

# MAINE STATE LEGISLATURE

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**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**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

subsection 1 and section 6209-B, subsection 1, respectively.

**2. Joint authority of tribal and state law enforcement officers.** Law enforcement officers appointed by the Passamaquoddy Tribe or the Penobscot Nation ~~shall~~ have the authority within their respective Indian territories and state and county law enforcement officers ~~shall~~ have the authority within both Indian territories to enforce rules or regulations adopted by the commission under section 6207, subsection 3 and to enforce; all laws of the State other than those over which the ~~respective tribe or nation~~ Passamaquoddy Tribe or the Penobscot Nation has exclusive jurisdiction under section ~~6209~~ 6209-A, subsection 1 and section 6209-B, subsection 1, respectively.

**3. Agreements for cooperation and mutual aid.** ~~Nothing herein shall~~ This section does not prevent the Passamaquoddy Tribe or the Penobscot Nation and any state, county or local law enforcement agency from entering into agreements for cooperation and mutual aid.

**4. Powers and training requirements.** Law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation ~~shall~~ possess the same powers and ~~shall be~~ are subject to the same duties, limitations and training requirements as other corresponding law enforcement officers under the laws of the State.

**Sec. 8. Effective date; certification.** This Act does not take effect unless, within 60 days of the adjournment of the Legislature, the Secretary of State receives written certification by the Governor and Council of the Penobscot Nation and the Joint Tribal Council of the Passamaquoddy Tribe that the nation and tribe have agreed to the provisions of this Act pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes; except that in no event may this Act become effective until 90 days after the adjournment of the Legislature.

See title page for effective date, unless otherwise indicated.

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## CHAPTER 389

S.P. 498 - L.D. 1357

### An Act to Create the Propane and Natural Gas Professional Act of 1995

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

**Sec. 1. 5 MRSA §12004-A, sub-§33-A** is enacted to read:

33-A. Propane Expenses 32 MRSA  
and Natural Gas Board Only §14803

**Sec. 2. 10 MRSA §8001, sub-§§35 and 36,** as repealed and replaced by PL 1991, c. 548, Pt. B, §1, are amended to read:

**35. Board of Counseling Professionals Licensure.** Counseling Professionals Licensure, Board of; ~~and~~

**36. Board of Real Estate Appraisers.** Real Estate Appraisers, Board of; ~~and~~

**Sec. 3. 10 MRSA §8001, sub-§37** is enacted to read:

37. Propane and Natural Gas Board. Propane and Natural Gas Board.

**Sec. 4. 32 MRSA c. 130** is enacted to read:

## CHAPTER 130

### THE PROPANE AND NATURAL GAS ACT

#### §14801. Short title

This Act may be known and cited as the Propane and Natural Gas Act.

#### §14802. Definitions

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

**1. Board.** "Board" means the Propane and Natural Gas Board.

**2. Bulk plant.** "Bulk plant" means a facility, the primary purpose of which is to distribute propane, that receives propane by tank car, tank truck or piping and distributes the propane to the end user by portable container delivery, by tank truck or through piping. A bulk plant has the bulk storage capacity of 2,000 gallons of water or more. "Bulk plant" includes a facility that transfers propane from tank cars on a private track directly into cargo tanks.

**3. Commissioner.** "Commissioner" means the Commissioner of Professional and Financial Regulation.

**4. Delivery.** "Delivery" means the transfer of propane, either by liquid transfer into a stationary container on the property of the consumer or by placing a portable propane container onto the property of the consumer.

**5. Department.** "Department" means the Department of Professional and Financial Regulation.

**6. Dispensing station.** "Dispensing station" means a facility consisting of fixed equipment where propane is stored and dispensed into portable containers or containers that are not suitable for the shipping of cargo and that are mounted on vehicles.

**7. License.** "License" means a license issued pursuant to this Act containing one or more of the following endorsements: delivery technician; plant operator; tank setter and outside piping technician; appliance connection and service technician up to 2,000,000 BTUs; and large equipment connection and service technician over 2,000,000 BTUs.

**8. Natural Gas.** "Natural gas" means hydrocarbon fuel in a gaseous state with a composition of predominantly CH<sub>4</sub>, delivered by pipeline to the property of the consumer.

**9. Propane.** "Propane" means a hydrocarbon fuel whose chemical composition is predominantly C<sub>3</sub>H<sub>8</sub>, whether recovered from natural gas or from crude oil.

#### **§14803. Board established**

There is established within the department the Propane and Natural Gas Board for the oversight of propane and natural gas licensure and the enforcement of the provisions of this Act.

**1. Membership; appointment.** The board consists of 8 members who serve for 3-year terms, except that of the initial appointees 3 of the members serve a 3-year term, 2 of the members serve a 2-year term and 2 of the members serve a one-year term. With the exception of the member representing fire chiefs and the public member, all members must have at least 10 consecutive years of active experience in the propane or the natural gas industry immediately preceding appointment. Industry members must hold a valid license at the time of appointment, except that the initial industry member appointees must be licensed on or before July 1, 1997. The Governor shall appoint all industry and public members. The propane and natural gas industries in this State may make recommendations to the Governor concerning these appointments. Membership is as follows:

A. Five members representing industry, 3 of whom represent the propane industry, one of whom is a mechanical contractor and one of whom represents the natural gas industry;

B. One member representing Maine fire chiefs, who may be recommended to the Governor by the Maine Fire Chiefs Association;

C. One member representing the general public who is unrelated, either directly or indirectly, to either the natural gas industry or the propane industry; and

D. One nonvoting member appointed by the Commissioner of Public Safety.

Appointments of members must comply with Title 32, section 60. Members may be removed from office by the Governor for cause.

**2. Officers.** At its first meeting, the board shall choose a chair and a vice-chair, who serve terms of one year. The vice-chair serves as chair the following year unless unwilling or unable. The board may elect other officers that it finds necessary.

**3. Compensation.** Members of the board serve without per diem compensation but are entitled to reimbursement for expenses.

#### **§14804. Board powers**

The board has the following powers.

**1. Rules.** The board shall adopt rules necessary for the proper performance of its duties pursuant to the Maine Administrative Procedure Act to implement the licensure requirements established by this Act, which may include the following:

A. Reasonable standards regarding education or its equivalent and experience requirements for applicants for licensure; and

B. Reasonable standards for license renewal.

The board shall establish by rule technical standards for the proper installation and servicing of propane and natural gas equipment. These standards must be in accordance with the National Fire Protection Association Standards, Numbers 54 and 58 and any updates of those standards. The board may adopt by rule other standards it finds necessary.

**2. Meetings.** The board shall hold meetings at least twice each year. Additional meetings may be held as necessary to conduct the business of the board and may be convened at the call of the chair or 4 members of the board. A quorum of the board is 4 members. The board shall keep minutes that clearly reflect all acts and decisions made by the board, which must be available to the public upon request.

**3. Licenses.** The board shall evaluate the qualifications of applicants for licensure under this chapter.

**4. Hearings.** Hearings may be conducted by the board to assist with investigations to determine whether grounds exist for suspension or denial of a

license or as otherwise necessary to the fulfillment of its responsibilities under this chapter.

The board 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 license denial, the reason for the denial and the applicant's right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

5. **Contracts.** The board may enter into contracts to carry out its statutory responsibilities.

6. **Budgets.** The board shall submit to the commissioner its budgetary requirements.

7. **Personnel.** The commissioner shall appoint any employees necessary to carry out this Act. Any person so employed is an employee of the department and under the administrative and supervisory direction of the commissioner.

**§14805. Installations to conform to standards; authority of state propane and natural gas inspectors**

1. **Compliance with rules required.** Installation of propane or natural gas equipment may not be made in the State unless it complies with all the standards and rules adopted by the board.

2. **Inspection.** State propane and natural gas inspectors, upon written complaint or whenever they consider it necessary for purposes of examination, may enter into and upon and inspect all buildings and premises within their jurisdiction at all reasonable hours. They may enter a building only with the permission of the person having control of the building or, after hearing, upon order of court. If an inspector finds any propane or natural gas installation that does not comply with this Act, the inspector shall order that the installation be removed or remedied, and that order must be complied with immediately by the owner or occupant of the premises or building or by the installer of the propane or natural gas equipment in violation. If the inspector finds any propane or natural gas installation in any building or structure that creates a danger to other property or to the public, the inspector may forbid the use of the building or structure by serving a written order upon the owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order.

3. **Order to correct deficiency; appeal.** Any person ordered by a state propane and natural gas inspector to correct a deficiency or to vacate a building or structure may appeal the order by filing with the board within 48 hours of receipt of the order a written notice of appeal. The board shall review that appeal and issue its written decision within 10 days after receipt of the notice of appeal. If the board upholds the inspector's order, it shall prescribe the time period for the requisite correction specified in its written decision or the time within which that person must vacate the building or structure. The decision must be complied with, unless appealed as provided. Any person ordered by the board to correct a deficiency or to vacate a building or structure may appeal the order to the Superior Court in accordance with the Maine Administrative Procedure Act by filing a petition for review within 48 hours of receipt of the order. The court shall issue its written decision within 20 days after receipt of the petition for review.

4. **Final orders.** The decision of the Superior Court on an appeal as provided is final. An order by a state propane and natural gas inspector and an order by the board are final and subject to no further appeal upon failure to file a timely, written appeal as provided.

5. **Injunction to enforce order.** Upon the failure of any person to carry out a final order as provided, the board may petition the Superior Court for the county in which the building or premises are located for an injunction to enforce that order. If the court determines, upon hearing such a petition, that a lawful final order was issued, it shall order compliance.

6. **Powers of propane and natural gas inspectors.** Propane and natural gas inspectors have powers throughout the several counties of the State, similar to those of sheriffs in their respective counties, relating to enforcement of this Act and rules adopted under this Act. These powers are limited to the issuing of citations, the serving of summonses, the conducting of investigations and the ordering of corrections of violations of this Act by licensees in accordance with the specific statutory authority set forth in this Act.

**§14806. Investigation of complaints; suspension or revocation of licenses**

The board shall investigate all complaints made to it and all cases of noncompliance with or violation of this Act. The board may suspend or revoke a license issued under this Act pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may suspend, revoke or refuse to renew the license of any licensee who is found guilty of:

**1. Fraud or deceit.** Attempting to obtain a registration or license by means of fraud, misrepresentation or concealment of material facts;

**2. Negligence or misconduct.** Any gross negligence, incompetence or misconduct in the performance of the work of making installations. Continued failure to conform to standards or rules adopted by the board is prima facie evidence of gross negligence or incompetence;

**3. Conviction of a crime.** Subject to the limitations of Title 5, chapter 341, conviction of a crime, other than minor traffic violations, if the acts for which the person was convicted are found by the board to have a direct bearing on whether the person may be entrusted to serve the public in a capacity that is subject to license or registration under this Act; or

**4. Violations.** Violating any provision of this Act or any rule of the board.

A license suspended by the board or suspended or revoked by the Administrative Court must be immediately surrendered to the board and held during any period of suspension or, if revoked, until reinstated as provided in this Act.

A person whose license is suspended or revoked for more than 90 days must establish that all requirements governing new applicants under this Act are met as a condition of reinstatement or return of the license, except that the board, in its discretion and giving due consideration to the protection of the public, may waive examination if the period of suspension is less than 2 years or, in the case of the revocation of a license, the applicant is both eligible and has made application for reinstatement of the license within 2 years of the effective date of that revocation.

#### **§14807. License; requirements; persons**

**1. Establish license.** The board shall establish one license with endorsements described in this section that conform to the education and certification requirements of the National Propane Gas Association's certified employee training program or other propane or natural gas programs approved by the board, as follows:

A. "Delivery technician" is a person who delivers propane at a customer's location. A license established by the board is not required for a delivery technician to operate a motor vehicle;

B. "Plant operator" is a person who works at a bulk plant and handles propane and propane equipment;

C. "Tank setter and outside piping technician" is a person who sets and maintains propane tanks and outside piping;

D. "Appliance connection and service technician" is a person who installs and services propane and natural gas appliances and indoor piping up to 2,000,000 BTUs per appliance; and

E. "Large equipment connection and service technician" is a person who installs and services propane and natural gas appliances and indoor piping over 2,000,000 BTUs per appliance.

**2. License; valid.** The license established in this section is valid for 2 years from the date of issuance or as otherwise established by the commissioner.

**3. Appropriate endorsement.** The board shall issue a license with the appropriate endorsement to the prospective licensee who has successfully passed an examination as prescribed by the board and who has filed the required application and fee.

**4. License required; plant operators and delivery technician.** A person may not perform the functions governed by this Act after July 1, 1997 without first being licensed by the board, except that plant operators and delivery technicians must be licensed within one year of first performing those functions. In order to qualify for the one-year provision, the delivery technician or plant operator must register with the board within 90 days after first performing that function.

**5. Examination; qualification.** Notwithstanding any requirement set by the board as a qualification to sit for a license examination, a person working as a technician in the propane or the natural gas industry before January 1, 1996 is deemed qualified to sit for a license examination.

#### **§14808. License; installation and maintenance standards; dispensing stations**

The following registration, licensing, maintenance and installation standards apply to dispensing stations operating in the State.

**1. Dispensing stations.** All dispensing stations must be registered with the department biennially by the owner upon suitable forms designated and approved by the board. A dispensing station that undergoes a major repair, revision or relocation must provide that agency with updated information within 30 days of the completion of the change.

**2. Registration.** Registration of the dispensing station is limited to:

A. The name of the owner;

- B. The address of the dispensing station;
- C. The town or city and county in which the dispensing station is located;
- D. The directions to the dispensing station;
- E. The capacity in gallons of the dispensing station;
- F. The name of the owner or operator to be contacted for inspection of the dispensing station by the State; and
- G. The name of the owner or operator holding the limited operator's license required by this section.

### **3. Constructed; maintained; operated.**

Dispensing stations operating in the State must be constructed, maintained and operated in accordance with the standards set by the most recent edition of the National Fire Protection Association Standards, Number 58. The board may adopt by rule additional state and local codes.

**4. Limited operator's license; training.** The on-site owner or operator of a dispensing station must hold a limited operator's license issued biennially by the board. The board shall set by rule the requirements for obtaining the limited license. The holder of the limited license is responsible for training other dispensing station employees and documenting that training.

The training for the limited license must include a manual prepared by a regional propane gas association, a video prepared by a national propane gas association or equivalent materials approved by the board. The training documentation must be kept at the station. The on-site owner or operator of the dispensing station is responsible for compliance and is subject to section 14809.

### **§14809. Equipment installation identification**

Following the installation and testing of vented natural gas or propane equipment, the installer must attach a permanent tag, as developed by the board, in a conspicuous place on or near the equipment.

Identification tags must be provided by the board in a form and manner prescribed by the board by rule. The identification tag information must include, but is not limited to, the name and license number of the technician and the date of installation. The identification tag fee may be no more than \$10 per tag.

### **§14810. Enforcement; penalties**

All funds collected from the enforcement of this chapter must be remitted to the board and deposited in

the board's account within the budget of the Division of Licensing and Enforcement.

### **§14811. Inspectors**

An inspector or other person enforcing this Act as an agent of the board must meet the same qualifications as those licensed under this Act.

### **§14812. Disposal of fees**

All money received by the board must be paid to the Treasurer of State and credited to the board's account within the budget of the Division of Licensing and Enforcement.

Any balance of these fees does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Money received by the board must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony and procuring the attendance of witnesses, the costs of all legal proceedings initiated for enforcement and administrative expenses.

### **§14813. Fees**

The board shall establish application and license fees. The fees must be remitted in a manner and on forms or other instruments prescribed by the board.

**1. License; biennial fee.** The initial and renewal biennial fee for the license established in section 14807 may not exceed \$130. There is no additional fee for additional endorsements.

**2. Dispensing station.** The initial and renewal biennial registration fee for a dispensing station must be set by the board and may not exceed \$196.

**3. Limited license.** There is no fee for the limited license established in section 14808, subsection 4 if the owner has registered the dispensing station as required by this Act.

**4. Examination; fees.** The board may set reasonable fees for whatever examinations it may require as long as the fees cover no more than the actual costs of the examinations.

### **§14814. Renewals**

All licenses issued expire 2 years from the date of issuance or at other times the commissioner may designate. All licenses may be renewed for 2-year periods upon filing the appropriate application and fee.

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board, in its discretion and giving due consideration to the protection of the public, may waive examination or other requirements. The board may establish penalties for nonrenewal.

**§14815. Endorsement with other states**

The board shall waive the examination and grant a license to any applicant who presents proof of being authorized to practice by another state or other jurisdiction of the United States or another country that maintains professional standards considered by the board to be equivalent to or higher than those set forth in this chapter, as long as no cause exists for denial of a license under section 14806. Such an applicant must pay the fee as provided in section 14813.

**§14816. Exemption**

Nothing in this Act prohibits any person who is licensed to practice in this State under any other law from engaging in the practice for which that person is licensed.

**§14816. Repeal**

This Act is repealed July 1, 2000.

**Sec. 5. Initial appointments; first meeting of the Propane and Natural Gas Board.** The Governor shall make initial appointments of the members of the Propane and Natural Gas Board within 45 days of the effective date of this Act. The Commissioner of Professional and Financial Regulation shall call the first meeting of the board, which must take place within 30 days of the completion of the appointments of the initial members.

**Sec. 6. Working capital advance.** The State Controller is authorized to advance to the Department of Professional and Financial Regulation up to \$100,365 from the General Fund Unappropriated Surplus in fiscal year 1995-96 for the licensure of installers of propane and natural gas equipment. These funds will be used to provide the working capital advance necessary to fund the costs of the licensure of installers of propane and natural gas equipment until adequate dedicated revenues have been received. Funds advanced for this purpose must be returned to the General Fund Unappropriated Surplus no later than June 30, 1996.

**Sec. 7. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
<b>PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF</b>		
<b>Division of Licensing and Enforcement</b>		
Positions - Other Count	(2.0)	(2.0)
Personal Services	\$57,051	\$76,068
All Other	10,500	14,000
<b>TOTAL</b>	<b>\$67,551</b>	<b>\$90,068</b>
Allocates funds for one Senior Inspector position and one Clerk Typist III position necessary to administer the licensure of installers of propane and natural gas equipment.		
<b>Division of Administrative Services</b>		
All Other	\$8,884	\$11,050
Allocates funds for the licensure of installers of propane and natural gas equipment.		
<b>Propane and Natural Gas Board</b>		
Personal Services	\$2,205	\$2,940
All Other	16,725	21,800
Capital Expenditures	5,000	
<b>TOTAL</b>	<b>\$23,930</b>	<b>\$24,740</b>
Allocates funds for the licensure of installers of propane and natural gas equipment.		
<b>DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION</b>		
<b>TOTAL</b>	<b>\$100,365</b>	<b>\$125,858</b>

See title page for effective date.