

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1270

S.P. 474

In Senate, April 11, 1995

An Act to Redefine the Oil and Solid Fuel Board.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland.
Cosponsored by Senators: BUTLAND of Cumberland, HATHAWAY of York,
Representatives: GREENLAW of Standish, POULIN of Oakland, POVICH of Ellsworth,
ROBICHAUD of Caribou.

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

2
4 **Sec. 1. 32 MRSA §2311, sub-§2**, as enacted by PL 1979, c. 569, §4, is amended to read:

6 **2. Apprentice oil burner technician.** "Apprentice oil burner technician" ~~shall-mean~~ means a person who is licensed under this chapter to assist in making oil burner installations, repairs and servicing of oil burning equipment under the direct supervision of a master or journeyman oil burner technician. An apprentice oil burner technician may clean oil burners and oil burning equipment without direct supervision subject to the requirements of any rule adopted by the Oil and Solid Fuel Board.

14 **Sec. 2. 32 MRSA §2311, sub-§3-A and 3-B** are enacted to read:

16 **3-A. Board.** "Board" means the Oil and Solid Fuel Board established in section 2351.

18 **3-B. Bona fide personal abode.** "Bona fide personal abode" means a dwelling inhabited by its owner for at least one year.

20 **Sec. 3. 32 MRSA §2311, sub-§9-B** is enacted to read:

22 **9-B. Oil and Solid Fuel Board Licensing Fund; licensing fund.** "Oil and Solid Fuel Board Licensing Fund" or "licensing fund" means the fund into which all license fees, testing fees, registration fees and penalties are deposited for carrying out the purposes of this chapter.

24 **Sec. 4. 32 MRSA §2315**, as amended by PL 1991, c. 198, §13, is further amended to read:

26 **§2315. State oil and solid fuel compliance officers; enforcement; powers; penalties**

28 State oil and solid fuel compliance officers, upon written complaint of any owner, lessee or tenant of a building, state fire inspector, fire chief, fire department inspector, personnel of an electric utility or local electrical inspector, or whenever they consider it necessary, for purposes of examination of the burner, chimney or fireplace installation, may at all reasonable hours enter into and upon all buildings or premises within their jurisdiction and inspect the buildings or premises. The inspectors may enter any building only with the permission of the person having control thereof or, after hearing, upon order of the court. Whenever ~~any--such~~ a compliance officer finds any burner, chimney or fireplace installation in any building or structure that does not comply with the requirements of this chapter, ~~that~~ the officer shall order the burner, chimney or fireplace to be removed or remedied, and the order must ~~forthwith~~ be complied with by the owner or occupant of that building or

2 structure or the installer of the equipment. The owner, occupant
or installer may, within 7 days, appeal to the Oil and Solid Fuel
4 Board, which shall, within a reasonable time, review the order
and file its decision ~~thereon,--which.~~ The decision must be
6 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
8 refuses to carry out any such order of any an oil or solid fuel
burner compliance officer or decision of the board, a court may
10 order appropriate relief. State oil and solid fuel compliance
officers may review the burner, chimney or fireplace installation
12 records of any person licensed under this chapter or any person
performing installations as authorized under this chapter.

14 The police powers of the State rest with the agency of State
Government with whom the board reaches agreement for the
16 enforcement of this chapter. The agency of State Government
enforcing this chapter has the power to assess the penalties
18 provided for in this chapter.

20 All funds collected from the enforcement of this chapter
must be remitted to the board and deposited in the Oil and Solid
22 Fuel Board Licensing Fund.

24 Any inspector or other person enforcing this chapter as an
employee or agent of the agency of State Government contracted by
26 the board must meet the same qualifications as a person licensed
under this chapter.

28 **Sec. 5. 32 MRS** §2317, as amended by PL 1983, c. 413, §116,
30 is further amended to read:

32 **§2317. Violations; forfeiture**

34 Any person, firm or corporation who makes an oil or solid
fuel burner installation without having first ~~obtained~~ obtaining
36 a license, as provided by this chapter; any person, firm or
corporation who employs an unlicensed person, unless the work is
38 exempted by this chapter; any person who procures any license
wrongfully or by fraud; or any person, firm or corporation who
40 violates the provisions of this chapter, rules or regulations
~~promulgated thereunder~~ adopted under this chapter, or standards
42 adopted by the board, commits a ~~civil violation for which a~~
~~forfeiture of not less than \$100 nor more than \$500 may be~~
44 adjudged Class E crime.

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

2 **Sec. 6. 32 MRSA §2351**, as amended by PL 1993, c. 659, Pt. A,
§§5 and 6, is further amended to read:

4 **§2351. Board established; appointment; vacancies; removal;
6 compensation**

8 The Oil and Solid Fuel Board, as established by Title 5,
10 section 12004-A, subsection 27, is created as an independent
12 board for the following purposes: overseeing the oil and solid
14 fuel technician licensure program; advising State Government on
16 matters relating to the enforcement of the laws of this chapter;
overseeing the development of rules and legislation relating to
the implementation of this chapter; conducting the expenditure of
funds raised in the furtherance of this chapter; and overseeing
the personnel under the jurisdiction of State Government whose
employment is related to the furtherance of this chapter.

18 The Oil and Solid Fuel Board, ~~as established by Title 5,~~
20 ~~section 12004-A, subsection 27, and in this chapter called the~~
"board," consists of the Commissioner of Public Safety or a
22 representative of the commissioner and 6 other members, called in
this chapter the "appointive members," who are appointed by the
Governor.

24 Three of the appointive members must be oil burner
26 technicians who are active in the trade. One of the members must
have at least 5 years' experience and the other 2 members must
28 have at least 10 years' experience as oil burner technicians.
Nominees for appointment of the oil burner technician members may
30 be recommended to the Governor by the Maine Oil Dealers
Association. One of the appointive members must be a
32 representative of the solid fuel burning industry, one must be a
representative of the public and one must be a manufacturer,
34 importer or wholesaler or a designee of a manufacturer, importer
or wholesaler of the type of equipment requiring product
36 registration pursuant to section 2312.

38 The appointive members are appointed for terms of 4 years.
Appointments of members must comply with section 60.

40 Any appointive member of the board may be removed from
42 office by the Governor for cause.

44 The members of the board ~~shall be compensated according to~~
46 ~~the provisions of Title 5, chapter 379~~ serve without
compensation, but may be reimbursed for expenses.

48 Annually, the 5 6 appointive members of the board shall
50 choose one of their members as chairman chair.

52 **Sec. 7. 32 MRSA §2352**, as amended by PL 1991, c. 509, §22, is
further amended to read:

2
3 **§2352. Employees**

4 ~~The Commissioner of Professional and Financial Regulation,~~
5 ~~with the advice of the board,~~ board may appoint, ~~subject to the~~
6 ~~Civil Service Law,~~ such employees as may be necessary to carry
7 out this chapter. ~~Any persons so employed are located in the~~
8 ~~Department of Professional and Financial Regulation and under the~~
9 ~~administrative and supervisory direction of the Commissioner of~~
10 ~~Professional and Financial Regulation.~~ In addition, the board
11 may enter into contracts to carry out its responsibilities under
12 this chapter, including, but not limited to, contracts for the
13 provision of legal counsel to the board.

14 Oil and solid fuel burner compliance officers have the
15 power to conduct investigations, issue citations, serve summonses
16 and order corrections of violations in accordance with this
17 chapter.

18 **Sec. 8. 32 MRSA §2354,** as amended by PL 1991, c. 198, §17, is
19 repealed.

20 **Sec. 9. 32 MRSA §§2354-A and 2354-B** are enacted to read:

21 **§2354-A. Licensing fund established; disposal of fees; audit**

22 The Oil and Solid Fuel Board Licensing Fund is established
23 for the use of the board. The proceeds of the licensing fund
24 must be deposited in a bank or banks that are members of the
25 Federal Reserve System for the furtherance of the requirements of
26 this chapter.

27 All fees received by the board must be deposited in the
28 licensing fund to be used for carrying out this chapter. Any
29 balance of the licensing fund does not lapse, but is carried
30 forward as a continuing account to be expended for the same
31 purposes in the following fiscal years.

32 The board shall ensure, within 90 days of the end of each
33 fiscal year, that its accounts and funds held in the licensing
34 fund are subjected to a complete independent audit, the results
35 of which are public and must be made available upon request and
36 must be communicated to the members of the joint standing
37 committee of the Legislature having jurisdiction over business
38 matters at the beginning of each session of the Legislature.
39 Upon completion of the audit, the board must review the audit
40 results at a meeting of the board and provide an opportunity for
41 public comment on the audit.

42 At a minimum, the audit must include, but is not limited to:
43 a complete accounting of all receipts received by the board
44

2 during the fiscal year; a complete accounting of all expenditures
3 made by the board during the fiscal year; and an analysis of the
4 extent to which the funds collected by the board meet the
5 requirements of the operations of the board.

6 **§2354-B. Budget**

8 Prior to June 30th of each year, the board shall develop a
9 budget for the expenditure of funds for the next fiscal year.
10 The board shall hold a public hearing, in conformance with the
11 Maine Administrative Procedure Act, to hear public comment with
12 respect to the budget proposed by the board. At a minimum, the
13 budget must include the following information:

14 1. Expenditures. The expenditures the board intends to
15 make in the following fiscal year, broken down by the type and
16 amount of the expenditure; and

17 2. Receipts. The receipts the board expects to receive in
18 the following fiscal year, broken down by the type and amount of
19 the receipt.

20 **Sec. 10. 32 MRSA §2357**, as amended by PL 1987, c. 395, Pt. A,
21 §171, is further amended to read:

22 **§2357. Reports**

23 Not later than August 1st of each year, the board shall
24 submit to the ~~Commissioner of Business Professional and Financial~~
25 Regulation ~~joint standing committee of the Legislature having~~
26 jurisdiction over business regulation matters for the preceding
27 fiscal year ending June 30th an annual report of its operations
28 and financial position, together with such comments and
29 recommendations as the board deems ~~considers~~ essential.

30 **Sec. 11. 32 MRSA §2401-A, sub-§6**, as enacted by PL 1979, c.
31 569, §13, is amended to read:

32 **6. Personal abode.** ~~Nothing in this chapter shall prevent a~~
33 A person ~~from making~~ may install an oil or solid fuel burner
34 installation in a ~~single-family~~ single-family residence occupied
35 or to be occupied by him ~~the person~~ as his ~~the person's~~ bona fide
36 personal abode, ~~providing as long as~~ that installation conforms
37 with the National Fire Protection Association Standard No. 31.
38 ~~Any person who sells or transfers the residence within one year~~
39 ~~of making the installation shall notify the purchaser of the fact~~
40 ~~that that person made the installation.~~

41 **Sec. 12. 32 MRSA §2404**, as amended by PL 1991, c. 198, §20,
42 is further amended to read:

43 **§2404. Renewals**

2 All licenses expire biennially on December 31st as to a
3 master ~~teechnieian~~ technicians and biennially on June 30th as to
4 other licenses. The expiration dates for licenses issued under
5 this chapter may be established at such other times as the
6 ~~Commissioner of Professional and Financial Regulation~~ board may
7 designate. The licenses may be renewed on a biennial basis
8 without further examination upon the payment of the proper fee.
9 The board shall notify everyone registered under this chapter of
10 the date of expiration of the license and the amount of fee
11 required for its renewal for a 2-year period. The notice must be
12 mailed to the person's last known address at least 30 days in
13 advance of the expiration date of the license. A license may be
14 renewed up to 90 days after the date of expiration upon payment
15 of a late fee of \$10 in addition to the renewal fee. Any person
16 who submits an application for renewal more than 90 days after
17 the license renewal date is subject to all requirements governing
18 new applicants under this chapter, except that the board may,
19 giving due consideration to the protection of the public, waive
20 examination or other requirements. The board may assess
21 penalties for late renewals more than 90 days after the date of
22 expiration.

23 **Sec. 13. 32 MRSA §2407** is enacted to read:

24 **§2407. Sunset**

25 This chapter is repealed on May 1, 1997.

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29 **STATEMENT OF FACT**

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31
32 This bill makes the Oil and Solid Fuel Board more
33 independent. Enforcement activities are still conducted by an
34 agency of State Government and the board's operations are subject
35 to the Maine Administrative Procedure Act.

36
37
38 This bill provides that an unlicensed person who exercises
39 the exemption for installing an oil burner in a personal abode
40 must notify the purchaser of that home of the installation if it
41 is sold within one year of the installation. The bill makes
42 violations of the Maine Revised Statutes, Title 32, chapter 33 a
Class E crime and repeals that chapter on May 1, 1997.