

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

the estimated total cost exceeds \$100,000 shall be subject to this section, when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public. For purposes of this section, a newly constructed housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the 1981 standards of construction, Section 4.34, Dwelling Units, adopted pursuant to Title 25, chapter 331. A remodeled, renovated or enlarged housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the following 4 parts of the 1981 standards of construction adopted pursuant to Title 25, chapter 331:

1. **Accessible route.** 4.3 accessible route;
2. **Doors.** 4.13 doors;
3. **Adaptable bathrooms.** 4.34.5 adaptable bathrooms; and
4. **Tactile warnings.** 4.29.3 tactile warnings on doors to hazardous areas.

With respect to any form of public housing or any housing that is financed in whole or in part with public funds offering housing accommodations containing 20 or more units for which construction is begun after October 1, 1988, no less than 10% of the ground level units and a minimum of 10% of the upper story units connected by an elevator shall be accessible to and useable by physically handicapped persons. For purposes of this section, a newly constructed housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the 1986 standards set forth by the American National Standards Institute in the publication, "Specifications for Making Buildings Accessible to and Useable by Physically Handicapped People," ANSI A 117.1-1986. A remodeled, renovated or enlarged housing unit where the remodeling, renovating or enlarging is begun after October 1, 1988, is deemed accessible to and useable by handicapped persons if it meets the requirements of the following 4 parts of the 1986 American National Standards Institute standards: 4.3 accessible routes; 4.23 doors; 4.34.5 adaptable bathrooms; and 4.29.3 tactile warnings on doors to hazardous areas.

Sec. 5. 5 MRSA §4583, as repealed and replaced by PL 1975, c. 770, §37 is amended to read:

§4583. Application

Nothing in this Act shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting thereof or in the furnishings of facilities or services in connection therewith which are not based on the race, color, sex, physical or mental handicap, religion or country of ancestral origin, familial status or the receipt of public assistance payments of any prospective or actual purchaser, lessee, tenant or occupant thereof. Nothing in this Act contained shall be construed in any manner to prohibit or

limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations, to set standards and preferences, terms, conditions, limitations or specifications for the granting of such loans or financial assistance which are not based on the race, color, sex, physical or mental handicap, religion or country of ancestral origin, familial status or the receipt of public assistance payments of the applicant for such a loan or financial assistance or, of any existing or prospective owner, lessee, tenant or occupant of such housing accommodation.

Sec. 6. 14 MRSA §6027, as amended by PL 1987, c. 770, §§1,2 and 3, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 6, 1989.

CHAPTER 246

H.P. 936 - L.D. 1304

An Act to Promote Energy Conservation and Load Management by Electric Utilities

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

35-A MRSA §3153-A, sub-§3 is enacted to read:

3. Implementation of rebate structures. The Public Utilities Commission may require an electric utility to implement rebate structures for installation or upgrade of an electric service entrance to encourage energy efficient buildings and discourage energy inefficient buildings. In designing these programs, the commission shall give due consideration to safety.

See title page for effective date.

CHAPTER 247

S.P. 237 - L.D. 567

An Act to Regulate the Installation of Fire Sprinklers

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

Sec. 1. 5 MRSA §12004-I, sub-§71-A is enacted to read:

<u>71-A. Occupations:</u>	<u>Fire Sprinkler</u>	<u>Expenses</u>	<u>32MRSA</u>
<u>Fire Protection</u>	<u>Advisory Council</u>	<u>Only</u>	<u>§1381</u>

Sec. 2. 32 MRSa c. 20 is enacted to read:

CHAPTER 20

FIRE SPRINKLER CONTRACTORS

§1371. Definitions

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

1. Certificate. "Certificate" means the document issued by the State Fire Marshal to a person indicating that the person is certified by the State as qualified to perform the job indicated in that document.

2. Certified responsible managing supervisor. "Certified responsible managing supervisor" means a person certified by the State as qualified to determine whether the plan and installation of fire sprinkler systems meet the standards provided by law, rule and regulation.

3. Commissioner. "Commissioner" means the Commissioner of Public Safety.

4. Department. "Department" means the Department of Public Safety.

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

6. Fire sprinkler system contractor. "Fire sprinkler system contractor" means a person licensed by the State Fire Marshal to undertake the planning, installation or inspection of a fire sprinkler system or any part of such a system.

7. Inspect. "Inspect" means to visually examine a fire sprinkler system or a portion of the system to verify that it appears to be in working order and free from physical damage.

8. Installation. "Installation" means the initial placement of a sprinkler system or part of the system or the extension, modification or alteration of a system or part after the initial placement.

9. License. "License" means the document issued by the State Fire Marshal to a contractor authorizing the contractor to engage in the fire sprinkler system business in this State.

10. Plan. "Plan" means a shop drawing or erection plan of a fire sprinkler system or a part of the system.

11. Planning. "Planning" means to draw or create plans.

§1372. Applicability

1. State requirements. The following documentation is required for persons involved in the installation of fire sprinklers.

A. Any person who undertakes planning or installation of a fire sprinkler system, or any part of the system, within this State must be licensed as a fire sprinkler system contractor by the State Fire Marshal. A person shall not be identified as a fire sprinkler system contractor or any similar term unless licensed by the State.

B. Any person who undertakes the review, approval and signing required for plans prior to submission to the State Fire Marshal must be certified by the State Fire Marshal. A person shall not be identified as a certified responsible managing supervisor unless certified by the State Fire Marshal.

C. Any person who inspects a fire sprinkler system, other than a certified responsible managing supervisor or an agent of municipal or State Government or licensed insurer who inspects a system in performing that person's duties for that government or insurer, must be registered by the State Fire Marshal.

2. Posting of licenses, certificates and registrations. Each license, certificate and registration issued under this chapter shall be posted in a conspicuous place in the place of business of the person to whom it is issued. A license, certificate or registration is not transferable.

3. Municipal licenses. No municipality may require fire sprinkler system contractors to be municipally licensed nor shall any municipality issue a permit for any fire sprinkler system unless satisfied that the person applying for the permit complies with this chapter.

§1373. Renewal

The commissioner shall adopt rules governing the period of licensure and certification and conditions of renewal.

§1374. Fees

The commissioner shall set fees for licensure, certification and registration which shall be just sufficient to cover the costs of implementing this chapter. A person licensed as a fire sprinkler system contractor who wishes to be certified as a responsible managing supervisor shall not be required to pay a fee for that certification. A person certified as a professional engineer by the State shall not be required to pay a fee for either being licensed as a fire sprinkler system contractor or being certified as a responsible managing supervisor.

All fees received by the department shall be paid to the State Treasurer and shall be used for carrying out this chapter. Any balance of these fees shall not lapse but shall

be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

§1375. Qualifications

1. Fire sprinkler system contractor. The State Fire Marshal shall issue a fire sprinkler system contractor license to any person who retains, either by employment or contract, at least one certified responsible managing supervisor. A certified responsible managing supervisor may also be a fire sprinkler system contractor.

2. Certification of responsible managing supervisor. The State Fire Marshal shall issue a responsible managing supervisor certificate to any person who:

A. Is certified by the National Institute for the Certification in Engineering Technologies at Level III for fire protection automatic sprinkler systems layout;

B. Is licensed by the State as a professional engineer and has 5 years experience in the field of fire protection, mechanical, piping or related engineering fields; or

C. If applying prior to July 1, 1995, has 5 years prior experience in the planning or installation of fire sprinkler systems in the United States if the applicant provides a sworn statement of reference from 3 individuals as to the applicant's experience and is approved by the Fire Sprinkler Advisory Council created in section 1381.

3. Inspection technician. The State Fire Marshal shall issue an inspection technician registration to any person who demonstrates an understanding of fire sprinkler system planning, installation and maintenance sufficient to determine whether a fire sprinkler system is in proper operating condition.

§1376. Termination of employment or agreement

Within 10 days after terminating employment or a contractual agreement with a licensed fire sprinkler system contractor the certified responsible managing supervisor involved shall notify the State Fire Marshal of that fact.

§1377. Plan review

Prior to construction of any fire sprinkler system, or prior to an addition involving more than 20 new sprinkler heads to a fire sprinkler system, regulated by the National Fire Protection Association, Pamphlet No. 13, as amended, a fire sprinkler system contractor shall obtain a permit from the State Fire Marshal who shall review the plan for construction or addition and charge a reasonable fee for the review and permitting process. All plans to be submitted by a contractor to the State Fire Marshal must be reviewed, approved and signed by the certified responsible managing supervisor retained by the contractor.

All plans for construction of or alteration to fire sprinkler systems shall prominently display the fire sprinkler system contractor's license number, as well as the responsible managing supervisor's certification number and the name and address of the person to install the fire sprinkler system. Each permit issued shall be displayed prominently at the site of construction. Within 30 days of the completion of a new fire sprinkler system or an addition to an existing fire sprinkler system, a fire sprinkler system contractor shall provide to the State Fire Marshal a copy of the permit signed by the certified responsible managing supervisor representing that the fire sprinkler system has been installed according to specifications of the approved plan to the best of the supervisor's knowledge, information and belief.

§1378. Employees

The commissioner may appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be under the administrative and supervisory direction of the State Fire Marshal.

§1379. Investigation of complaints; revocation of license

The commissioner shall investigate or cause to be investigated all complaints made to the commissioner and all cases of noncompliance with or violation of this chapter. The commissioner may suspend or revoke a license, certification or registration pursuant to Title 5, section 10004. The commissioner may refuse to issue or renew a license, certification or registration or the Administrative Court may suspend, revoke or refuse to renew the license, certification or registration of a person who is found guilty of:

1. Fraud or deceit. The practice of any fraud or deceit in obtaining a license, certification or registration;

2. Negligence or misconduct. Any negligence, incompetency or misconduct in the planning, installation or inspection of a fire sprinkler system. Continued failure to conform to standards or rules adopted by the department shall be prima facie evidence of negligence or incompetency;

3. Violation of law. Any violation of this chapter or any rule adopted by the department; or

4. Conviction of crime. Subject to the limitations of Title 5, chapter 341, a crime which involves dishonesty or false statement or which relates directly to the practice of fire sprinkler system planning, installation, inspection or any crime for which incarceration for one year or more may be imposed.

The commissioner, for reasons the commissioner may deem sufficient, may reissue a license, certification or registration to any person whose license, certification or registration has been revoked.

§1380. Penalties; injunction

1. Penalties. Any person who plans, installs or inspects a fire sprinkler system, or any part of that system,

without obtaining the required license, certification or registration, or after the license, certification or registration has expired or has been suspended or revoked or temporarily suspended or revoked, or who installs or alters a system without obtaining a permit as required by this chapter is guilty of a Class E crime.

2. Injunction. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have or may be instituted in Administrative Court or whether criminal proceedings have been or may be instituted.

§1381. Fire Sprinkler Advisory Council

1. Membership. The Fire Sprinkler Advisory Council established in Title 5, section 12004-I shall consist of 7 persons appointed by the commissioner as follows:

A. Two persons who have been actively engaged in the management of a fire sprinkler system business for not less than 5 years preceding their appointments;

B. One journeyman sprinkler fitter;

C. One person from a municipal fire department of this State, nominated by the Maine Fire Chiefs Association;

D. One person from the Professional Firefighters of Maine;

E. One person who is either a fire protection engineer or a mechanical engineer licensed in this State who is involved in building construction design; and

F. One person from the property insurance industry, nominated by the Superintendent of Insurance.

2. Terms of office. Members shall serve staggered 4-year terms. Initial members shall have terms as follows: 3 members for 2-year terms, 3 members for 3-year terms and one member for a 4-year term. The commissioner shall designate the term for each initial member. A member may serve no more than 2 consecutive 4-year terms.

3. Quorum. Four members shall constitute a quorum for the conduct of business.

4. Chair. The State Fire Marshal shall serve as chair of the Fire Sprinkler Advisory Council, in an ex officio, non-voting role.

5. Compensation. Members shall be compensated according to the provisions of Title 5, chapter 379.

6. Duties. In addition to other duties specified by the commissioner, the Fire Sprinkler Advisory Council may:

A. Advise the State Fire Marshal concerning practices in the fire sprinkler system industry and the

rules necessary to implement and administer this chapter;

B. Make recommendations to the State Fire Marshal regarding forms and procedures for certification, registration and licensure, and plan reviews and fees charged for those reviews; and

C. Advise the State Fire Marshal as to future changes that this chapter may require to protect the public health, safety and welfare.

7. Sunset. The Fire Sprinkler Advisory Council shall terminate January 1, 2000.

§1382. Department rules

Following the procedures of Title 5, chapter 375, the commissioner shall adopt such rules as are necessary for the implementation of this chapter.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1989-90	1990-91
PUBLIC SAFETY, DEPARTMENT OF		
Office of State Fire Marshal		
Positions	(1)	(1)
Personal Services	\$13,226	\$28,806
All Other	3,588	7,175
Capital Expenditures	11,424	
Provides funds for a fire sprinkler installation supervisor, general operating expenses, a compact car and anticipated expenses of the advisory council.		
DEPARTMENT OF PUBLIC SAFETY		
TOTAL	<u>\$28,238</u>	<u>\$35,981</u>

Sec. 4. Effective date. This Act shall take effect January 1, 1990, except that the Maine Revised Statutes, Title 32, section 1372, shall take effect July 1, 1990.

Effective January 1, 1990, unless otherwise indicated.

CHAPTER 248

H.P. 921 - L.D. 1287

An Act to Amend the Law on Home Construction Contracts

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