

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

set forth in section 490-E ~~shall~~ must be charged for those follow-up inspections.

Sec. 7. 26 MRSA §490-E, as amended by PL 1989, c. 590, §10, is further amended to read:

§490-E. Inspection fees

The initial inspection of elevators ~~shall~~ must be made by the supervising inspector or a state inspector and the fee for the initial inspection of each new or altered elevator ~~shall~~ must be set by the board, not to exceed \$100, plus expenses.

The initial inspection of tramways ~~shall~~ must be made by the supervising inspector, a state inspector or a licensed inspector and the fee for the initial inspection of each new or altered tramway ~~shall~~ must be set by the board, not to exceed \$100, plus expenses.

The fee for each required inspection of elevators ~~shall~~ must be set by the board, not to exceed \$100, plus \$10 for each landing.

The annual fee for the required inspections of tramways ~~shall~~ must be set by the board.

The certificate fee ~~shall~~ must be set by the board, not to exceed \$100.

When a tramway or elevator inspection has been made by a licensed ~~tramway~~ inspector, the inspector shall submit the inspection fee to the board along with an inspection report.

All fees and sums received ~~shall~~ must be deposited with the Treasurer of State to be credited to the General Fund.

Sec. 8. 26 MRSA §490-F, as enacted by PL 1977, c. 543, §4, is amended to read:

§490-F. Reports by inspectors

The state inspectors or licensed ~~tramway~~ inspectors shall make a full report to the supervising inspector, giving all data required by the rules adopted by the board and shall report to the supervising inspector and to the owner or lessee all defects found and all noncompliances with such rules. ~~Where~~ When any serious infraction of the rules is found by a state inspector or licensed ~~tramway~~ inspector and ~~where~~ such that infraction is, in the opinion of the inspector, dangerous to life, limb or property, it ~~shall be~~ is the duty of ~~such~~ the inspector to report ~~such that~~ that infraction immediately to the supervising inspector.

See title page for effective date.

CHAPTER 355

S.P. 475 - L.D. 1271

An Act to Revise and Add to the Laws Regulating the Practice of Professional Engineering

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

Sec. 1. 32 MRSA §1251, sub-§§2 and 4 are amended to read:

2. Engineer-intern. The term "~~engineer-in-training~~ engineer-intern" ~~shall mean~~ means a person who has been certified as such by the board and whose name has been entered in the register of ~~engineer-in-training~~ engineer-interns.

4. Professional engineer. The term "professional engineer" ~~shall mean~~ means a person who, by reason of ~~his~~ a knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as defined.

Sec. 2. 32 MRSA §1255, sub-§1, as amended by PL 1991, c. 442, §2, is further amended to read:

1. Limited practice by nonresident. A person not a resident of and not having established a place of business in this State, practicing or offering to practice the profession of engineering when such practice does not exceed more than 30 consecutive days in any calendar year, ~~provided such~~ if the person is legally qualified by registration to practice the profession in that person's own state or county in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter. To practice under this section, the person must apply in writing and receive authorization from the chair of the board.

Sec. 3. 32 MRSA §1255, sub-§§2 and 3 are amended to read:

2. Nonresident becoming resident. A person not a resident of and ~~not~~ not having ~~no~~ no established a place of business in this State, or who has recently become a resident ~~thereof~~ of this State, practicing or offering to practice ~~herein~~ in the State for more than 30 days in any calendar year the profession of engineering, ~~if he~~ shall have and having filed with the board an application for a certificate of registration and ~~shall have~~ having paid the fee required by this chapter. ~~Such~~ The exemption ~~shall continue~~ continues only for such time as the board requires for the consideration of the application for registration, ~~provided such a~~ if the

person is legally qualified to practice ~~said~~ the profession of engineering in ~~his own~~ the state or county of residence in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter.

3. Certain employees. An employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a person exempted from registration by subsections 1 and 2; provided ~~his~~ that the practice does not include responsible charge or design or supervision by the employee or subordinate.

Sec. 4. 32 MRSA §1256, as amended by PL 1983, c. 413, §41, is further amended to read:

§1256. Violations; penalties; injunction

~~Any~~ A person who ~~shall practice~~ practices or ~~offer~~ offers to practice the profession of engineering in this State without being registered or exempted in accordance with this chapter, or ~~any~~ a person presenting or attempting to use ~~as his own~~ the certificate of registration or the seal of another, or ~~any~~ a person who ~~shall give any~~ gives a false or forged evidence of any kind to the board or to ~~any~~ a member ~~thereof~~ of the board in obtaining a certificate of registration, or ~~any~~ a person who ~~shall falsely impersonate~~ impersonates any other registrant of like or different name, or ~~any~~ a person who ~~shall attempt~~ attempts to use an expired or revoked certificate of registration, or ~~any~~ a person who ~~shall violate~~ violates any of the provisions of this chapter ~~shall be guilty of~~ commits a Class E crime.

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

It ~~shall be~~ is the duty of all duly constituted officers of the law of this State or any political subdivision ~~thereof~~ of this State to enforce this chapter and to prosecute any persons violating ~~same~~ the provisions of this chapter. The Attorney General or ~~his~~ a designated assistant shall act as legal adviser of the board and render such legal assistance as may be necessary in carrying out this chapter.

Sec. 5. 32 MRSA §1301, as amended by PL 1993, c. 600, Pt. A, §103, is further amended to read:

§1301. Appointment; term

The State Board of Registration for Professional Engineers, as established by Title 5, section 12004-A, subsection 16, administers this chapter. The board consists of ~~6~~ 7 members appointed by the Governor, of which ~~5~~ 6 must be professional engineers who have the qualifications required by section 1302 and one

must be a representative of the public. To the extent that qualified nominees are available, appointment of nonpublic members are made to ensure that a variety of engineering disciplines are represented. Nominees for appointment may be recommended to the Governor by representative engineering societies in the State.

Appointments are for 5-year terms. Appointments of members must comply with section 60.

Sec. 6. 32 MRSA §1302, as amended by PL 1975, c. 575, §17, is further amended to read:

§1302. Qualifications

Each member of the board ~~shall~~ must be a citizen of the United States and a resident of this State, and each engineer member ~~shall~~ must have been engaged in the practice of the profession of engineering for at least 12 years and ~~shall~~ must have been in responsible charge of ~~important~~ engineering work for at least 5 years. Responsible charge of engineering teaching may be construed as responsible charge of ~~important~~ engineering work.

Sec. 7. 32 MRSA §1306, sub-§3, as enacted by PL 1983, c. 413, §45, is amended to read:

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise ~~deemed~~ considered necessary to the fulfillment of its responsibilities under this chapter.

The board ~~shall~~ may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of ~~his~~ the application, the reasons ~~therefor~~ for the denial and ~~his~~ the right to request a hearing. Hearings ~~shall~~ must be conducted in conformity with ~~the Maine Administrative Procedure Act~~, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 8. 32 MRSA §1307 is amended to read:

§1307. Receipts and disbursements

The secretary of the board shall receive and account for all ~~moneys~~ money derived under this chapter and shall pay the ~~same~~ money, as provided by law, to the Treasurer of State, who shall keep ~~such~~

moneys the money in a separate fund to be known as the "Professional Engineers' Fund." The secretary of the board ~~shall receive a salary~~ is entitled to compensation and allowance for clerical hire as ~~recommended~~ approved by the board, in addition to the expenses provided for in section 1303. The board may make other expenditures from this fund, upon itemized vouchers approved by the ~~chairman~~ chair of the board, ~~which that~~ in the opinion of the board are reasonably necessary for the proper performance of its duties under this chapter.

Sec. 9. 32 MRSA §1309, as amended by PL 1991, c. 442, §4, is further amended to read:

§1309. Roster of registered engineers

A roster showing the names of all active registered professional engineers and ~~engineers in training~~ newly certified engineer-interns is prepared by the secretary of the board during the first calendar quarter of each even-numbered year. A supplementary roster of newly registered professional engineers and newly certified ~~engineers in training~~ engineer-interns is prepared by the secretary of the board during the first calendar quarter of each odd-numbered year. The rosters must give the place of business of each listed registered engineer and ~~the date of expiration of the certificate of each listed engineer in training.~~ Copies of the roster and of the supplementary roster are mailed to each active engineer listed on the roster and furnished to the public upon request for such fees as the board may authorize in its rules.

Sec. 10. 32 MRSA §1351 is amended to read:

§1351. Registration required

In order to safeguard life, health and property, any person practicing or offering to practice the profession of engineering ~~shall be~~ is required to submit evidence ~~that he is qualified~~ of qualification to ~~so~~ practice the profession of engineering and ~~shall~~ must be registered as provided. It ~~shall be~~ is unlawful for any person to practice or to offer to practice the profession of engineering in the State or to use in connection with ~~his~~ the person's name or otherwise assume, use or advertise any title or description tending to convey the impression that ~~he~~ the person is a professional engineer, unless ~~such~~ that person has been duly registered or exempted under this chapter.

Sec. 11. 32 MRSA §1352, as amended by PL 1991, c. 442, §5, is further amended to read:

§1352. Qualifications

To be eligible for registration as a professional engineer, or certification as a ~~an engineer in training~~ an engineer-intern, an applicant ~~shall~~ must submit 5 references with ~~his~~ the application for registration as a

professional engineer, 3 of ~~which~~ the references ~~shall~~ must be registered engineers having personal knowledge of ~~his~~ the applicant's engineering experience, or in the case of an application for certification as an ~~engineer in training~~ engineer-intern, by 3 character references. Each applicant shall demonstrate that ~~he~~ the applicant is trustworthy and competent to engage in the practice of engineering in such manner as to safeguard the interests of the public.

The following ~~shall be~~ is considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer or for certification as an ~~engineer in training~~ engineer-intern, respectively:

1. Professional engineer. As a professional engineer:

A. A person holding a certificate of registration to engage in the practice of engineering, on the basis of comparable written examinations, issued ~~to him~~ by a proper authority of a state, territory or possession of the United States, the District of Columbia, or of any foreign country, who, in the opinion of the board, meets the requirements of this chapter, based on verified evidence may, upon application, be registered without further examination.

A person holding a certificate of ~~qualification~~ record verification issued by the National ~~Bureau of Engineering Registration~~ Council of Examiners for Engineering and Surveying, whose qualifications meet the requirements of this chapter may, upon application, be registered without further examination-;

B. A graduate of an engineering curriculum of 4 years or more approved by the board as being of satisfactory standing; and with a specific record of ~~an additional 4 years or more of~~ experience in engineering work of a grade and character ~~which indicates~~ that indicate to the board that the applicant may be competent to practice engineering, ~~shall~~ may be admitted to an 8-hour written examination in the fundamentals of engineering and an 8-hour written examination in the principles and practice of engineering. Upon passing ~~such~~ the examinations, the applicant ~~shall~~ may be granted a certificate of registration to practice engineering in this State, ~~provided he is otherwise qualified.~~ if all other qualifications are met;

C. An applicant, having a specific record of a high school education and 12 years or more of progressive experience in engineering work of a character and grade ~~which indicates~~ that indicate to the board that the applicant may be competent to practice engineering, and who passes an 8-hour written examination in the fundamentals

of engineering designed to show knowledge and skill approximating that obtained through graduation in an approved 4-year engineering curriculum, and an 8-hour written examination in the principles and practice of engineering, ~~shall~~ may be granted a certificate of registration to practice engineering in this State, ~~provided he is otherwise qualified.~~ if all other qualifications are met:

D. An applicant with an experience record of at least 15 years of lawful practice in engineering work, of which at least 10 years have been in responsible jobs or important engineering work, and of a grade and character ~~which indicates that indicate~~ to the board that the applicant may be competent to practice engineering, and who has passed an oral examination conducted by the State Board of Registration for Professional Engineers or by a board committee or an 8-hour written examination in the principles and practice of engineering, and is otherwise qualified, shall may be registered to practice engineering in this State. This paragraph is repealed December 31, 1996:

E. Engineering teaching in a college or university offering an approved engineering curriculum of 4 years or more may be considered as engineering experience;

F. An applicant with an experience record of at least 15 years of lawful practice in engineering work, of which at least 10 years have been in responsible jobs or engineering work and of a grade and character that indicate to the board that the applicant may be competent to practice engineering, and who has passed an 8-hour written examination in the principles and practice of engineering, and is otherwise qualified, may be registered to practice engineering in this State; and

G. An applicant with an experience record of at least 15 years of lawful practice in engineering work, of which at least 10 years have been in responsible jobs or engineering work and of a grade and character that indicate to the board that the applicant may be competent to practice engineering, who has a certificate of registration to engage in the practice of engineering, on the basis of experience or non-National Council of Examiners for Engineering and Surveying examination issued by a proper authority of a state, territory or possession of the United States, the District of Columbia or any foreign country, and who in the opinion of the board meets the requirements of this chapter based on verified evidence may be registered upon application by passing an oral examination conducted by the

State Board of Registration for Professional Engineers or by a board committee; and

2. Engineer-intern. As an ~~engineer-in-training;~~ engineer-intern. The following ~~shall be~~ is considered as minimum evidence that the applicant is qualified for certification as an ~~engineer-in-training;~~ engineer-intern.

A. A graduate of an approved engineering curriculum of 4 years or more who has passed the board's 8-hour written examination in the fundamentals of engineering ~~shall~~ may be certified or enrolled as an ~~engineer-in-training, if he is otherwise qualified~~ engineer-intern if all other qualifications have been met.

B. An applicant having a high school education and a specific record of 8 or more years of experience in engineering work of a grade and character satisfactory to the board, who passes the board's 8-hour written examination in the fundamentals of engineering ~~shall~~ may be certified or enrolled as an ~~engineer-in-training, if he is otherwise qualified~~ engineer-intern if all other qualifications have been met.

~~C. The certification or enrollment of an engineer-in-training shall be valid for a period of 12 years.~~

Any person having the necessary qualifications prescribed in this chapter to entitle ~~him~~ that person to registration ~~shall be~~ is eligible for ~~such~~ registration though ~~he~~ the person may not be practicing ~~his~~ the profession at the time of making ~~his~~ the application.

Sec. 12. 32 MRSA §1353, as amended by PL 1991, c. 442, §6, is further amended to read:

§1353. Application; fees

Application for registration as a professional engineer or certification as an ~~engineer-in-training~~ engineer-intern is on a form prescribed and furnished by the board; contains statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical experience, and contains references as set forth in section 1352, none of whom may be members of the board. An application fee and an examination fee may be established by the board in amounts ~~which that~~ are reasonable and necessary for their respective purposes.

The registration fee for professional engineers ~~is~~ must be established by the board in an amount not to exceed ~~\$40~~ \$200.

The registration fee for ~~engineer-in-training~~ engineer-intern certification or enrollment ~~is~~ must be

established by the board in an amount not to exceed 1/2 of the registration fee for professional engineers.

Sec. 13. 32 MRSA §1354, as amended by PL 1983, c. 468, §2, is further amended to read:

§1354. Examinations

Written examinations ~~shall must~~ be held at such times and places as the board ~~shall determine~~ determines. Examinations required on fundamental engineering subjects may be taken as provided in section 1352. The ~~final principles and practices of~~ engineering examinations may not be taken until the applicant has completed a period of engineering experience as set forth in section 1352.

The passing grade on any examination ~~shall be is~~ not less than 70% established by the board. ~~A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. Any candidate for registration having an average grade of less than 50% may not apply for reexamination for one year, unless this waiting period is reduced or waived by the board.~~

Sec. 14. 32 MRSA §1356, as repealed and replaced by PL 1983, c. 413, §49, is amended to read:

§1356. Revocation and reissuance

The board may suspend or revoke the registration of an engineer or the certificate of an ~~engineer in training~~ engineer-intern pursuant to Title 5, section 10004. The board may refuse to issue or renew or the Administrative Court, pursuant to Title 4, chapter 25, may revoke, suspend or refuse to renew the registration of a registered professional engineer or the certificate of an ~~engineer in training~~ engineer-intern who is found guilty of:

1. Fraud or deceit. The practice of any fraud or deceit in obtaining a certificate of registration as professional engineer or a certificate as an ~~engineer in training~~ engineer-intern;

2. Negligence or misconduct. Any gross negligence, incompetency or misconduct in the practice of professional engineering as a registered professional engineer or as an ~~engineer in training~~ engineer-intern; or

3. Violations. Violating any provision of this chapter or any rule of the board.

Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any registered professional engineer or any ~~engineer in training~~ engineer-intern. These complaints ~~shall must~~ be in writing, sworn to by the person making them and filed with the secretary of the board.

The board, for reasons it may ~~deem~~ determine sufficient, may reissue a certificate of registration as a professional engineer or as an ~~engineer in training~~ engineer-intern to any person whose certificate has been revoked, provided that 4 or more members of the board vote in favor of that reissuance. A new certificate of registration as a professional engineer or as an ~~engineer in training~~ engineer-intern, to replace any certificate revoked, lost, destroyed or mutilated, may be issued, subject to the rules of the board; and a charge of \$3 ~~shall be made for that issuance~~ established by the board.

Sec. 15. 32 MRSA §1358 is amended to read:

§1358. Exemptions from expiration and renewal fees

~~Any~~ A person holding a valid certificate of registration under this chapter on the date of entering employment in the Armed Forces of the Government of the United States during a period of war or employment in any wartime service outside of the continental United States, governmental or otherwise, under the United States or any of its allied nations ~~shall be is~~ exempt, for the duration of ~~such that~~ employment, from the payment of all renewal fees, and ~~his~~ the registrant's certificate of registration ~~shall remain~~ remains in full force and effect until the next regular renewal date following the termination of ~~such that~~ employment.

Sec. 16. 32 MRSA §1360, as amended by PL 1983, c. 413, §52, is further amended to read:

§1360. Residents certified elsewhere

A person who is a resident of the State and has been certified in another state as an ~~engineer in training~~ engineer-intern may; be certified as an engineer-intern in this State upon payment of a fee of \$5, be certified as an engineer in training in Maine, provided that he submits evidence satisfactory to the board that he has been certified as an engineer in training in another state under qualifications equivalent to those specified in this chapter for that certification established by the board and upon submission of evidence satisfactory to the board that certification as an engineer-intern in another state was under qualifications equivalent to those specified in this chapter for that certification.

Sec. 17. 32 MRSA §1361 is enacted to read:

§1361. Retired status

A registrant who has terminated practice of engineering may apply to the board for retired status. Upon receiving an application for retired status, accompanied by the fee established by the board, the board shall issue a certificate of retired status to the

applicant and record the applicant's name in the roster as a retired registrant, along with the date of retired status.

A retired registrant may retain but not use the seal and may not practice engineering. The board shall reissue a certificate of registration to a retired registrant who pays all application fees, meets all current requirements for registration and demonstrates to the board's satisfaction that, for 2 years preceding the application for registration, the retired registrant met the requirements for maintaining professional competence established under the board rules.

Sec. 18. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
State Board of Registration for Professional Engineers		
All Other	\$750	\$1,000
Provides allocations for the additional costs of adding one member to the board.		

See title page for effective date.

CHAPTER 356

H.P. 1000 - L.D. 1411

An Act to Amend the Maine Bail Code

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

Sec. 1. 15 MRSA §1003, sub-§5-A is enacted to read:

5-A. Failure to appear. "Failure to appear" includes a failure to appear at the time or place required by a release order and the failure to surrender into custody at the time and place required by a release order or by the Maine Rules of Criminal Procedure, Rule 38(c).

Sec. 2. 15 MRSA §1003, sub-§§9 and 10, as enacted by PL 1987, c. 758, §20, are amended to read:

9. Post-conviction. "Post-conviction" means any point in a criminal proceeding after a verdict or finding of guilty or after the acceptance of a plea of guilty or nolo contendere.

10. Preconviction. "Preconviction" means any point in a criminal proceeding before a verdict in the context of a jury trial or finding of guilty in the context of a jury-waived trial or plea before the acceptance of a plea of guilty or nolo contendere.

Sec. 3. 15 MRSA §1023, sub-§2, as amended by PL 1993, c. 675, Pt. B, §12, is further amended to read:

2. Appointment. The Chief Judge of the District Court may appoint one or more residents of ~~each district~~ the State as bail commissioners. A bail commissioner serves at the pleasure of the Chief Judge of the District Court, but no term for which a bail commissioner is appointed may exceed 5 years. The Chief Judge of the District Court shall require bail commissioners to complete the necessary training requirements set out in this section. Bail commissioners have the powers of notaries public to administer oaths or affirmations in carrying out their duties.

Sec. 4. 15 MRSA §1025, as repealed and replaced by PL 1991, c. 824, Pt. A, §23, is amended to read:

§1025. Law enforcement officers

A law enforcement officer making a warrantless arrest under Title 17-A, section 15 may, without fee, take the personal recognizance of any defendant for appearance on a charge of a Class D or Class E crime. If authorized, a law enforcement officer may, without fee, take the personal recognizance with deposit in accordance with Title 12, section 675; Title 12, section 7053, subsection 2, paragraph C; and Title 12, section 9707. The law enforcement officer's authority under this section continues as long as the arrestee remains in the officer's custody.

Sec. 5. 15 MRSA §1026, sub-§7 is enacted to read:

7. Applicability of conditions of release. A condition of release takes effect and is fully enforceable as of the time the judicial officer sets the condition, unless the bail order expressly excludes it from immediate applicability.

Sec. 6. 15 MRSA §1027, sub-§§2 and 3, as enacted by PL 1987, c. 758, §20, are amended to read:

2. Harnish bail proceeding. A Harnish bail proceeding ~~shall~~ must be held within 5 court days of the State's request unless the court, for good cause shown and at the request of either the defendant or the