

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 480, L.D. 674, Bill, "An Act to Regulate the Construction of Chimneys and Fireplaces"

Amend the bill by striking out the title and substituting the following:

'An Act to Regulate the Construction of Chimneys and Fireplaces and to Amend the Oil and Solid Fuel Laws'

Further amend the bill by striking out all of section 1.

Further amend the bill in section 4 in subsection 3 in the last line (page 2, line 4 in L.D.) by striking out the following: "Appliances", " " and inserting in its place the following: 'Appliances' and Title 32, section 2313-A.'

Further amend the bill by striking out all of section 6 and inserting in its place the following:

'Sec. 6. 32 MRSA §2311, sub-§4, as amended by PL 1989, c. 320, §1, is repealed.

Sec. 7. 32 MRSA §2311, sub-§§4-A to 4-C are enacted to read:

4-A. Chimney. "Chimney" means a factory-built, masonry or metal chimney constructed to allow one or more vertical or nearly vertical passageways for conveying flue gases from a building to the outside atmosphere.

4-B. Chimney or fireplace installer. "Chimney or fireplace installer" means any person, firm or company who installs chimneys or fireplaces for compensation.

4-C. Disclosure. "Disclosure" means a written statement of information provided to a consumer by an installer of chimneys or fireplaces prior to the actual installation.

2           Sec. 8. 32 MRSA §2311, sub-§6, as enacted by PL 1979, c. 569,  
3 §4, is amended to read:

4           6. Equipment installations. "Equipment installations" shall  
5 mean means the installation, alteration or repair of oil and  
6 solid fuel burning equipment, chimneys and fireplaces, as defined  
7 in this chapter, including accessory equipment as relating only  
8 to the safety of the installation. Associated electrical  
9 equipment shall must be wired in compliance with the rules of the  
10 Electricians' Examining Board.

11           Sec. 9. 32 MRSA §2311, sub-§§6-A and 9-A are enacted to read:

12           6-A. Fireplace. "Fireplace" means a factory-built or  
13 masonry hearth, fire chamber or similarly prepared place.

14           9-A. Registered. "Registered" means that a manufacturer or  
15 importer of oil and solid waste fuel burning central heating  
16 equipment, prefabricated fireplaces and chimneys or accessory  
17 equipment has met all the requirements for registration under  
18 this chapter and has been issued a certificate of registration.  
19

20           Sec. 10. 32 MRSA §2312, as amended by PL 1979, c. 606, §9, is  
21 repealed and the following enacted in its place:

22           §2312. Registration process

23           Manufacturers or importers of all equipment for burning oil  
24 and solid fuel, prefabricated fireplaces and chimneys or  
25 accessory equipment manufactured or imported into this State for  
26 sale in this State shall register with the board on forms  
27 provided by the board. The forms must set forth, among other  
28 items, the name and address of the manufacturer or importer, the  
29 types of equipment manufactured or imported, the appropriate  
30 testing standards the equipment has passed and any other  
31 information the board requires. A fee not to exceed \$300 must  
32 accompany each initial registration. All registrations expire on  
33 October 31st of each odd-numbered year or at a time the  
34 commissioner designates. Registrations may be renewed by filling  
35 out forms prescribed by the board, which must be accompanied by a  
36 renewal fee not to exceed \$300.  
37

38           Sec. 11. 32 MRSA §2312-A is enacted to read:

39           §2312-A. Issuance of certificate of registration and appeal  
40 procedures

41           Upon receipt of the registration form, if the applicant is  
42 in compliance with this subchapter and the rules of the board,  
43 the board shall issue a certificate of registration to the  
44

2 manufacturer or importer. If the board fails to issue a  
3 certificate of registration or renewal, the applicant may appeal  
4 to the Superior Court in accordance with Title 5, chapter 375,  
5 subchapter VII.

6 Sec. 12. 32 MRSA §2313, as amended by PL 1989, c. 320, §2, is  
7 further amended to read:

8 **§2313. Installations to conform to standards**

9  
10 No installation of oil or solid fuel burning equipment or  
11 chimneys and fireplaces as defined in this chapter may be made in  
12 the State unless the installation complies with all standards and  
13 regulations adopted by the board. Whenever oil or solid fuel  
14 burning equipment, accessory equipment or installation thereof  
15 are separately contracted, the master burner technician in charge  
16 of installation ~~shall--be~~ is responsible for ascertaining total  
17 conformance to the standards. Whenever any state oil and solid  
18 fuel compliance officer ~~shall--find~~ finds a person installing or  
19 assisting in an oil or solid fuel burner installation, the person  
20 shall, on request of the compliance officer, provide evidence of  
21 being properly licensed, when required by this chapter and, if  
22 unable to provide the evidence, shall furnish the compliance  
23 officer with that person's full name and address and, if  
24 applicable, the full name and address of the master in charge.

25  
26 Sec. 13. 32 MRSA §2313-A is enacted to read:

27 **§2313-A. Disclosures; penalties**

28  
29 Effective January 1, 1992, a chimney or fireplace installer  
30 must issue a disclosure to any consumer prior to the installation  
31 taking place. Disclosures must be in a format determined by the  
32 board and contain the information the board considers necessary.

33  
34 Any chimney or fireplace installer who fails to provide a  
35 disclosure to a consumer prior to the installation of a chimney  
36 of fireplace commits a civil violation for which a forfeiture of  
37 not less than \$500 may be adjudged.

38  
39 Sec. 14. 32 MRSA §2315, as amended by PL 1989, c. 320, §3, is  
40 further amended to read:

41 **§2315. State oil and solid fuel compliance officers**

42  
43 State oil and solid fuel compliance officers, upon written  
44 complaint of any owner, lessee or tenant of a building, state  
45 fire inspector, fire chief, fire department inspector, personnel  
46 of an electric utility or local electrical inspector, or whenever  
47 they ~~shall--deem~~ consider it necessary, for purposes of  
48 examination of the burner, chimney or fireplace installation, may  
49 at all reasonable hours enter into and upon all buildings or  
50  
51  
52

2 premises within their jurisdiction and inspect the buildings or  
premises. The inspectors may enter any building only with the  
4 permission of the person having control thereof or, after  
hearing, upon order of the court. Whenever any such compliance  
6 officer ~~shall--find~~ finds any burner, chimney or fireplace  
installation in any building or structure which that does not  
8 comply with the requirements of this chapter, that officer shall  
order the burner, chimney or fireplace to be removed or remedied,  
10 and the order shall must forthwith be complied with by the owner  
or occupant of that building or structure or the installer of the  
12 equipment. The owner, occupant or installer may, within 7 days,  
appeal to the Oil and Solid Fuel Board, which shall, within 10  
14 days a reasonable time, review the order and file its decision  
thereon, which decision shall must be complied with within such  
16 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  
18 such order of any oil or solid fuel burner compliance officer or  
decision of the board, a court may order appropriate ~~injunctive~~  
20 ~~the--authority--to~~ may review the burner, chimney or fireplace  
installation records of any person licensed under this chapter or  
22 any person performing installations as authorized under this  
chapter.

24  
26 Sec. 15. 32 MRSA §2316, as amended by PL 1989, c. 320, §4, is  
further amended to read:

28 **§2316. Failure to comply with order of compliance officer**

30 If the owner, occupant of any building or an installer  
neglects or refuses, without justification, for more than 10 days  
32 to comply with any order of an oil or solid fuel burner  
compliance officer concerning oil or solid fuel burner, chimney  
34 or fireplace installations as provided by this chapter, that  
person commits a civil violation for which a forfeiture of not  
36 less than \$5 \$100 for each day's neglect may be adjudged.

38 Sec. 16. 32 MRSA §2352, last ¶, as amended by PL 1979, c. 569,  
§8, is further amended to read:

40 ~~Oil--and--solid--fuel--burner--compliance--officers--appointed~~  
~~under--this--section--shall--have--the--same--powers--throughout--the~~  
42 ~~several--counties--of--the--State,--as--sheriffs--have--in--their~~  
~~respective--counties,--relating--to--enforcement--of--the--provisions--of~~  
44 ~~this--chapter,--standards--adopted--thereunder--and--rules--or~~  
~~regulations--promulgated--thereunder.~~ Oil and solid fuel burner  
46 compliance officers have the power to conduct investigations,  
48 issue citations, serve summonses and order corrections of  
violations in accordance with this chapter.

50

2           **Sec. 17. 32 MRSA §2353**, as repealed and replaced by PL 1983,  
c. 413, §119, is amended to read:

4           **§2353. Meetings; rules**

6           The board shall meet at least once a year to conduct its  
business and elect its officers. Additional meetings shall may  
8           be held as necessary to conduct the business of the board, and  
may be convened at the call of the ~~chairman~~ chair or a majority  
10          of the board members. Four members of the board shall constitute  
a quorum for all purposes. The board may adopt standards and  
12          rules as ~~it--shall--deem~~ necessary, pursuant to the Maine  
Administrative Procedure Act, Title 5, chapter 375, for the  
14          holding of examinations and for carrying out this chapter, and  
provide for reciprocity of licensing with similar boards of other  
16          states ~~which~~ that maintain standards equivalent to those provided  
under this chapter. The board may establish fees and charges  
18          necessary for covering the costs incurred for ~~approving-equipment~~  
~~registering manufacturers and importers~~. The manufacturer or his  
20          representative importer shall ~~be--required--to~~ pay all fees and  
charges established by the board or incurred by the board in the  
22          process of investigating or verifying the safety of equipment  
sold in the State.

24           **Sec. 18. 32 MRSA §2354**, as repealed and replaced by PL 1973,  
c. 384, is amended to read:

28          **§2354. Disposal of fees**

30          All fees received by the board shall must be paid by the  
~~executive--secretary~~ board to the Treasurer of State to be used  
32          for carrying out this chapter. Any balance of ~~said the~~ fees shall  
does not lapse, but ~~shall--be~~ is carried forward as a continuing  
34          account to be expended for the same purposes in the following  
fiscal years.

36           **Sec. 19. 32 MRSA §2401-A, sub-§3**, as enacted by PL 1979, c.  
38          569, §13, is amended to read:

40          **3. Mechanics.** The installation of ~~pipng~~ air-handling  
equipment, sheet metal and other specialized equipment and  
42          services associated with the oil or solid fuel burning equipment  
may be made by qualified mechanics of those trades who do not  
44          hold an oil or solid fuel burner technician's license. The  
installations shall must conform to the standards, and rules and  
46          regulations of the board and shall must be made under the  
supervision of a master oil or solid fuel burner technician  
48          having responsibility for the installations;

50          **Sec. 20. 32 MRSA §2402, sub-§2**, as amended by PL 1987, c. 395,  
Pt. A, §172, is further amended to read:

52

2           2. Fees. An application fee and an examination fee may be  
4 established by the board in amounts which are reasonable and  
6 necessary for their respective purposes. Original and renewal  
license fees may be established by the board in amounts which are  
reasonable and necessary for their respective purposes. The fees  
may not exceed the following amounts:

8           A. Master, original license, ~~-\$100,~~ and biennial renewal  
10 fee, \$200;

12           B. Journeyman, original license, ~~-\$50,~~ and biennial renewal  
14 fee, \$100; and

16           C. Apprentice, original license, ~~-\$20,~~ and biennial renewal  
18 fee, \$40.

20 ~~When the unexpired term of license of an applicant is or will be  
more than one year at time of licensure, the board may require  
the applicant to pay an additional fee not to exceed 1/2 the  
biennial renewal fee.~~

22 ~~A person holding a license as a master oil burner technician is  
not required to pay a fee to be licensed as a master solid fuel  
24 burner technician, as long as he meets all other requirements and  
pays the examination fee required by section 2403. A person  
26 holding a license as a master solid fuel burner technician is not  
required to pay a fee to be licensed as a master oil burner  
28 technician, as long as he meets all other requirements and pays  
the examination fee required by section 2403. Any person who has  
30 paid a fee for both master licenses held simultaneously shall be  
32 given a credit for one license fee less the examination fee,  
which shall be applied to the next renewal.~~

34 Applicants applying for an initial license with a term of one  
36 year or less are required to pay only 1/2 the biennial license  
fee.

38           Sec. 21. 32 MRSA §2404, as amended by PL 1983, c. 413, §125,  
40 is further amended to read:

42           **§2404. Renewals**

44           All licenses shall expire biennially on December 31st as to  
46 a master technician and biennially on June 30th as to other  
48 licenses. The expiration dates for licenses issued under this  
chapter may be established at such other times as the  
Commissioner of Professional and Financial Regulation may  
50 designate. The licenses may be renewed on a biennial basis  
without further examination upon the payment of the proper fee.  
52 The board shall notify everyone registered under this chapter of  
the date of expiration of his the license and the amount of fee  
required for its renewal for a 2-year period. The notice shall

2 must be mailed to the person's last known address at least 30  
3 days in advance of the expiration date of his the license. A  
4 license may be renewed up to 90 days after the date of expiration  
5 upon payment of a late fee of \$10 in addition to the renewal  
6 fee. Any person who submits an application for renewal more than  
7 90 days after the license renewal date ~~shall be~~ is subject to all  
8 requirements governing new applicants under this chapter, except  
9 that the board may ~~in-its-discretion~~, giving due consideration to  
10 the protection of the public, waive examination ~~if-the-renewal~~  
11 ~~application--is--made--within--2--years--from--the--date--of--the~~  
12 ~~expiration or other requirements.~~ The board may assess penalties  
for late renewals more than 90 days after the date of expiration.

14 Sec. 22. 32 MRSA §2405, as amended by PL 1981, c. 561, is  
15 repealed.

16 Sec. 23. Allocation. The following funds are allocated from  
17 Other Special Revenue funds to carry out the purposes of this Act.

	1991-92	1992-93
20		
22	<b>PROFESSIONAL AND FINANCIAL</b>	
24	<b>REGULATION, DEPARTMENT OF</b>	
26	<b>Oil and Solid Fuel Board</b>	
28	Personal Services	\$1,500
	All Other	11,500
30	Provides funds for per diems	
32	and board expenses, printing,	
34	advertising and rulemaking	
	relating to the regulation of	
	chimney and fireplace	
	installers.	
36		
38	<b>DEPARTMENT OF PROFESSIONAL AND</b>	
	<b>FINANCIAL REGULATION</b>	
40	<b>TOTAL</b>	<b>\$13,000</b>
		<b>\$13,000'</b>

42 Further amend the bill by renumbering the sections to read  
43 consecutively.

44 Further amend the bill by adding before the statement of  
45 fact the following:

48 **FISCAL NOTE**

	1991-92	1992-93
50		



COMMITTEE AMENDMENT "A" to H.P. 480, L.D. 674

Appropriations/Allocations

2			
	Other Funds	\$13,000	\$13,000

4			
	Revenues		

6			
	Other Funds	\$15,000	\$15,000

8  
 10 This bill expands the responsibilities of the Oil and Solid  
 12 Fuel Board to include the regulation of chimney and fireplace  
 14 installers. Allocations from dedicated revenue of \$13,000 in  
 16 fiscal year 1991-92 and \$13,000 in fiscal year 1992-93 will be  
 18 required by the Department of Professional and Financial  
 Regulation for Oil and Solid Fuel Board members' per diems and  
 travel expenses and for the costs related to rulemaking, printing  
 and advertising. Additional dedicated revenues of \$15,000  
 annually will be generated from the registration of manufacturers  
 or importers of certain heating equipment.'

20  
 22 **STATEMENT OF FACT**

24 This amendment establishes the jurisdiction for regulation  
 26 of the construction of chimneys and fireplaces with the Oil and  
 28 Solid Fuel Board. This amendment mandates civil penalties for  
 30 any installers of chimneys and fireplaces who fail to give  
 disclosures to consumers prior to installation. This amendment  
 gives enforcement jurisdiction over the disclosure provisions to  
 the Office of the State Fire Marshal, state oil and solid fuel  
 inspectors, fire chiefs and municipal building inspectors.

32 This amendment also allows the State Oil and Solid Fuel  
 34 Board to register manufacturers of equipment rather than approve  
 individual pieces of equipment as is done now.

36 This amendment limits the enforcement powers of state  
 38 inspectors, increases the allowed fee for initial licensing from  
 40 \$100 to \$200, allows the Oil and Solid Fuel Board more discretion  
 over reissuing lapsed licenses and raises the daily forfeiture  
 for failure to comply with the order of a compliance officer from  
 \$5 to \$100.

Reported by the Committee on Business Legislation  
 Reproduced and distributed under the direction of the Clerk of the  
 House  
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