water with or without other agents to dispersal openings or devices to extinguish, control or contain fire and to provide protection from exposure to fire or the products of combustion, planned in accordance with a national or state standard recognized by the State Fire Marshal.

6. Fire sprinkler system contractor. "Fire sprinkler system contractor" means a person licensed by the State Fire Marshal to undertake the planning, installation or inspection of a fire sprinkler system or any part of such a system.

7. Inspect. "Inspect" means to visually examine a fire sprinkler system or a portion of the system to verify that it appears to be in working order and free from physical damage.

8. Installation. "Installation" means the initial placement of a sprinkler system or part of the system or the extension, modification or alteration of a system or part after the initial placement.

9. License. "License" means the document issued by the State Fire Marshal to a contractor authorizing the contractor to engage in the fire sprinkler system business in this State.

10. Plan. "Plan" means a shop drawing or erection plan of a fire sprinkler system or a part of the system.

11. Planning. "Planning" means to draw or create plans.

§1372. Applicability

1. State requirements. The following documentation is required for persons involved in the installation of fire sprinklers.

A. Any person who undertakes planning or installation of a fire sprinkler system, or any part of the system, within this State must be licensed as a fire sprinkler system contractor by the State Fire Marshal. A person shall not be identified as a fire sprinkler system contractor or any similar term unless licensed by the State.

B. Any person who undertakes the review, approval and signing required for plans prior to submission to the State Fire Marshal must be certified by the State Fire Marshal. A person shall not be identified as a certified responsible

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1 managing supervisor unless certified by the State Fire
2 Marshal.

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4 C. Any person who inspects a fire sprinkler system, other
5 than a certified responsible managing supervisor or an agent
6 of municipal or State Government or licensed insurer who
7 inspects a system in performing that person's duties for
8 that government or insurer, must be registered by the State
9 Fire Marshal.

11 2. Posting of licenses, certificates and registrations.
12 Each license, certificate and registration issued under this
13 chapter shall be posted in a conspicuous place in the place of
14 business of the person to whom it is issued. A license,
15 certificate or registration is not transferable.

17 3. Municipal licenses. No municipality may require fire
18 sprinkler system contractors to be municipally licensed nor shall
19 any municipality issue a permit for any fire sprinkler system
20 unless satisfied that the person applying for the permit complies
21 with this chapter.

23 §1373. Renewal

25 The commissioner shall adopt rules governing the period of
26 licensure and certification and conditions of renewal.

27 §1374. Fees

29 The commissioner shall set fees for licensure, certification
30 and registration which shall be just sufficient to cover the
31 costs of implementing this chapter. A person licensed as a fire
32 sprinkler system contractor who wishes to be certified as a
33 responsible managing supervisor shall not be required to pay a
34 fee for that certification. A person certified as a professional
35 engineer by the State shall not be required to pay a fee for
36 either being licensed as a fire sprinkler system contractor or
37 being certified as a responsible managing supervisor.

39 All fees received by the department shall be paid to the
40 State Treasurer and shall be used for carrying out this chapter.
41 Any balance of these fees shall not lapse but shall be carried
42 forward as a continuing account to be expended for the same
43 purposes in the following fiscal years.

45 §1375. Qualifications

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48 1. Fire sprinkler system contractor. The State Fire
49 Marshal shall issue a fire sprinkler system contractor license to
50 any person who retains, either by employment or contract, at
51 least one certified responsible managing supervisor. A certified

1 responsible managing supervisor may also be a fire sprinkler
2 system contractor.

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4 2. Certification of responsible managing supervisor. The
5 State Fire Marshal shall issue a responsible managing supervisor
6 certificate to any person who:

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8 A. Is certified by the National Institute for the
9 Certification in Engineering Technologies at Level III for
10 fire protection automatic sprinkler systems layout;

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12 B. Is licensed by the State as a professional engineer and
13 has 5 years experience in the field of fire protection,
14 mechanical, piping or related engineering fields; or

15

16 C. If applying prior to July 1, 1995, has 5 years prior
17 experience in the planning or installation of fire sprinkler
18 systems in the United States if the applicant provides a
19 sworn statement of reference from 3 individuals as to the
20 applicant's experience and is approved by the Fire Sprinkler
21 Advisory Council created in section 1381.

22

23 3. Inspection technician. The State Fire Marshal shall
24 issue an inspection technician registration to any person who
25 demonstrates an understanding of fire sprinkler system planning,
26 installation and maintenance sufficient to determine whether a
27 fire sprinkler system is in proper operating condition.

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29 §1376. Termination of employment or agreement

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31 Within 10 days after terminating employment or a contractual
32 agreement with a licensed fire sprinkler system contractor the
33 certified responsible managing supervisor involved shall notify
34 the State Fire Marshal of that fact.

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36 §1377. Plan review

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38 Prior to construction of any fire sprinkler system, or prior
39 to an addition involving more than 20 new sprinkler heads to a
40 fire sprinkler system, regulated by the National Fire Protection
41 Association, Pamphlet No. 13, as amended, a fire sprinkler system
42 contractor shall obtain a permit from the State Fire Marshal who
43 shall review the plan for construction or addition and charge a
44 reasonable fee for the review and permitting process. All plans
45 to be submitted by a contractor to the State Fire Marshal must be
46 reviewed, approved and signed by the certified responsible
47 managing supervisor retained by the contractor.

48

49 All plans for construction of or alteration to fire
50 sprinkler systems shall prominently display the fire sprinkler
51 system contractor's license number, as well as the responsible
52 managing supervisor's certification number and the name and

1 address of the person to install the fire sprinkler system. Each
2 permit issued shall be displayed prominently at the site of
3 construction. Within 30 days of the completion of a new fire
4 sprinkler system or an addition to an existing fire sprinkler
5 system, a fire sprinkler system contractor shall provide to the
6 State Fire Marshal a copy of the permit signed by the certified
7 responsible managing supervisor representing that the fire
8 sprinkler system has been installed according to specifications
9 of the approved plan to the best of the supervisor's knowledge,
10 information and belief.

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12 §1378. Employees

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14 The commissioner may appoint, subject to the Civil Service
15 Law, such employees as may be necessary to carry out this
16 chapter. Any person so employed shall be under the
17 administrative and supervisory direction of the State Fire
18 Marshal.

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20 §1379. Investigation of complaints; revocation of license

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22 The commissioner shall investigate or cause to be
23 investigated all complaints made to the commissioner and all
24 cases of noncompliance with or violation of this chapter. The
25 commissioner may suspend or revoke a license, certification or
26 registration pursuant to Title 5, section 10004. The
27 commissioner may refuse to issue or renew a license,
28 certification or registration or the Administrative Court may
29 suspend, revoke or refuse to renew the license, certification or
30 registration of a person who is found guilty of:

31

32 1. Fraud or deceit. The practice of any fraud or deceit in
33 obtaining a license, certification or registration;

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35 2. Negligence or misconduct. Any negligence, incompetency
36 or misconduct in the planning, installation or inspection of a
37 fire sprinkler system. Continued failure to conform to standards
38 or rules adopted by the department shall be prima facie evidence
39 of negligence or incompetency;

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41 3. Violation of law. Any violation of this chapter or any
42 rule adopted by the department; or

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44 4. Conviction of crime. Subject to the limitations of
45 Title 5, chapter 341, a crime which involves dishonesty or false
46 statement or which relates directly to the practice of fire
47 sprinkler system planning, installation, inspection or any crime
48 for which incarceration for one year or more may be imposed.

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50 The commissioner, for reasons the commissioner may deem
51 sufficient, may reissue a license, certification or registration
52 to any person whose license, certification or registration has
53 been revoked.

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§1380. Penalties; injunction

1. Penalties. Any person who plans, installs or inspects a fire sprinkler system, or any part of that system, without obtaining the required license, certification or registration, or after the license, certification or registration has expired or has been suspended or revoked or temporarily suspended or revoked, or who installs or alters a system without obtaining a permit as required by this chapter is guilty of a Class E crime.

2. Injunction. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have or may be instituted in Administrative Court or whether criminal proceedings have been or may be instituted.

§1381. Fire Sprinkler Advisory Council

1. Membership. The Fire Sprinkler Advisory Council established in Title 5, section 12004-I shall consist of 7 persons appointed by the commissioner as follows:

- A. Three persons who have been actively engaged in the management of a fire sprinkler system business for not less than 5 years preceding their appointments;
- B. One person from a municipal fire department of this State, nominated by the Maine Fire Chiefs Association;
- C. One person from the Maine Federation of Fire Fighters;
- D. One person who is either a fire protection engineer or a mechanical engineer licensed in this State who is involved in building construction design; and
- E. One person from the property insurance industry, nominated by the Superintendent of Insurance.

2. Terms of office. Members shall serve staggered 4-year terms. Initial members shall have terms as follows: 3 members for 2-year terms, 3 members for 3-year terms and one member for a 4-year term. The commissioner shall designate the term for each initial member. A member may serve no more than 2 consecutive 4-year terms.

3. Quorum. Four members shall constitute a quorum for the conduct of business.

4. Chair. The State Fire Marshal shall serve as chair of the Fire Sprinkler Advisory Council, in an ex officio, nonvoting role.

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5. Compensation. Members shall be compensated according to the provisions of Title 5, chapter 379.

6. Duties. In addition to other duties specified by the commissioner, the Fire Sprinkler Advisory Council may:

A. Advise the State Fire Marshal concerning practices in the fire sprinkler system industry and the rules necessary to implement and administer this chapter;

B. Make recommendations to the State Fire Marshal regarding forms and procedures for certification, registration and licensure, and plan reviews and fees charged for those reviews; and

C. Advise the State Fire Marshal as to future changes that this chapter may require to protect the public health, safety and welfare.

7. Sunset. The Fire Sprinkler Advisory Council shall terminate January 1, 2000.

§1382. Department rules

Following the procedures of Title 5, chapter 375, the commissioner shall adopt such rules as are necessary for the implementation of this chapter.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1989-90	1990-91
PUBLIC SAFETY, DEPARTMENT OF		
Office of State Fire Marshal		
Positions	(1)	(1)
Personal Services	\$13,226	\$28,806
All Other	3,588	7,175
Capital Expenditures	11,424	
Provides funds for a fire sprinkler installation supervisor, general operating expenses, a compact car and anticipated expenses of the advisory council.		
DEPARTMENT OF PUBLIC SAFETY		
TOTAL	\$28,238	\$35,981

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Sec. 4. Effective date. This Act shall take effect January 1, 1990, except that the Maine Revised Statutes, Title 32, section 1372, shall take effect July 1, 1990.

FISCAL NOTE

Enactment of this legislation results in:

1. An increase in Other Special Revenue to the Department of Public Safety, Office of State Fire Marshal, Acct. #04656.1, in the amount of \$28,238 for fiscal year 1989-90 and \$35,981 for fiscal year 1990-91. This revenue would be derived from fees established by the department to carry out the purposes of this Act; and

2. An allocation of Other Special Revenue to the Department of Public Safety, Office of State Fire Marshal, Acct. #04656.1, in the amount of \$28,238 for fiscal year 1989-90 and \$35,981 for fiscal year 1990-91. This allocation provides funds for a fire sprinkler installation supervisor, general operating expenses, a compact car and anticipated expenses of the Fire Sprinkler Advisory Council.'

STATEMENT OF FACT

This amendment amends the original bill in several ways as follows.

1. The definition of "plan" has been clarified to distinguish the roles of fire sprinkler system planners and professional engineers.

2. A registration is required for persons inspecting fire sprinkler systems other than certified responsible managing supervisors or agents of municipal or state government or licensed insurers.

3. Possible duplicate registration fees for certified responsible managing supervisors and professional engineers have been eliminated.

4. The requirement that each fire sprinkler system contractor employ full-time a certified responsible managing supervisor has been eliminated. This amendment provides that a fire sprinkler system contractor may retain a responsible managing supervisor either by employment or contract.

5. Requirements for maintaining a certified responsible managing supervisor have been simplified.

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6. All plans submitted to the Office of the State Fire Marshal must indicate the certified responsible managing supervisor and installer. Additionally, within 30 days of completion of a system or addition, the responsible managing supervisor must certify that the system or addition was installed according to the plan.

7. The negligence standard for disciplinary action to be taken by either the Commissioner of Public Safety or Administrative Court has been restated as simple negligence, not "gross negligence."

Pursuant to the Maine Revised Statutes, Title 5, section 12015, subsection 3, the Joint Standing Committee on Business Legislation finds that:

1. A serious threat to public safety exists if unqualified persons install improper fire sprinkler systems;

2. No legal remedy currently exists to prevent an unqualified person from performing design, installation or maintenance for a fire sprinkler system;

3. The general public has no way to judge the competence of a fire sprinkler system contractor without the proposed licensing bill;

4. The proposed requirement of the National Institute for the Certification in Engineering Technologies certification is a nationally recognized standard; and

5. The proposed regulation constitutes a significant step in ensuring quality design, installation and maintenance of fire sprinkler systems in this State.

Reported by Senator Hobbins for the Committee on Business Legislation. Reproduced and Distributed Pursuant to Senate Rule 12.
(5/18/89) (Filing No. S-126)