

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1357

S.P. 498

Received by the Secretary, April 13, 1995

An Act to Create the Propane and Natural Gas Professional Act of 1995.

Referred to the Committee on Business and Economic Development and ordered printed pursuant to Joint Rule 14.

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

MAY M. ROSS
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland.

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

4 **Sec. 1. 5 MRSA §12004-A, sub-§33-A** is enacted to read:

6 33-A. Propane and Expenses 25 MRSA
Natural Gas Licensing Only §2513
8 Board

10 **Sec. 2. 25 MRSA c. 320** is enacted to read:

12 **CHAPTER 320**

14 **THE PROPANE AND NATURAL GAS PROFESSIONAL**
ACT OF 1995

16 **§2511. Short title**

18 This Act may be known and cited as the "Propane and Natural
20 Gas Professional Act of 1995."

22 **§2512. Definitions**

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

26 **1. Board.** "Board" means the Propane and Natural Gas
Licensing Board.

28 **2. Bulk plant.** "Bulk plant" means a facility the primary
30 purpose of which is to distribute propane and that receives
32 propane by tank car, tank truck or piping and distributes this
propane to the end user by portable container delivery, by tank
34 truck or through piping. A bulk plant has the bulk storage
capacity of 2,000 gallons of water or more and usually has
36 container filling and truck loading facilities on the premises.
Normally no one other than the plant management or plant
38 employees has access to these facilities. Bulk plant includes a
facility that transfers propane from tank cars on a private track
directly into cargo tanks.

40 **3. Delivery.** "Delivery" means the transfer of propane,
42 either by liquid transfer into a stationary container on the
property of the consumer or by placing a portable propane
44 container onto the property of the consumer.

46 **4. Dispensing station.** "Dispensing station" means a
48 facility consisting of fixed equipment where propane is stored
and dispensed into containers that are not suitable for the
shipping of cargo and that are mounted on vehicles or into
50 portable containers.

2 5. Natural gas. "Natural gas" means hydrocarbon fuel in a
4 gaseous state with a composition of predominantly CH₄, delivered
 by pipeline to the property or the consumer.

6 6. Propane. "Propane" means a hydrocarbon whose chemical
8 composition is predominantly C₃H₈, whether recovered from natural
 gas or crude oil.

10 **§2513. Board established**

12 There is established an independent board for the purposes
14 of overseeing the propane and natural gas licensure program, for
16 advising State Government on matters relating to the enforcement
18 of this Act, for overseeing the development of rules and
 legislation relating to the implementation of this Act, for
 expending the funds raised pursuant to the Act and for overseeing
 the personnel of the state agency that enforces this Act.

20 1. Board name. The name of the board is the "Propane and
22 Natural Gas Licensing Board."

24 2. Membership; appointment. The board consists of 7
26 members who serve for 3-year staggered terms; except that of the
28 initial appointees 3 of the members serve a 3-year term, 2 of the
30 members serve a 2-year term and 2 of the members serve a one-year
 term. All members are appointed by the Governor from
 recommendations of the state propane and natural gas industries,
 as follows:

32 A. Five members representing industry, 3 of whom come from
34 the propane industry, one of whom is a mechanical contractor
 and one of whom comes from the natural gas industry; and

36 B. Two members representing the general public who are
38 unrelated, either directly or indirectly, to either the
 natural gas or propane industry.

40 3. Officers. At its first meeting, the board shall choose
42 a chair and a vice-chair who serve terms of one year. The
44 vice-chair serves as chair the following year unless unwilling or
 unable. The board may elect such other officers as it finds
 necessary.

46 4. Compensation. Members of the board serve without
 compensation but may be reimbursed for expenses.

48 **§2514. Board powers**

50 The board has the following powers.

2 1. Biennial budget. The board shall develop a biennial
3 budget. For its first 5 years, annual expenses may not exceed
4 \$50,000 for the first year, \$120,000 for the 2nd year, \$123,000
5 for the 3rd year, \$127,000 for the 4th year and \$131,000 for the
6 5th year.

7 At a minimum, the budget must include the following information:

8
9 A. The expenditures the board intends to make in the
10 following year, broken down by type and amount of
11 expenditure; and

12
13 B. The receipts the board expects to receive in the
14 following year, broken down by the type and amount of the
15 receipt.

16
17 The board shall hold a public hearing, pursuant to the Maine
18 Administrative Procedure Act and hear public comment with respect
19 to the budget proposed by the board.

20
21 2. Rules. The board shall develop and adopt rules pursuant
22 to the Maine Administrative Procedure Act to implement the
23 licensure requirements established by this Act, which may include
24 the following:

25
26 A. The education or experience requirements for applicants
27 for licensure;

28
29 B. How a licensed propane or natural gas professional may
30 move among the various categories of licensure;

31
32 C. Standards of professional conduct designed to raise the
33 standards of professional behavior within the categories of
34 licensure overseen by the board; and

35
36 D. Procedures within which violations of this Act or board
37 rules constitute withdrawal of a license and for the timely
38 appeal of a board decision in this regard.

39
40 3. Oversight authority. The board exercises oversight
41 authority over those employed by State Government under the
42 conditions of this Act as follows:

43
44 A. The board receives reports concerning the activities of
45 those employed by State Government under the conditions of
46 this Act; and

47
48 B. The board may recommend to State Government the priority
49 of activities undertaken by those employed by State
50 Government under the conditions of this Act.

2 4. Contract for services. The board has the power to
4 contract for services the board requires, including, but not
6 limited to, legal counsel, inspectors, clerical and other support
8 staff, housing and appropriate offices and meeting space for the
10 board and services relating to the enforcement of rules adopted
12 pursuant to this Act.

14 5. Promote education and research. The board acts to
16 promote propane education and research within the State and may
18 be established nationally within the United States Department of
20 Energy or its successor agency.

22 6. Accounts; subject to audit. The board shall ensure,
24 within 90 days of the end of each fiscal year, that the accounts
26 and funds held in the Propane and Natural Gas Licensing Fund are
28 subjected to a complete independent audit, the results of which
30 are public and must be made available upon request and
32 communicated to the members of the joint standing committee of
34 the Legislature having jurisdiction over business and economic
36 matters, or its successor committee, at the beginning of each
38 session of the Legislature.

40 Upon completion of the independent audit, the board shall review
42 the audit results at a meeting of the board and provide an
44 opportunity for public comment on the audit.

46 At a minimum, the audit must include, but is not limited to:

48 A. A complete accounting of all receipts received by the
50 board during the fiscal year;

52 B. A complete accounting of all expenditures made by the
54 board during the fiscal year; and

56 C. An analysis of the extent to which the funds collected
58 by the board meet the requirements of the operations of the
60 board.

62 7. Maintain records. The board shall keep minutes, books
64 and records that clearly reflect all of the acts and transactions
66 of the board. These papers and other materials must be made
68 available for public inspection upon request.

70 8. Public notice of meetings. The board's meetings must be
72 conducted only after suitable public notice as prescribed by the
74 Maine Administrative Procedure Act and all measures taken by the
76 board are pursuant to the Maine Administrative Procedure Act.

2 **9. Recommendations.** The board may make recommendations to
3 the Legislature concerning changes to this Act.

4 **10. Standards for installation of equipment.** The board
5 shall establish by rule technical standards for the proper
6 installation and servicing of propane and natural gas equipment.
7 These standards must be in accordance with the National Fire
8 Protection Association Standards, numbers 54 and 58. The board
9 may adopt by rule other state and local standards it finds
10 necessary.

12 **§2515. Installations to conform to standards; authority of**
13 **inspectors**

14 Installation of propane or natural gas equipment may not be
15 made in the State unless it complies with all the standards and
16 rules adopted by the board.

17 The inspectors authorized by the board to enforce this Act
18 have powers similar to those that sheriffs have in their
19 respective counties, relating to enforcement of this Act and
20 rules adopted under this Act. These powers are limited to the
21 issuing of citations, the serving of summonses, the conducting of
22 investigations and the ordering of corrections of violations of
23 this Act by licensees in accordance with the specific statutory
24 authority set forth in this Act. If an inspector finds any
25 propane or natural gas installation that does not comply with
26 this Act, the inspector shall order that the installation be
27 removed or remedied and that order must be complied with
28 immediately by the owner or occupant of the premises or building
29 or the installer of the propane or natural gas equipment in
30 violation. If the inspector finds any propane or natural gas
31 installation in any building or structure that creates a danger
32 to other property or to the public, the inspector may forbid the
33 use of the building or structure by serving a written order upon
34 the owner and occupant, if any, to vacate within a reasonable
35 period of time to be stated in the order.

36 **§2516. Investigation of complaints; suspension or revocation of**
37 **licenses**

38 The board shall investigate all complaints made to it and
39 all cases of noncompliance with or violation of this Act. The
40 board may suspend or revoke a license issued under this Act
41 pursuant to Title 5, section 10004. The board may refuse to
42 issue or renew a license or the Administrative Court may suspend,
43 revoke or refuse to renew the license of any licensee who is
44 found guilty of:

2 1. Fraud or deceit. The practice of fraud or deceit in
obtaining a license;

4 2. Negligence or misconduct. Any gross negligence,
incompetence or misconduct in the performance of the work of
6 making installations. Continued failure to conform to standards
or rules adopted by the board is prima facie evidence of gross
8 negligence or incompetence; or

10 3. Violations. Any violation of this Act.

12 A license suspended by the board or suspended or revoked by
the Administrative Court must be immediately surrendered to the
14 board and held during any period of suspension or, if revoked,
until reinstated as provided in this Act.

16 There is no appeal from the failure of the board to issue a
license as a result of an applicant failing to pass an
18 examination when the results of the examination are unanimously
certified by the board as correct.

20 A person whose license is suspended or revoked for more than
90 days must establish that all requirements governing new
22 applicants under this Act are met as a condition of reinstatement
or return of the license, except that the board may in its
24 discretion, giving due consideration to the protection of the
public, waive examination if the period of suspension is less
26 than 2 years or, in the case of revocation of license, the
applicant is both eligible and has made application for
28 reinstatement of license within 2 years of the effective date of
revocation.

30 §2517. Licensure; requirements; persons

32 1. Establish license. The board shall establish one
34 license with endorsements described in this section that conform
to the education and certification requirements of the National
36 Propane Gas Association's Certified Employee Training Program or
38 other propane or natural gas programs approved by the board, as
follows:

40 A. "Delivery technician" is the person who delivers propane
at a customer's location. A license established by the
42 board is not required by a delivery technician to operate a
44 motor vehicle;

46 B. "Plant operator" is a person who works at a bulk plant
and handles propane and propane equipment;

2 C. "Tank setter and outside piping technician" is the
3 person who sets and maintains propane tanks and outside
4 piping; and

5 D. "Appliance connection and service technician" is the
6 person who installs and services propane and natural gas
7 appliances and indoor piping.

8 2. License; valid. The license established in this section
9 is valid for 2 years.

10 3. Appropriate endorsement. The board shall issue a
11 license with the appropriate endorsement to the prospective
12 licensee who has successfully passed an examination as prescribed
13 by the board and who has paid any required fee.

14 4. Properly licensed. A person may not perform the
15 functions governed by this Act after July 1, 1997 without first
16 being properly licensed by the board, except that plant operators
17 must be licensed within one year of first performing those
18 functions. In order to qualify for the one-year provision, the
19 delivery technician or plant operator must register with the
20 board within 90 days of first performing that function.

21 5. Examination; qualification. Notwithstanding any
22 requirement set by the board as a qualification to sit for a
23 license examination, those working in the propane or natural gas
24 industry before January 1, 1996 are deemed qualified to sit for a
25 license examination.

26 §2518. Licensure; installation and maintenance standards;
27 dispensing stations

28 The following registration, licensing, maintenance and
29 installation standards apply to dispensing stations operating in
30 the State.

31 1. Dispensing stations. All dispensing stations must be
32 registered biennially by the owner upon suitable forms, as
33 designated and approved by the board, with the agency of the
34 state responsible for the enforcement of this Act as specified in
35 section 2519. A dispensing station that undergoes a major
36 repair, revision or relocation must provide that agency with
37 updated information within 30 days of the completion of the
38 change.

39 2. Registration. Registration of the dispensing station is
40 limited to:

41 A. The name of the owner;

- 2 B. The address of the dispensing station;
4 C. The town or city and county in which the dispensing
 station is located;
6 D. The directions to the dispensing station;
8 E. The capacity in gallons of the dispensing station;
10 F. The name of the owner or operator to be contacted for
12 inspection of the dispensing station by the State; and
14 G. The name of the owner or operator holding the limited
16 operator's license required by this section.

18 3. Constructed; maintained; operated. Dispensing stations
operating in the State must be constructed, maintained and
operated in accordance with the standards set by the most recent
20 edition of National Fire Protection Association Standards, number
58. The board may adopt by rule additional state and local codes.

22 4. Limited operator's license; training. The on-site owner
24 or operator of a dispensing station must hold a limited
operator's license issued biennially by the board. The board may
26 set by rule the requirements for obtaining the limited license.
The holder of the limited license is responsible for training
28 other dispensing station employees and documenting that training.

30 The training must include the Propane Gas Association of New
England's "Fill Plant Manual" and the National Propane Gas
32 Association's video "Fill It or Not" or equivalent materials
approved by the board. The training documentation must be kept
34 at the station. The owner of the dispensing station is
responsible for compliance and is subject to section 2519.

36 §2519. Equipment registration
38

Following the installation and testing of vented natural gas
40 or propane equipment, the installer must attach a permanent tag
in a conspicuous place on or near the equipment, showing the name
42 and license number of the installer and the date of the
installation or testing and the type of work done on that date.
44 Each tag must include a detachable copy that must be removed by
the installer and sent to the board within 5 days of the
46 installation and testing along with a registration fee to be set
by the board by rule not to exceed \$3.

48 §2520. Enforcement; powers; penalties
50

2 The police powers of the State rest with the agency of State
3 Government with whom the board reaches agreement for the
4 enforcement of this Act. The agency of State Government
5 enforcing this Act may assess the following penalties.

6 1. Penalty. For the violation of:

8 A. Section 2517, a penalty not to exceed \$500; and

10 B. Section 2518, a penalty not to exceed \$500.

12 All funds collected from the enforcement of this section
13 must be remitted to the board and deposited in the Propane and
14 Natural Gas Licensing Fund.

16 A person or company subject to the enforcement actions of
17 this section has a right of appeal to the board within 30 days of
18 the enforcement action. The board's decision may be appealed to
19 the Superior Court.

20 An inspector or other person enforcing this Act as an
21 employee or agent of the agency of State Government contracted by
22 the board must meet the same qualifications as those licensed
23 under this Act.

26 **§2521. Fund established**

28 The Propane and Natural Gas Licensing Fund is established
29 for the use of the board, the proceeds of which must be deposited
30 in a bank or banks that are members of the Federal Reserve
31 System. The fund must be used for the purposes of this Act.

34 **§2522. Fees**

36 The board may establish fees. The fees must be remitted in
37 a manner and on forms or other instruments prescribed by the
38 board.

40 1. License; biennial fee. The biennial fee for the license
41 established in section 2517 may not exceed \$130. There is no
42 additional fee for additional endorsements.

44 2. Dispensing station. The biennial registration fee for a
45 dispensing station must be set by the board and may not exceed
46 \$196.

48 3. Limited license. There is no fee for the limited
49 license established in section 2518 if the owner has registered
50 the dispensing station as required by this Act.

