

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 486

H.P. 356

House of Representatives, February 8, 1991

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative TRACY of Rome.

Cosponsored by Representative SHELTRA of Biddeford and Representative GRAHAM of Houlton.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Regulate Welding.

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

4 32 MRSA c. 125 is enacted to read:

6 CHAPTER 125

8 Welding

10 §14101. Definitions

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

14 1. Applicable code. "Applicable code" means either
16 American National Standards Institute/American Society of
18 Mechanical Engineers specification B31, Pressure Piping Codes;
20 American National Standards Institute/American Welding Society
22 specification D1.1, Structural Welding Code, Steel; American
National Standards Institute/American Association of State
Highway and Transportation Officials/American Welding Society
specifications D1.5, Bridge Welding Code; or such other
specifications as may be applicable.

24 2. Bureau. "Bureau" means the Department of Labor, Bureau
26 of Labor Standards.

28 3. Department. "Department" means the Department of
Transportation.

30 4. Responsible agency. "Responsible agency" means the
32 bureau unless welding is done on structures under the
jurisdiction of the department, in which case it means that
34 department.

36 5. Welder. "Welder" means a person who engages in welding.

38 6. Welding. "Welding" means any welding of pressure piping
40 carrying gases, steam or liquids at pressures in excess of 100
42 pounds per square inch on privately or publicly owned steel
framed structures used by the public, all steel framed highway or
railway structures not under jurisdiction of the department and
all structures under the jurisdiction of the department.

44 §14102. Welding codes

46 All welding must be done to the specifications of the
48 applicable code.

50 §14103. Inspection

52 The bureau may perform inspections, both in fabrication
shops and on job sites, to ascertain that welding is performed in

2 accordance with the applicable code, except that the department
4 may perform these inspections on or in structures under its
6 jurisdiction. This section applies to welding on new
8 construction, remodeling and repair.

6 **§14104. Welder certification**

8 A person may not engage in welding unless certified for that
10 type of welding under this chapter.

10 **§14105. Qualifications**

12 In order to be certified as a welder, a person must be
14 determined by the responsible agency to meet the qualifications
16 specified in the code that applies to the type of welding that is
18 to be performed. The responsible agency may use testing to
20 ascertain if an applicant meets the required qualifications. A
22 certificate issued by either responsible agency is not valid for
24 welding on structures not under the jurisdiction of that agency.

26 There is no appeal from the failure of the responsible
28 agency to issue a certification as a result of an applicant
30 failing to pass an examination where the results of the
32 examination have been certified by the responsible agency to be
34 correct.

36 **§14106. Renewal**

38 Certification is valid for one year and may be renewed by
40 the applicant by providing the responsible agency with a
42 notarized statement attesting that there has been no lapse in
44 excess of 6 months in the applicant's employment as a welder
46 using the type of welding covered by the applicant's
48 certification. An applicant for renewal who does not meet this
50 requirement is treated as a new applicant.

52 **§14107. Fees**

Each responsible agency may establish its own fee schedules
for testing, initial certification and renewal.

All fees received by the responsible agency must be paid to
the Treasurer of State to be used for carrying out this chapter.
Any balance of these fees does not lapse, but is carried forward
as a continuing account to be expended for the same purposes in
the following fiscal years.

§14108. Complaints; discipline

1. Investigations. The responsible agency shall
investigate or cause to be investigated all complaints made to it
and all cases of noncompliance with or violation of this

2 chapter. Any person may register a complaint of fraud, deceit,
3 gross negligence, incompetency or misconduct against any person
4 certified or required to be certified under this chapter. These
5 complaints must be in writing, must be sworn to by the person
6 making them and filed with the responsible agency.

7 2. Suspension; revocation. The responsible agency may
8 suspend or revoke a certification pursuant to Title 5, section
9 10004. The responsible agency may refuse to issue or renew a
10 certification or the Administrative Court may suspend or revoke a
11 certification of any person who is found guilty of:

12 A. The practice of any fraud or deceit in obtaining a
13 license;

14 B. Any gross negligence, incompetency or misconduct in
15 welding. Continued failure to conform with specifications
16 of the applicable codes is prima facie evidence of gross
17 negligence and incompetency;

18 C. Violating any provision of this chapter or any rule of
19 the responsible agency; or

20 D. Conviction of a crime, subject to the limitations of
21 Title 5, chapter 341.

22 Any certification suspended by the responsible agency or
23 suspended or revoked by the Administrative Court judge must be
24 immediately surrendered to the responsible agency and held during
25 any period of suspension, or if revoked, until reinstated as
26 provided in this chapter.

27 3. Reinstatement. A person whose certification is
28 suspended or revoked for more than 90 days must establish that
29 all requirements governing new applicants under this chapter are
30 met as a condition of reinstatement or return of the
31 certification, except that the responsible agency may in its
32 discretion, giving due consideration to the protection of the
33 public, waive examination if the period of suspension is less
34 than 2 years or, in the case of revocation, the applicant is
35 eligible and has made application for reinstatement within 2
36 years of the effective date of revocation.

37 Subject to other provisions of this section, the responsible
38 agency, for reasons it determines sufficient, may reissue a
39 certification to any person whose certification has been revoked.

40 §14109. Violations

41 A person who engages in welding in violation of this chapter
42 is guilty of a Class E crime.

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The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether proceedings to impose a civil forfeiture have been or may be instituted.

STATEMENT OF FACT

The bill requires that all welding of a certain type be conducted according to the specifications of the appropriate national code. It empowers the Department of Labor, Bureau of Labor Standards and the Department of Transportation to inspect structures on which welding has taken place.

Additionally, this bill requires that persons engaged in certain types of welding be certified by the Bureau of Labor Standards or the Department of Transportation based on their demonstrated ability to meet the standards of the appropriate national code. Certification may be suspended or revoked for negligence, incompetence or misconduct. The bureau and the department are empowered to set fees to cover the cost of testing, certification and renewal.