

MAINE STATE LEGISLATURE

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L.D. 2056

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BUSINESS AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1553, L.D. 2056, Bill, "An Act to Strengthen the Laws Governing Inspections of Boilers, Pressure Vessels, Elevators and Tramways"

Amend the bill in Part A by inserting after section 3 the following:

'Sec. A-4. 32 MRSA §15109, sub-§9, as repealed and replaced by PL 2001, c. 323, §39, is amended to read:

9. Fees. The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any accreditation review, facility review or inspection of any one boiler or pressure vessel may not exceed \$500, the fee for any shop inspection may not exceed \$3,000, the fee for an inspection certificate for any one boiler or pressure vessel may not exceed \$100, the fee for a late inspection or a late certificate may not exceed \$250 and the fee for any other purpose may not exceed \$150 triennially. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.'

Further amend the bill in Part A in section 4 in the indented paragraph in the 14th line (page 3, line 20 in L.D.) by inserting after the following: "under" the following: 'section 15109,'

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 1553, L.D. 2056

Further amend the bill in Part A in section 6 in subsection 5 in the 5th and 6th lines (page 4, lines 5 and 6 in L.D.) by striking out the following: "within 60 days of the expiration of the most recent certificate" and inserting in its place the following: 'as required by section 15121, subsection 1, if the inspection certificate fee is not submitted as required by section 15121, subsection 2'

Further amend the bill in Part A in section 8 in that part designated "§15121." by striking out all of subsections 1 and 2 and inserting in their place the following:

1. Responsibility for inspection. It is the responsibility of the owner to arrange for an inspection of a boiler or pressure vessel and to prepare the boiler or pressure vessel for inspection. The late inspection fee set by the Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation under section 15109, subsection 9 may be assessed against the owner if an inspection report is not submitted within 60 days of the expiration of the most recent inspection certificate.

2. Obtain inspection certificate. The owner of a boiler or pressure vessel shall submit the inspection certificate fee set by the Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation under section 15109, subsection 9 within 60 days of notification from the board that the inspection report required under section 15120 has been received by the board. Failure to submit the required fee within the 60 days provided may result in the assessment of a late certificate fee set by the director under section 15109, subsection 9.'

Further amend the bill in Part B in section 4 in subsection 7-A in the last 2 lines (page 7, lines 1 and 2 in L.D.) by striking out the following: 'Helpers must be registered in accordance with the provisions of this chapter.'

Further amend the bill in Part B in section 13 in that part designated "§15208." by striking out all of the last indented paragraph (page 10, lines 15 to 19 in L.D.) and inserting in its place the following:

'An elevator contractor or a person who is licensed as a private elevator and lift inspector who services an elevator or lift equipment may not inspect that elevator or lift equipment within 12 months from the date of servicing that elevator or lift equipment.'

Further amend the bill in Part B by striking out all of section 14 and inserting in its place the following:

'Sec. B-14. 32 MRSA §15208-A is enacted to read:

§15208-A. Registration of elevator contractors

Any person, firm, partnership, association, corporation or company engaged in the installation, sale, service, maintenance or inspection of elevators in this State shall register with the board annually. The registration must be submitted on a form provided by the board and must include the names and addresses of all licensed private inspectors, licensed mechanics and all helpers employed by the elevator contractor. An elevator contractor shall notify the board of any change in the information required under this section within 30 days of the change. The required fee for registration must be set by the director under section 15225-A.'

Further amend the bill in Part B by striking out all of section 18 and inserting in its place the following:

'Sec. B-18. 32 MRSA §15211, as amended by PL 1999, c. 386, Pt. X, §12 and amended by c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

§15211. Notice of accidents

1. Reporting accidents. Each elevator or tramway accident that is caused by equipment failure or results in significant injury to a person or results in substantial damage to equipment must be reported by the owner or lessee to the chief inspector in accordance with the board's rules.

2. Revocation of certificate. When an elevator or tramway accident as described in subsection 1 occurs, the inspection certificate for the involved elevator or tramway may be summarily revoked in accordance with and subject to the standards and limitations of Title 5, section 10004, pending decision on any application with the District Court for a further suspension.'

Further amend the bill in Part B by striking out all of section 20 and inserting in its place the following:

'Sec. B-20. 32 MRSA §15213, as amended by PL 1999, c. 386, Pt. X, §13, is further amended to read:

§15213. Elevator or lift mechanics; license; definition

A person may not service, repair, alter or install any elevator unless that person is licensed as an elevator or lift mechanic under ~~sections-15214-and-15216~~ this chapter. Elevator work in industrial plants, and manufacturing plants ~~and-hospitals~~ may be performed by plant personnel who are not licensed under ~~sections-15214-and-15216~~ this chapter if the work is supervised by the plant engineer and performed in compliance with rules adopted by the board.

The word "elevator," as used in this ~~section-and-sections 15214--and--15216~~ chapter, includes all electrical equipment, wiring, steelwork and piping in the elevator machine room, hoistway and pit pertaining to the operation and control of an elevator, except power feeders and required power equipment up to the control panel, heating, lighting, ventilation and drainage equipment.'

Further amend the bill in Part B in section 21 in that part designated "~~§15214.~~" by striking out all of the 2nd indented paragraph (page 14, lines 17 to 20 in L.D.) and inserting in its place the following:

'A licensed elevator or lift mechanic may not have more than 2 helpers under direct supervision. These helpers need not be licensed.'

Further amend the bill in Part B by striking out all of section 27 and inserting in its place the following:

'**Sec. B-27. 32 MRSA §15223**, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed and the following enacted in its place:

§15223. Criminal operation of elevator or tramway

1. Prohibition. An owner of an elevator or tramway is guilty of criminal operation of an elevator or tramway if that owner operates that elevator or tramway without a current and valid inspection certificate.

2. Strict liability. Criminal operation of an elevator or tramway is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

3. Specific number of days of criminal operation. Each day of criminal operation does not constitute a separate crime.

4. Class of crime; enhanced fine. Criminal operation of an elevator or tramway is a Class E crime. However, notwithstanding Title 17-A, section 1301, subsection 1-A, paragraph E or Title

2 17-A, section 1301, subsection 3, paragraph E, the court may
4 impose an enhanced fine. The fine amount above that authorized
6 under Title 17-A, section 1301 is based solely on the number of
8 days of criminal operation pleaded and proved by the State. For
10 each day of criminal operation pleaded and proved, the court may
12 increase the fine amount by up to \$100 for each of those days.

14 5. Imposition of sentence without enhanced fine. Nothing
16 in subsection 3 or 4 may be construed to restrict a court, in
18 imposing any authorized sentencing alternative, including a fine
20 in an amount authorized under Title 17-A, section 1301,
22 subsection 1-A, paragraph E or Title 17-A, section 1301,
24 subsection 3, paragraph E, from considering the number of days of
26 illegal operation, along with any other relevant sentencing
28 factor, which need not be pleaded or proved by the State.'

30 Further amend the bill in Part B in section 35 in that part
32 designated "~~§15229.~~" in subsection 3 in the 2nd line (page 20,
34 line 30 in L.D.) by inserting after the following: "elevator" the
36 following: 'or tramway'

38 Further amend the bill in Part B in section 35 in that part
40 designated "~~§15229.~~" in subsection 3 in the 3rd line (page 20,
42 line 31 in L.D.) by inserting after the following: "elevator" the
44 following: 'or tramway'

46 Further amend the bill in Part B in section 35 in that part
48 designated "~~§15229.~~" by striking out all of subsection 5 (page
50 20, lines 40 to 43 in L.D.) and inserting in its place the
following:

32 '5. Elevator or tramway declared idle or placed out of
34 service. The owner of an elevator or tramway that has been
36 declared idle or placed out of service in accordance with rules
38 adopted by the board shall notify the board within 30 days of
40 declaring the elevator or tramway idle.'

42 Further amend the bill in Part B by inserting after section
44 36 the following:

46 'Sec. B-37. Appropriations and allocations. The following
48 appropriations and allocations are made.

50 **PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF**

Licensing and Enforcement

Initiative: Allocates funds for one Boiler Inspector position,
one Elevator Inspector position and one Clerk Typist III

position and related administrative costs associated with increasing compliance with safety standards that relate to maintenance of boilers and elevators and to strengthen the State's ability to enforce current safety standards.

6	Other Special Revenue Funds	2001-02	2002-03
	Positions - Legislative Count	(0.000)	(3.000)
8	Personal Services	\$0	\$162,525
	All Other	0	29,600
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	Total	\$0	\$192,125'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

This bill includes an Other Special Revenue Funds allocation of \$192,125 in fiscal year 2002-03 for the Licensing and Enforcement program within the Department of Professional and Financial Regulation for one Boiler Inspector position, one Elevator Inspector position and one Clerk Typist III position and related administrative costs associated with increasing compliance with safety standards that relate to maintenance of boilers and elevators and to strengthen the State's ability to enforce current safety standards.

The Governor's proposed supplemental budget, LD 2080, includes \$60,310 and \$206,900 in fiscal years 2001-02 and 2002-03, respectively, for these positions. If the supplemental budget request is enacted as proposed, no additional funding will be required for the positions requested in this bill.

Increasing licensing fees and fines will increase dedicated revenue to the Department of Professional and Financial Regulation. The amount can not be determined at this time. The collection of additional fines may increase General Fund revenue by minor amounts.

The Office of Licensing and Registration within the Department of Professional and Financial Regulation will incur some minor additional costs to adopt rules regarding strengthening the laws governing inspection of boilers, pressure vessels, elevators and tramways. The cost can be absorbed within the department's existing budgeted resources.'

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SUMMARY

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This amendment does the following.

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1. It authorizes the Director of Licensing and Registration within the Department of Professional and Financial Regulation to establish a late inspection fee or a late certificate fee regarding boiler and pressure vessel inspections, not to exceed \$250.

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2. It clarifies that the owner of a boiler or pressure vessel may be assessed a late fee if an inspection report is not submitted within 60 days of the expiration of the most recent certificate or if the certificate fee is not paid within 60 days of when the owner is notified that the inspection report has been received.

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3. Elevator or tramway accidents that result from equipment failure, result in significant injury to a person or result in substantial damage to equipment must be reported to the chief inspector in accordance with the board's rules. When such an accident occurs, the inspection certificate for the elevator or tramway involved may be summarily revoked in accordance with the Maine Revised Statutes, Title 5, section 10004.

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4. It removes language that prohibits a licensed elevator mechanic from repairing an elevator that does not have a current certificate unless the repairs are being made to correct deficiencies noted in an initial or annual inspection report.

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5. It removes the independent registration and fee requirements for helpers.

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6. Except for hospitals, the amendment allows unlicensed plant personnel to work on elevators in industrial and manufacturing plants under the supervision of a plant engineer.

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7. It prohibits a person or company that is licensed as a private elevator and lift inspector and that services an elevator or lift equipment from inspecting that elevator or equipment for a period of one year.

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8. It clarifies that all provisions of Title 32, section 15229 apply to elevators and tramways.

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9. It creates the Class E crime of criminal operation of an elevator or tramway. It applies solely to the owner of an

2 elevator or a tramway. The owner can be a person or an
3 organization. Title 17-A, sections 60 and 61 have application if
4 the owner is an organization. The prohibited conduct is operation
5 without a current and valid inspection certificate. Criminal
6 operation of an elevator or tramway is expressly made a "strict
7 liability crime" as defined in Title 17-A, section 34, subsection
8 4-A. Each day of illegal operation does not constitute a
9 separate crime. Notwithstanding the fine amount authorized in
10 Title 17-A, section 1301, the court may impose an enhanced fine
11 for a violation. The fine amount above the amount authorized by
12 Title 17-A, section 1301 is based solely on the number of days of
13 criminal operation pleaded and proved by the State. For each day
14 of criminal operation pleaded and proved, the court may increase
15 the fine amount by up to \$100 for each of those days. Finally,
16 the amendment makes clear that in imposing a sentence without an
17 enhanced fine, the court may consider the number of days of
18 illegal operation, as it would with any other relevant sentencing
19 factor.

20 The amendment also adds a fiscal note to the bill.