

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1241

H.P. 860

House of Representatives, March 30, 2009

An Act To Require Licensing for Certain Mechanical Trades

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WRIGHT of Berwick.

Cosponsored by Representatives: BOLDUC of Auburn, EVES of North Berwick, HUNT of Buxton, MacDONALD of Boothbay, MARTIN of Orono, TUTTLE of Sanford.

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

2 Sec. 1. 5 MRSA §12004-A, sub-§49 is enacted to read:

3 49.

4 Mechanical Trades Board

Expenses Only

32 MRSA §15331

5 Sec. 2. 32 MRSA c. 20 is repealed.

6 Sec. 3. 32 MRSA c. 134 is enacted to read:

7 CHAPTER 134

8 MECHANICAL TRADES

9 SUBCHAPTER 1

10 GENERAL PROVISIONS

11 §15321. Definitions

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

14 1. Board. "Board" means the Mechanical Trades Board.

15 2. Department. "Department" means the Department of Professional and Financial
16 Regulation.

17 3. Fire protection sprinkler system. "Fire protection sprinkler system" means an
18 assembly of overhead piping or conduits that conveys water with or without other agents
19 to dispersal openings or devices to extinguish, control or contain fire and to provide
20 protection from exposure to fire or the products of combustion, planned in accordance
21 with a national or state standard.

22 4. Installation. "Installation" means the initial placement of a system or part of a
23 system or the extension, modification or alteration of a system or part of a system after
24 the initial placement.

25 5. Journeyman pipefitter. "Journeyman pipefitter" means a person who, in
26 accordance with this chapter:

27 A. Has completed a 5-year apprentice program or has passed a journeyman pipefitter
28 examination; and

29 B. Without supervision, performs the work of pipefitting.

30 6. Journeyman refrigeration technician. "Journeyman refrigeration technician"
31 means a person who, in accordance with this chapter:

1 A. Has completed a 5-year apprentice program or has passed a journeyman
2 refrigeration technician examination; and

3 B. Without supervision, performs the work of refrigeration and air conditioning
4 system installation and repair.

5 **7. Journeyman sheet metal worker.** "Journeyman sheet metal worker" means a
6 person who, in accordance with this chapter:

7 A. Has completed a 4-year apprentice program or has passed a journeyman sheet
8 metal worker examination; and

9 B. Without supervision, performs sheet metal work.

10 **8. Journeyman sprinkler fitter.** "Journeyman sprinkler fitter" means a person who,
11 in accordance with this chapter:

12 A. Has completed a 5-year apprentice program that is registered and recognized by
13 the United States Department of Labor and has passed a journeyman sprinkler fitter
14 examination; and

15 B. Without supervision, performs fire protection sprinkler system installation, repair
16 and testing.

17 **9. Master fire protection sprinkler contractor.** "Master fire protection sprinkler
18 contractor" means a person who, in accordance with this chapter:

19 A. Has a regular place of business; and

20 B. Without supervision, performs fire protection sprinkler system installation, repair
21 and testing.

22 **10. Master mechanical contractor.** "Master mechanical contractor" means a
23 person who, in accordance with this chapter:

24 A. Has worked as a contractor;

25 B. Has been a journeyman pipefitter for at least 10 years;

26 C. Has been a master refrigeration contractor for at least 10 years; and

27 D. Is designated as a master mechanical contractor pursuant to this chapter.

28 **11. Master refrigeration contractor.** "Master refrigeration contractor" means a
29 person who, in accordance with this chapter:

30 A. Has a regular place of business; and

31 B. Without supervision, performs refrigeration and air conditioning installation and
32 repair.

33 **12. Master sheet metal contractor.** "Master sheet metal contractor" means a
34 person who, in accordance with this chapter:

35 A. Has a regular place of business; and

36 B. Without supervision, performs sheet metal work.

1 **13. Pipefitter apprentice.** "Pipefitter apprentice" means a person who, in
2 accordance with this chapter:

3 A. Is at least 18 years of age; and

4 B. Under the direct supervision of a journeyman pipefitter under a registered state-
5 sanctioned apprentice program, is learning or working in the business of pipefitting.

6 **14. Pipefitting.** "Pipefitting" means the supervision, fabrication, installation and
7 maintenance of pipefitting installations of every description and character.

8 **15. Refrigeration and air conditioning apprentice.** "Refrigeration and air
9 conditioning apprentice" means a person who, in accordance with this chapter:

10 A. Is at least 18 years of age; and

11 B. Under the direct supervision of a master refrigeration contractor or a journeyman
12 refrigeration technician under a registered state-sanctioned apprentice program, is
13 learning or working in the business of refrigeration and air conditioning system
14 installation and repair.

15 **16. Refrigeration and air conditioning system installation and repair.**
16 "Refrigeration and air conditioning system installation and repair" means the installation,
17 maintenance and repair of heating, ventilation, air conditioning and refrigeration systems.

18 **17. Sheet metal work.** "Sheet metal work" means the fabrication, installation and
19 maintenance of all types of sheet metal applications, including, but not limited to:

20 A. Heating, air conditioning and ventilation systems;

21 B. Gutters, roofing and siding;

22 C. Food service equipment; and

23 D. Architectural and ornamental work.

24 **18. Sheet metal worker apprentice.** "Sheet metal worker apprentice" means a
25 person who, in accordance with this chapter:

26 A. Is at least 18 years of age; and

27 B. Is learning or working in the business of sheet metal work under the direct
28 supervision of a master sheet metal contractor or journeyman sheet metal worker
29 under a registered state-sanctioned apprentice program.

30 **19. Sprinkler fitter apprentice.** "Sprinkler fitter apprentice" means a person who,
31 in accordance with this chapter:

32 A. Is at least 18 years of age; and

33 B. Under the direct supervision of a master fire protection sprinkler contractor or
34 journeyman sprinkler fitter that is an employee of a master fire sprinkler contractor
35 and is enrolled in a fire sprinkler apprentice program that is registered and recognized
36 by the United States Department of Labor and is learning or working in the business
37 of fire protection sprinkler system installation and repair.

1 **§15322. Applicability**

2 **1. License required.** Except as provided in section 15323, a license under this
3 chapter is required for any person, corporation, partnership or other entity that is engaged
4 in:

5 A. The performance of sheet metal work;

6 B. The performance of refrigeration and air conditioning system installation and
7 repair;

8 C. The performance of pipefitting; and

9 D. The performance of fire protection sprinkler system installation, repair and
10 testing.

11 **§15323. Exceptions**

12 **1. Maintenance personnel.** This chapter does not apply to:

13 A. Persons classified as maintenance personnel regularly in the employ of a hospital
14 or school or in the employ of a public utility company doing utility company work; or

15 B. An employee of a city, a town or the State who is regularly employed as a
16 maintenance person on the premises of the employer.

17 **2. Owner of single-family dwelling.** The owner of a single-family domestic
18 dwelling who intends to occupy the premises may, after approval by local municipal
19 officials and upon receipt of a permit, perform pipefitting, refrigeration and air
20 conditioning system installation and repair, sheet metal work or fire protection sprinkler
21 system installation and repair in the State without being licensed pursuant to this chapter.
22 Work performed pursuant to this subsection must conform to the best installation
23 practices of the trade.

24 **§15324. Penalties; injunction**

25 **1. Penalties.** A person who engages in or works in sheet metal work, refrigeration
26 and air conditioning system installation and repair, pipefitting or fire protection sprinkler
27 system installation and repair without first obtaining a license as required by this chapter,
28 or after the license issued under this chapter has expired or has been suspended or
29 revoked or temporarily suspended or revoked, is guilty of a Class E crime.

30 **2. Injunction.** The State may bring an action in Superior Court to enjoin any person
31 from violating this chapter, regardless of whether proceedings have been or may be
32 instituted in the District Court or whether criminal proceedings have been or may be
33 instituted.

34 **SUBCHAPTER 2**

35 **MECHANICAL TRADES BOARD**

1 **§15331. Membership**

2 The Mechanical Trades Board, established by Title 5, section 12004-A, subsection
3 49, consists of the following 11 members, notwithstanding Title 5, section 12015:

4 1. Master refrigeration contractor. One member who has been a master
5 refrigeration contractor for at least 5 years, appointed by the Governor;

6 2. Journeyman pipefitters. Two members who have been employed as journeyman
7 pipefitters for at least 5 years, appointed by the Governor;

8 3. Journeyman refrigeration technician. One member who has been employed as
9 a journeyman refrigeration technician for at least 5 years, appointed by the Governor;

10 4. Master fire protection sprinkler contractor. One member who has been a
11 master fire protection sprinkler contractor for at least 5 years, appointed by the Governor;

12 5. Journeyman sprinkler fitter. One member who has been employed as a
13 journeyman sprinkler fitter for at least 5 years, appointed by the Governor;

14 6. State Fire Marshal. The State Fire Marshal or the fire marshal's designee;

15 7. Master mechanical contractors. Two members who have been master
16 mechanical contractors for at least 5 years, appointed from a list submitted by a statewide
17 association of pipefitting contractors, appointed by the Governor;

18 8. Master sheet metal contractor. One member who has been a master sheet metal
19 contractor for at least 5 years, appointed by the Governor; and

20 9. Journeyman sheet metal worker. One member who has been employed as a
21 journeyman sheet metal worker for at least 5 years, appointed by the Governor.

22 **§15332. Terms; vacancies; chair; quorum**

23 1. Terms. A member of the board is appointed for a term of 3 years.

24 2. Vacancies. The Governor shall fill a vacancy in the board by appointment of a
25 person of the same category as the board member being replaced to hold office for the
26 unexpired term.

27 3. Chair. The board shall elect a chair every 3 years from its membership.

28 4. Quorum. Six members of the board constitute a quorum for the transaction of
29 business.

30 **§15333. Powers and duties**

31 1. Administration. The board shall administer, coordinate and enforce this chapter.

32 2. Rules. The board may, in accordance with Title 5, chapter 375, subchapter 2,
33 adopt rules necessary to implement this chapter. These rules may include, but are not

1 limited to, rules concerning licensing requirements, examinations and reciprocity of
2 licensing with similar boards of other states that maintain standards equivalent to this
3 State's. Rules adopted pursuant to this subsection are routine technical rules pursuant to
4 Title 5, chapter 375, subchapter 2-A.

5 **3. Hearings.** The board may conduct hearings to assist with investigations to
6 determine whether grounds exist for suspension, revocation or denial of a license or as
7 otherwise necessary to fulfill its responsibilities under this chapter.

8 **4. Refusal to renew license; grounds.** The board may not refuse to renew a license
9 for any reason other than failure to pay a required fee unless it has afforded the licensee
10 an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing
11 at the written request of any person who is denied a license without a hearing for any
12 reason other than failure to pay a required fee if the request for hearing is received by the
13 board within 30 days of the applicant's receipt of written notice of the denial of the
14 application, the reasons for the denial and the right to request a hearing. Hearings must be
15 conducted in conformity with Title 5, chapter 375, subchapter 4 to the extent applicable.
16 The board may subpoena witnesses, records and documents in any hearing it conducts.

17 **5. Contracts.** The board may enter into contracts to carry out its responsibilities
18 under this chapter.

19 **§15334. Investigation of complaints; revocation of license**

20 **1. Investigation.** The board shall investigate or cause to be investigated all
21 complaints made to it and all cases of noncompliance with or violation of this chapter.

22 **2. Suspension; revocation.** The board may suspend or revoke a license in
23 accordance with Title 5, chapter 375, subchapter 5. The board may refuse to issue or
24 renew a license or the District Court may suspend, revoke or refuse to renew the license
25 of any licensee for:

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

27 B. Any gross negligence, incompetence or misconduct in the performance of the
28 work for which the license is held;

29 C. Any violation of this chapter or any rule adopted by the board; or

30 D. Subject to the limitations of Title 5, chapter 341, conviction of a crime that
31 involves dishonesty or false statement or that relates directly to the practice of the
32 work for which the license is held or conviction of any crime for which incarceration
33 for one year or more may be imposed.

34 **3. Reissuance of revoked license.** The board, for reasons it determines sufficient,
35 may reissue a license to any person whose license has been revoked.

36 **SUBCHAPTER 3**

37 **INSPECTION**

1 **§15341. Inspection; right of entry**

2 **1. Right of entry.** The board, upon proper identification, may enter at any
3 reasonable hour any building, structure or premises where work that is governed by this
4 chapter is being performed to ascertain compliance with this chapter and any rules
5 adopted pursuant to this chapter.

6 **2. Display of license.** A person holding a license issued under this chapter shall
7 display that license at the request of an authorized representative of the board.

8 **3. Obstruct access.** If a person obstructs entry or access to any part of a building,
9 structure or premises by an authorized representative of the board, the board may:

10 A. Seek a search warrant authorizing entry and inspection;

11 B. Revoke or suspend any license authorized pursuant to this chapter; and

12 C. Seek any other remedy as provided by this chapter.

13 **SUBCHAPTER 4**

14 **LICENSES**

15 **§15351. Issuance of licenses**

16 **1. Application; qualifications.** The board may issue a license to any person who
17 files a sworn application, who passes an examination approved by the board and who
18 meets the qualifications regarding skill, expertise, education, experience and training set
19 forth in this section and in rules adopted by the board.

20 **2. Journeyman refrigeration technician license.** The board may issue a
21 journeyman refrigeration technician license to a person who submits an application on a
22 form prescribed by the board with the required fee as set under section 15353 and who
23 provides satisfactory evidence of the following qualifications:

24 A. A minimum of 5 years of work in the field of refrigeration and air conditioning
25 system installation and repair as a refrigeration and air conditioning apprentice under
26 the supervision of a master refrigeration contractor, or the equivalent thereof, and
27 obtaining a passing grade as determined by the board on the journeyman refrigeration
28 technician examination; or

29 B. A minimum of 3 years of work in the field of refrigeration and air conditioning
30 system installation and repair as a refrigeration and air conditioning apprentice under
31 the supervision of a master refrigeration contractor, or the equivalent thereof, and
32 satisfactory completion of at least one academic year of instruction in refrigeration
33 and air conditioning system installation and repair at a board-approved technical
34 college or community college and obtaining a passing grade as determined by the
35 board on the journeyman refrigeration technician examination.

36 **3. Master refrigeration contractor license.** The board may issue a master
37 refrigeration contractor license to a person who submits an application on a form

1 prescribed by the board with the required fee as set under section 15353 and who
2 provides satisfactory evidence of:

3 A. Possessing the education, experience and training set forth in rules adopted by the
4 board; and

5 B. Obtaining a passing grade as determined by the board on the master refrigeration
6 contractor examination.

7 **4. Refrigeration and air conditioning apprentice license.** The board may issue a
8 refrigeration and air conditioning apprentice license to a person who provides satisfactory
9 evidence of completion of a course in refrigeration and air conditioning system
10 installation and repair consisting of one year or 2 semesters at a board-approved technical
11 college or community college and who submits the required fee as set under section
12 15353.

13 **5. Journeyman pipefitter license.** The board may issue a journeyman pipefitter
14 license to a person who submits an application on a form prescribed by the board with the
15 required fee as set under section 15353 and who provides satisfactory evidence of the
16 following qualifications:

17 A. A minimum of 5 years of work in the field of pipefitting as a pipefitter apprentice
18 and obtaining a passing grade as determined by the board on the journeyman
19 pipefitter examination; or

20 B. A minimum of 3 years of work in the field of pipefitting as a pipefitter apprentice
21 and satisfactory completion of at least one academic year of instruction in pipefitting
22 at a board-approved technical college or community college and obtaining a passing
23 grade as determined by the board on the journeyman pipefitter examination.

24 **6. Pipefitter apprentice license.** The board may issue a pipefitter apprentice license
25 to a person who provides satisfactory evidence of completion of a course in pipefitting
26 consisting of one year or 2 semesters at a board-approved technical college or community
27 college and who submits the required fee as set under section 15353.

28 **7. Journeyman sheet metal worker license.** The board may issue a journeyman
29 sheet metal worker license to a person who submits an application on a form prescribed
30 by the board with the required fee as set under section 15353 and who provides
31 satisfactory evidence of the following qualifications:

32 A. A minimum of 5 years of work in the field of sheet metal work as a sheet metal
33 worker apprentice under the supervision of a master sheet metal worker contractor, or
34 the equivalent thereof, and obtaining a passing grade as determined by the board on
35 the journeyman sheet metal worker examination; or

36 B. A minimum of 3 years of work in the field of sheet metal work as a sheet metal
37 worker apprentice under the supervision of a master sheet metal contractor, or the
38 equivalent thereof, and satisfactory completion of at least one academic year of
39 instruction in sheet metal work at a board-approved technical college or community
40 college and obtaining a passing grade as determined by the board on the journeyman
41 sheet metal worker examination.

1 **8. Master sheet metal contractor license.** The board may issue a master sheet
2 metal contractor license to a person who submits an application on a form prescribed by
3 the board with the required fee as set under section 15353 and who provides satisfactory
4 evidence of:

5 A. Possessing the education, experience and training set forth in rules adopted by the
6 board; and

7 B. Obtaining a passing grade as determined by the board on the master sheet metal
8 contractor examination.

9 **9. Sheet metal worker apprentice license.** The board may issue a sheet-metal
10 worker apprentice license to a person who provides satisfactory evidence of completion
11 of a course in sheet metal work consisting of one year or 2 semesters at a board-approved
12 technical college or community college and who submits the required fee as set under
13 section 15353.

14 **10. Journeyman sprinkler fitter license.** The board may issue a journeyman
15 sprinkler fitter license to a person who submits an application on a form prescribed by the
16 board with the required fee as set under section 15353 and who provides satisfactory
17 evidence of the following qualifications:

18 A. A minimum of 5 years of work in the field of fire protection sprinkler system
19 work as a sprinkler fitter apprentice under the supervision of a master fire protection
20 sprinkler contractor, or the equivalent thereof, and obtaining a passing grade as
21 determined by the board on the journeyman sprinkler fitter examination.

22 **11. Master fire protection sprinkler contractor license.** The board may issue a
23 master fire protection sprinkler contractor license to a person who submits an application
24 on a form prescribed by the board with the required fee as set under section 15353 and
25 who provides satisfactory evidence of:

26 A. Possessing the education, experience and training set forth in rules adopted by the
27 board; and

28 B. Obtaining a passing grade as determined by the board on the master fire
29 protection sprinkler contractor examination.

30 **12. Sprinkler fitter apprentice license.** The board may issue a sprinkler fitter
31 apprentice license to a person who provides satisfactory evidence of enrollment in an
32 apprentice program that is recognized and registered with the United States Department
33 of Labor.

34 **13. Master mechanical contractor license.** The board may issue a master
35 mechanical contractor license to a person who submits an application on a form
36 prescribed by the board with the required fee as set under section 15353 and who
37 provides satisfactory evidence of the following qualifications:

38 A. A minimum of 10 years as a journeyman pipefitter; and

39 B. A minimum of 10 years as a master refrigeration contractor.

1 **§15352. Display of license certificate**

2 A person licensed by the board shall display that person's license certificate at the
3 principal place of business of the licensee.

4 **§15353. Fees**

5 The Director of the Office of Licensing and Registration within the department may
6 establish by rule fees authorized under this chapter in amounts that are reasonable and
7 necessary for their respective purposes, except that the fee for any one purpose may not
8 exceed \$200 biennially. Rules adopted pursuant to this section are routine technical rules
9 as defined in Title 5, chapter 375, subchapter 2-A.

10 **§15354. Renewal**

11 **1. Expiration.** All licenses expire 2 years from the original date of issue or at such
12 other time as the Commissioner of Professional and Financial Regulation may designate.

13 **2. Notification.** The board shall notify a person holding a license under this chapter
14 of the date of expiration of the person's license and the fee required for its renewal for a
15 2-year period. The notice must be mailed to the person's last known address at least 30
16 days in advance of the expiration date of the license.

17 **3. Late renewal.** A license may be renewed up to 90 days after the date of its
18 expiration upon payment of a late fee in addition to the renewal fee. Any person who
19 submits an application for renewal more than 90 days after the license expiration date is
20 subject to all requirements governing new applications under this chapter, except that the
21 board may in its discretion, giving due consideration to the protection of the public, waive
22 examination or other requirements. The board may assess penalties for a late renewal that
23 is received more than 90 days after the date of expiration.

24 **4. Waiver of examination.** Notwithstanding subsection 3, the board shall waive
25 examination if a renewal application is made within 90 days after separation from the
26 United States Armed Forces, under conditions other than dishonorable, by a person who
27 has failed to renew the person's license because the person was on active duty in the
28 United States Armed Forces. The waiver of examination may not be granted if the person
29 served more than 4 years in the United States Armed Forces unless the person was
30 required by some mandatory provision to serve a longer period and the person submits
31 satisfactory evidence to the board.

32 **§15355. Reciprocity**

33 The board shall issue a license to any person who files a sworn application and who
34 is licensed under the laws of another state or territory of the United States as long as that
35 state or territory has licensing standards and experience requirements at least equivalent
36 to this State's and as long as that state or territory grants similar privileges to persons
37 licensed under this chapter. Reciprocal licenses may not be denied on the basis of current
38 residency.

Sec. 4. Application. Upon proper application and payment of the fees required in the Maine Revised Statutes, Title 32, chapter 134, the Mechanical Trades Board shall issue a license under that chapter, without examination, to any person who, on the effective date of this Act, has completed an apprentice program in or has been compensated for a minimum of 2,000 hours of employment in the business of performing sheet metal work, refrigeration and air conditioning system installation and repair, pipefitting or fire protection sprinkler system installation and repair.

Sec. 5. Members of Mechanical Trades Board. Notwithstanding the Maine Revised Statutes, Title 32, section 15331, until September 1, 2013, members appointed to the Mechanical Trades Board by the Governor must have a minimum of 10 years of experience in their respective mechanical trades but need not be licensed under this Act.

Sec. 6. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 32, section 15332, subsection 1, for the original appointments of members of the Mechanical Trades Board, the Governor shall designate 3 members for one-year terms, 3 members for 2-year terms and 4 members for 3-year terms.

SUMMARY

This bill requires licensure of persons that perform sheet metal work, refrigeration and air conditioning system installation and repair, pipefitting and fire protection sprinkler system installation and repair.

The bill grandfathers persons that have completed apprentice programs or have been compensated for a minimum of 2,000 hours in the business of performing sheet metal work, refrigeration and air conditioning system installation and repair, pipefitting or fire protection sprinkler system installation, repair and testing.