

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

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

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

material into waters of the State when the dredged material is disposed of in an approved United States Army Corps of Engineers disposal site. Disposal of all dredged materials is governed by the natural resource protection laws, sections 480-A to 480-S.

Sec. 2. 38 MRSA §480-B, sub-§2-A is enacted to read:

2-A. Dredge spoils. “Dredge spoils” means sand, silt, mud, gravel, rock or other sediment or material that is moved from coastal wetlands.

Sec. 3. 38 MRSA §480-D, sub-§9 is enacted to read:

9. Dredging. If the proposed activity involves dredging, dredge spoils disposal or transporting dredge spoils by water, the applicant shall demonstrate that the transportation route minimizes adverse impacts on the fishing industry and that the disposal site is geologically suitable. The department shall consult with the Department of Marine Resources in assessing the impacts on the fishing industry. The permit must include a requirement that the applicant publish the approved transportation route of the dredge spoils in a newspaper of general circulation in the area adjacent to the route.

Sec. 4. 38 MRSA §480-E, as enacted by PL 1987, c. 809, §2, is repealed and the following enacted in its place:

§480-E. Permit processing requirements

The department shall process all permits under this article in accordance with chapter 2 and the following requirements.

1. Municipal notification. The board may not issue a permit without notifying the municipality in which the proposed activity is to occur and considering any comments filed by the municipality within a reasonable period as established by the board.

2. Water supply notification. If the resource subject to alteration or the underlying ground water is utilized by a water company, municipality or water district as a source of supply, the applicant for the permit shall, at the time of filing an application, forward a copy of the application to the water company, municipality or water district by certified mail and the board shall consider any comments concerning the application filed with the department within a reasonable period, as established by the board.

3. Dredge spoils disposal. The commissioner may not accept an application for dredge spoils disposal in a coastal wetland unless the following requirements are met.

A. The applicant has collected and tested the dredge spoils in accordance with a protocol ap-

proved by the commissioner. The collection, testing and forwarding of the results of the tests to the commissioner must occur within one year before the submission of a completed application.

B. The applicant has published notice of the proposed route by which the dredged materials are to be transported to the disposal site in a newspaper of general circulation in the area adjacent to the proposed route.

C. The application has been submitted to each municipality adjacent to any proposed marine and estuarine disposal site and route.

Any public hearing held pursuant to this application must be held in the municipality nearest to the proposed disposal site.

4. Deferrals. When winter conditions prevent the board or municipality from evaluating a permit application, the board or municipality, upon notifying the applicant of that fact, may defer action on the application for a reasonable period. The applicant may not alter the resource area in question during the period of deferral.

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

Effective March 9, 1990.

CHAPTER 657

H.P. 655 - L.D. 889

An Act to Improve Indoor Air Quality Through Accurate Testing and Effective Reduction of Radon Levels in Buildings

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

Sec. 1. 22 MRSA c. 165 is enacted to read:

CHAPTER 165

RADON REGISTRATION ACT

§771. Short title

This chapter may be known and cited as the “Radon Registration Act.”

§772. Definitions

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

1. Associated radiological concerns. “Associated radiological concerns” means radioactive elements other

than radon, including, but not limited to, radium, thorium, uranium and their respective decay products.

2. Authorized radon testing device. “Authorized radon testing device” means a device that:

- A. Collects radon or its decay products;
- B. Requires analysis by an independent measuring facility or is a continuous monitoring device; and
- C. Has been determined to be acceptable by the United States Environmental Protection Agency under the Radon Measurement Proficiency Program conducted under 15 United States Code, Section 2661, et. seq.

3. Division. “Division” means the Department of Human Services, Division of Health Engineering.

4. Listed facility. “Listed facility” means a radon testing facility that is designated as a primary company by the Radon Measurement Proficiency Program of the United States Environmental Protection Agency under 15 United States Code, Section 2661, et. seq.

5. Radon. “Radon” means the radioactive gaseous element and its decay products produced by the disintegration of the element radium in air, water, soil or other media.

6. Radon testing services. “Radon testing services” means providing, for remuneration, determination of radon levels or analysis of an authorized radon testing device. This term includes those services provided by listed facilities.

§773. Lead agency

The division is the lead agency having primary responsibility for programs related to radon and associated radiological concerns. The division shall register firms, including listed facilities, and individuals who test for the presence of radon or associated radiological concerns or who provide consulting, construction or other remedial services for reducing the levels of radon or associated radiological concerns. The division may facilitate functions including, but not limited to, education, funding, liaison, technology transfer and training with the United States Environmental Protection Agency or other federal or state agencies. The division also serves as an information clearinghouse for radon and associated radiological concerns by maintaining records and disseminating information to educate the public about radon, describing technical assistance programs and interpreting test results as appropriate.

§774. Radon testing; registration required

A person may not perform, evaluate or advertise to perform or evaluate tests for the presence of radon in buildings or on building lots unless registered with the

division. This registration requirement includes without limitation a person whose place of business is located in the State, or in another state, who offers radon testing services to residents of the State either directly or through the mail.

§775. Radon mitigation; registration required

A person may not offer advice or plans to reduce the level of radon or contract to modify an existing structure in a manner intended to reduce the level of radon unless registered with the division.

§776. Exemptions

The requirements of sections 774 and 775 do not apply to any of the following:

1. Personal use. A person performing testing or mitigation on a building owned or inhabited by that person;

2. New construction. A builder utilizing preventive or safeguarding measures in new construction as recommended in “Radon-resistant Residential New Construction” EPA/60018-881087 published by the United States Environmental Protection Agency or an equivalent publication as determined by the department;

3. Department employees. Employees of the department in the course of their assigned duties; or

4. Authorized personnel. A person performing testing with the written approval of the department. Registration under section 774 or 775 does not constitute written approval for the purposes of this subsection.

§777. Use of listed facilities

Any person who is required to register under section 774 or 775 shall use only authorized radon testing devices and shall have these devices analyzed by a listed facility. When disclosing test results, any person registered under sections 774 or 775 shall provide in writing the name and address of the listed facility that performed the analysis.

§778. Reports

A person registered under section 774 or 775 shall, within 45 days of the date the services are provided, notify the department in writing of zip code of the client and the results of any tests performed. The department may, by rule, specify an alternative notification procedure and notification period.

§779. Advertising

A person may not advertise any radon testing device as “State-approved,” “approved by the State of Maine” or by use of any phrases with similar meaning or content. This restriction also applies to any reference denoting municipal approval.

§780. Fees

The department shall determine a schedule of fees to defray the costs of the registration programs established in sections 774 and 775. Fees may not exceed \$150 for registrants under section 774 or \$75 for registrants under section 775. The fees collected must be placed in the Radon Relief Fund established in section 784. The fee schedule must provide for initial registration and biennial registration fees.

§781. Rules

The department shall adopt rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, necessary to administer and enforce this chapter. Rules must address, but are not limited to, minimal training requirements for registration, periodic reregistration, performance standards, reports, truth-in-advertising requirements and criteria and procedures for revoking registrations.

§782. Penalties

Any person failing to register pursuant to section 774 or 775, commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged. Any person in violation of section 777, 778 or 779 commits a civil violation for which a forfeiture not to exceed \$250 per violation may be adjudged. Any person who engages in radon testing, advertising or mitigation in violation of this chapter is also in violation of Title 5, chapter 10.

§783. Registration revoked

The department may revoke, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, the registration of any person found in violation of this chapter.

§784. Radon Relief Fund

The Radon Relief Fund is established as a nonlapsing fund to support the radon-related research, testing, educational and mitigation activities of the division. Funds received from registrations under sections 774 and 775 and any other miscellaneous sources of income are deposited in the fund. The division shall administer the fund. Funds in the Radon Relief Fund must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund.

Sec. 2. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

1990-91

HUMAN SERVICES, DEPARTMENT OF

Bureau of Health

Positions	(2)
Personal Services	\$41,350
All Other	2,146
Capital Expenditures	1,695

Provides funds for a Word Processing Operator position, an Environmental Specialist II position, general operating expenses, testing equipment and office equipment to implement the Radon Registration Act and to carry out educational and public information activities relating to radon and indoor air pollution.

DEPARTMENT OF HUMAN SERVICES	
TOTAL	<u>\$45,191</u>

See title page for effective date.

CHAPTER 658

H.P. 1331 - L.D. 1848

An Act Relating to the Designation of Beneficiaries by Members of the Maine State Retirement System

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

Sec. 1. 5 MRS §17952, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17952. Designated beneficiary

A qualifying member may designate a beneficiary to receive benefits upon the qualifying member's death by filing a written designation of beneficiary with the executive director. The last designation of any beneficiary revokes all previous designations.

1. Designation of more than one beneficiary. A member may designate more than one person as a beneficiary subject to the following limitations.

A. If more than one person is designated as a beneficiary and:

(1) If one of the persons designated is eligible to receive benefits under section 17953, subsection 3 and the other persons designated are eligible to receive benefits under section 17953, subsection 4, there is no limit to the number of persons eligible to receive benefits under section 17953, subsection 4 who may be designated;