

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 7, 1998 to March 31, 1998**

**SECOND SPECIAL SESSION**  
**April 1, 1998 to April 9, 1998**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 1998**

**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 9, 1998**

**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**  
**1997**

**Sec. C-17. 38 MRSA §85-A, sub-§§1 and 2,** as amended by PL 1991, c. 509, §46, are further amended to read:

**1. Commissioner.** "Commissioner" means the Commissioner of ~~Professional and Financial Regulation~~ Transportation.

**2. Department.** "Department" means the Department of ~~Professional and Financial Regulation~~ Transportation.

**Sec. C-18. 38 MRSA §90-B,** as repealed and replaced by PL 1995, c. 397, §125, is amended to read:

**§90-B. Budget**

The commission's budget must be prepared ~~and administered as provided in Title 10, section 8003~~ and submitted to the commissioner for approval.

**Sec. C-19. 38 MRSA §90-C,** as enacted by PL 1995, c. 397, §126, is amended to read:

**§90-C. Employees**

The ~~Commissioner of Professional and Financial Regulation~~ commissioner may appoint employees as necessary, ~~as provided in Title 32, section 60-F.~~

**Sec. C-20. 38 MRSA §106, first ¶,** as amended by PL 1995, c. 502, Pt. H, §48, is further amended to read:

All money received by the commission must be paid to the Treasurer of State and credited to the account for the commission within the budget of the ~~Office of Licensing and Registration within the Department of Professional and Financial Regulation~~ Transportation.

**PART D**

**Sec. D-1. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

**1998-99**

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Division of Licensing and Enforcement**

All Other \$10,300

Allocates funds to reflect the transfer of the responsibility

for the permitting and inspection of aboveground flammable liquid storage facilities to the Propane and Natural Gas Board.

**Division of Licensing and Enforcement**

All Other (\$938)

Deallocates funds to reflect the transfer of the Maine State Pilotage Commission to the Department of Transportation.

**DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL**

\$9,362

**Sec. D-2. Allocation.** The following funds are allocated from the Marine Ports Fund to carry out the purposes of this Act.

**1998-99**

**TRANSPORTATION, DEPARTMENT OF**

**Ports and Marine Transportation**

All Other \$938

Allocates funds for general operating expenses of the Maine State Pilotage Commission.

**DEPARTMENT OF TRANSPORTATION TOTAL**

\$938

See title page for effective date.

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**CHAPTER 728**

**H.P. 1639 - L.D. 2272**

**An Act to Implement Recommendations of the Fire Marshal Study Group**

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

**Sec. 1. 8 MRSA §161**, as amended by PL 1991, c. 464, §1, is repealed and the following enacted in its place:

**§161. Licenses and fees**

The following provisions govern the licensing of public dances.

**1. Law enforcement.** A public dance at which minors are admitted may not be held in any pavilion, hall or other building unless a law enforcement officer or, if permitted under local regulation or ordinance, a private security guard, licensed under Title 32, chapter 93, is present during the dance and unless there are in such pavilion, hall or other building separate toilets for men and women. This subsection does not apply to dances conducted by and for students in either public, private or state-owned school buildings or municipally owned buildings.

**2. Posting of license.** A building or any part of the building used for public dancing purposes, either habitually or occasionally, must have posted at all times of dances a proper license obtained from the Commissioner of Public Safety.

**3. Application; inspection.** The owner, lessee or tenant of the building shall apply for a license from the Commissioner of Public Safety. Upon receipt of an application, the Commissioner of Public Safety or the commissioner's designee shall inspect the building, including its entrances, exits, fire escapes and structural and fire safety. If the building complies with all laws and rules, the Commissioner of Public Safety shall issue a license. The license must name the owner, the name of the hall, the location in the building of the dance area and the capacity of this area for dancing.

**4. Scope; expiration.** The license covers all dancing in the building or parts of the building as stated on the license. A dancing license expires one year from the date of issue unless sooner revoked.

**5. Fee.** The fee for a dancing license is \$15. The fee must accompany the application for the license and is not refunded in those cases in which the premises are inspected. Fees collected under this section must be deposited into a special revenue account to carry out the purposes of this section. A fee is not required for the licensing of dances conducted by and for students in public, private or state-owned school buildings or municipally owned buildings.

**6. Rules.** The Commissioner of Public Safety shall adopt the necessary rules and regulations relative to the fire protection, fire prevention and structural accident prevention governing the buildings in which public dances are held.

**Sec. 2. 8 MRSA §502, first and 3rd ¶¶**, as repealed and replaced by PL 1977, c. 433, §2, are amended to read:

The municipal officers of towns may grant licenses for any of the exhibitions or performances described in section 501, on receiving for their town a sum ~~which that they deem~~ determine proper, 24 hours or more being allowed for the exhibitions or performance as they may determine. They shall prosecute, by complaint for the use of their town, all violations of section 501.

License fees ~~shall must~~ be credited to ~~the State Fire Marshal's Office to defray expenses of that office~~ a special revenue account to defray expenses in carrying out this section. Any balance of fees ~~shall may~~ not lapse but ~~shall must~~ be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

**Sec. 3. 8 MRSA §502, 4th, 6th and 7th ¶¶**, as amended by PL 1983, c. 328, are further amended to read:

The license ~~shall must~~ be further conditioned that a traveling circus, traveling amusement show or amusement device being operated in a manner ~~which that~~ is dangerous to the safety of the public be stopped until the condition is remedied. Breach of any condition in the license ~~shall be is~~ a cause for immediate suspension or revocation of the license, at the discretion of the ~~commissioner~~ Commissioner of Public Safety.

The exhibiting of any parade, show or entertainment of any traveling circus, traveling amusement show or amusement device contrary to this section ~~shall be deemed is~~ a civil violation, and the person, persons, firm or corporation owning or controlling the traveling circus, traveling amusement show or amusement device, or the manager or officer in charge ~~thereof of the traveling circus, traveling amusement show or amusement device~~ within the State, ~~shall be is~~ subject to a forfeiture of not more than \$1,000.

The District Court and Superior Court in the counties where traveling circuses, traveling amusement shows or amusement devices exhibit or parade ~~shall~~ have jurisdiction over the offense.

**Sec. 4. 8 MRSA §562**, as amended by PL 1979, c. 156, §§1 and 2, is further amended to read:

**§562. Rules**

The Commissioner of Public Safety shall make, amend or rescind, after public hearing ~~thereon~~, notice of which has been duly advertised in the state paper, reasonable rules ~~and regulations~~ to be enforced ~~by the State Fire Marshal~~ with respect to the location,

erection, construction and maintenance of grandstands, bleachers, stadiums, arenas, fences, safety barriers or other like structures intended primarily to support or protect spectators during any type of motor vehicle racing and with respect to public liability insurance coverage required by section 561.

~~Such rules and regulations shall~~ Rules become effective when reviewed for form and legality by the Office of the Attorney General and approved in writing by the Commissioner of Public Safety and when a certified copy ~~thereof~~ of the rules has been filed with the Secretary of State.

The ~~commissioner~~ Commissioner of Public Safety may waive the requirements of any ~~such rules or regulations~~ to cover any special circumstances or conditions when the commissioner is satisfied that ~~such~~ the special circumstances or conditions provide at least the same amount of safety to spectators at motor vehicle races that the rules ~~or regulations~~, the waiver of which is requested, were intended to provide.

**Sec. 5. 8 MRSA §563**, as amended by PL 1995, c. 533, §2, is further amended to read:

#### **§563. Fees**

The fee for the inspection of all structures and the annual license for motor vehicle raceways is \$300. The fee permits the holder of any motor vehicle raceway license to provide entertainment events such as auto thrill shows, motorcycle acts and other spectacular stunts in the licensed raceway. These events must be included in the certificate of public liability required pursuant to section 562. These fees must accompany the application and be credited to ~~the Department of Public Safety to defray the expenses of the division~~ a special revenue account to defray expenses in carrying out this section. 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 years.

**Sec. 6. 8 MRSA §652**, as amended by PL 1991, c. 464, §4, is further amended to read:

#### **§652. Applications for license; inspections**

The owner, lessee, tenant or occupant of any building or place of assembly required to be licensed under section 651 shall ~~make application~~ apply to the Commissioner of Public Safety for that license. Upon receipt of the application, the ~~commissioner~~ Commissioner of Public Safety or the commissioner's designee shall inspect ~~or cause to be inspected that~~ the building or place of assembly to be used for theatrical or motion picture purposes to ascertain its compliance with the laws and rules. If as a result of the inspection ~~the commissioner is convinced that the rules are fully~~

~~complied with~~. If the building complies with all laws and rules, the commissioner ~~may~~ shall issue a license to the person desiring to operate the theatrical or motion picture production in that building. The fee for a license is \$37.50. All theatrical or motion picture licenses issued expire one year after date of issue unless sooner revoked. The fees are credited to ~~the Office of the State Fire Marshal~~ a special revenue account to defray the expenses of the ~~office~~ inspections. Any balance of those fees ~~may~~ does not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

**Sec. 7. 17 MRSA §323**, as enacted by PL 1975, c. 307, §2, is amended to read:

#### **§323. Access to premises**

Any organization making application to the Chief of the State Police to conduct or operate "Beano" or "Bingo," or any organization licensed under this chapter to operate "Beano" or "Bingo"; shall permit inspection of any equipment, prizes, records or items and materials used or to be used in the conduct or operation of "Beano" or "Bingo" by the Chief of the State Police or ~~his~~ the chief's authorized representative.

The licensee shall permit at any ~~and all times any~~ time an inspector from the ~~State Fire Marshal's office,~~ Department of Public Safety or the city or town fire inspectors of the municipality in which "Beano" is being conducted; to enter and inspect the licensed premises.

**Sec. 8. 17 MRSA §345**, as amended by PL 1975, c. 410, §5, is further amended to read:

#### **§345. Access to premises**

Any person, firm, corporation, association or organization making application to the Chief of the State Police to conduct or operate a game of chance or any such person, firm, corporation, association or organization authorized under this chapter to operate or conduct a game of chance, shall permit inspection of any equipment, prizes, records, or items and materials used or to be used in the conduct or operation of a game of chance by the Chief of the State Police or ~~his~~ the chief's authorized representative.

Any firm, corporation, association or organization licensed to operate a game of chance shall permit at any ~~and all times~~ time the ~~State Fire Marshal or any~~ inspector from his office, Department of Public Safety or the city or town fire inspectors of the municipality in which the licensed game is being conducted; to enter and inspect the licensed premises.

**Sec. 9. 22 MRSA §7904-A**, as amended by PL 1995, c. 670, Pt. A, §10 and affected by Pt. D, §5, is further amended to read:

**§7904-A. Fire safety inspection for residential care facilities**

**1. Inspection required.** A license may not be issued by the department to a residential care facility until the department has received from the ~~State Fire Marshal~~ Commissioner of Public Safety a written statement signed by one of the officials designated under Title 25, section 2360, 2391 or 2392, to make fire safety inspections. This statement, which must indicate that the residential care facility has complied with applicable fire safety provisions referred to in Title 25, section 2452, must be furnished annually ~~by the State Fire Marshal~~ to the department.

**2. Fees.** The department shall establish and pay reasonable fees to the ~~State Fire Marshal~~ Commissioner of Public Safety or municipal official for each such inspection.

**3. Requirements for facilities with 17 or more beds.** A residential care facility that has a capacity of 17 or more beds must comply with the Life Safety Code, chapter 22 or 23, the residential board and care occupancies sections for large facilities, adopted by the ~~State Fire Marshal~~ Commissioner of Public Safety. In addition, the following requirement must be met.

A. A building of 2 or more stories must be equipped with an approved automatic sprinkler system unless the building is of fire resistive or protected noncombustible construction as defined in the current edition of the National Fire Protection Association's Standard Types of Building Construction.

**4. Requirements for facilities with more than 6 but fewer than 17 beds.** A residential care facility that has a capacity of more than 6 but fewer than 17 beds must comply with the Life Safety Code, chapter 22 or 23, the residential board and care occupancies sections for small facilities, adopted by the ~~State Fire Marshal~~ Commissioner of Public Safety. In addition, the following requirements must be met.

A. A building of 2 or more stories must be equipped with an approved automatic sprinkler system unless the building is of fire resistive or protected noncombustible construction as defined in the current edition of the National Fire Protection Association's Standard Types of Building Construction.

B. Automatic emergency lights must be provided in the number and location required by the ~~State Fire Marshal~~ Commissioner of Public Safety.

**5. Requirements for residential care facilities with 6 or fewer beds.** The department may permit any residential care facility having 6 or fewer ambulatory residents who can evacuate the facility without the assistance of another person in 2 ~~or less~~ minutes or less to comply with the one-family and 2-family dwelling requirements of the Life Safety Code ~~adopted by the State Fire Marshal~~.

**7. Local regulations.** A local regulation that affects the life-safety requirements of a residential care facility and that is more stringent than those referred to in this section takes precedence.

**Sec. 10. 22 MRSA §7904-B**, as enacted by PL 1995, c. 670, Pt. A, §11 and affected by Pt. D, §5, is amended to read:

**§7904-B. Fire safety inspection for congregate housing services facilities**

In accordance with this section, the department shall adopt rules pursuant to Title 5, chapter 375 for the inspection of licensed congregate housing facilities by the ~~Office of the State Fire Marshal~~ Commissioner of Public Safety or the commissioner's designee and the fees for that inspection. Rules regarding fees adopted pursuant to this section are major substantive rules as defined by Title 5, chapter 375, subchapter II-A.

**1. Permits; inspection.** Construction and renovation of congregate housing facilities ~~requires~~ require a construction permit from the ~~Office of the State Fire Marshal~~ Commissioner of Public Safety. Prior to licensure all congregate housing facilities must be inspected by the ~~Office of the State Fire Marshal~~ Commissioner of Public Safety or the commissioner's designee at the request of the department. All licensed congregate housing facilities must be inspected upon performing renovations and must be reinspected every 2 years.

**2. Certificate of compliance.** The ~~Office of the State Fire Marshal~~ Commissioner of Public Safety shall issue a certificate of compliance to the department.

**3. Requirements.** All licensed congregate housing facilities must be inspected using Chapter 18, New Apartment Buildings, of the National Fire Protection Association Life Safety Code 101, 1994 edition and must be protected throughout by an approved, supervised, automatic sprinkler system.

**Sec. 11. 22 MRSA §7912-A**, as amended by PL 1993, c. 661, §§17 and 18, is further amended to read:

**§7912-A. Nonambulatory and mobile nonambulatory residents; permanently disabled**

A residential care facility that has 8 or fewer beds may not have residents who are nonambulatory or mobile nonambulatory unless the reason for the condition is temporary except as follows.

**1. General requirements.** The Department of Human Services may permit up to 2 beds in the facility for nonambulatory or mobile nonambulatory residents if the following conditions are met.

A. The facility conforms to the residential board and care occupancy section for small facilities of the National Fire Protection Association Life Safety Code, chapter 21, as adopted by the ~~State Fire Marshal~~ Commissioner of Public Safety. If there is an interconnected smoke detection system and a direct exit from the bedroom, the requirement for construction type or a sprinkler system may be waived.

B. There are no more than 2 mobile nonambulatory or one nonambulatory and one mobile nonambulatory residents. Any facility housing more than one nonambulatory resident must meet the requirements of subsection 2.

C. All nonambulatory and mobile nonambulatory residents ~~shall~~ must be housed on the first floor of the facility with direct egress to a common corridor with 2 exits leading directly to the exterior of the facility.

D. Facilities with 7 ~~and~~ or 8 beds ~~shall~~ must be ramped to grade at both exits referred to in paragraph C. Facilities with 6 or fewer beds ~~shall~~ must be ramped to grade at one exit. Facilities with 6 or fewer beds with a nonambulatory resident ~~shall~~ must be ramped to grade at both exits.

E. There ~~shall~~ must be at least one staff person available on the premises of the facility when any resident is present. Additional staff may be required at night at the direction of the ~~Office of the State Fire Marshal~~ Commissioner of Public Safety.

F. If a facility with 7 or 8 beds is of new construction, any doorway in the path of egress for a nonambulatory or mobile nonambulatory resident ~~shall~~ must be at least 36 inches in width. If the facility is of existing construction, any doorway in the path of egress for a nonambulatory or mobile nonambulatory resident ~~shall~~ must be at least 34 inches in width; ~~and~~.

**2. Requirements when number of nonambulatory or mobile nonambulatory residents exceed limits.** Residential care facilities may provide services

to more residents who are nonambulatory or mobile nonambulatory than allowed under subsection 1 if, in addition to those requirements:

A. The structure meets all the requirements of the residential board and care occupancy section for small facilities of the National Fire Protection Association Life Safety Code, chapter 22 or 23. The structure must be of protected wood frame construction unless it is provided with either a National Fire Protection Association Standard No. 13 or a Life Safety sprinkler system. Additional staff may be required at the direction of the ~~Office of the State Fire Marshal~~ Commissioner of Public Safety.

**Sec. 12. 22 MRSA §8103**, as amended by PL 1989, c. 502, Pt. A, §85, is further amended to read:

**§8103. Fire safety; exceptions**

**1. Procedures.** All procedures and other provisions included in section 7904-A, subsections 1 and 2, for boarding care facilities ~~shall~~ also apply to children's homes, except that the written statement referred to in section 7904-A, subsection 1, need not be furnished annually by the ~~State Fire Marshal~~ Commissioner of Public Safety to the department when a children's home serves only one or 2 children.

**2. Temporary license.** The department may issue a temporary license to operate a family foster home, as defined by section 8101, subsection 3, without complying with subsection 1, prior to issuing the license, ~~provided that~~ as long as a preliminary evaluation of the home reveals no obvious fire safety violations.

**Sec. 13. 22 MRSA §8304-A**, as amended by PL 1997, c. 494, §13 and affected by §15, is further amended to read:

**§8304-A. Fire safety**

**1. Inspection required.** As an ongoing condition of licensure or registration, the ~~Office of the State Fire Marshal~~ Commissioner of Public Safety must provide annually to the department a written statement that the day-care facility complies with applicable fire safety rules adopted pursuant to Title 25, section 2452. The Commissioner of Public Safety shall adopt rules in accordance with the Maine Administrative Procedure Act to implement this subsection. The rules must provide for at least the following.

A. The ~~State Fire Marshal~~ Commissioner of Public Safety shall issue a fire safety technician certificate to any person who successfully completes a training course established by the ~~Office of the State Fire Marshal~~ Department of Public Safety. A person who receives a fire safety

technician certificate pursuant to this paragraph may perform fire safety inspections under this section.

B. In addition to ongoing certification requirements, inspection and certification are required under this section whenever a day-care facility changes or augments a heating system or makes major structural alterations to the facility.

**1. Inspection required.** As an ongoing condition of licensure or certification, the ~~Office of the State Fire Marshal~~ Commissioner of Public Safety must provide at least biennially to the department a written statement that the day-care center, nursery school or certified home day care ~~providers~~ provider complies with applicable fire safety rules adopted pursuant to Title 25, section 2452. The Commissioner of Public Safety shall adopt rules in accordance with the Maine Administrative Procedure Act to implement this subsection. The rules must provide for at least the following.

A. The ~~State Fire Marshal~~ Commissioner of Public Safety shall issue a fire safety technician certificate to any person who successfully completes a training course established by the ~~Office of the State Fire Marshal~~ Department of Public Safety. A person who receives a fire safety technician certificate pursuant to this paragraph may perform fire safety inspections under this section.

B. In addition to ongoing license or certification requirements, inspection and certification are required under this section whenever a day-care center, nursery school or certified home day care provider changes or augments a heating system or makes major structural alterations to the center or home.

**2. Fees.** The department shall establish and pay reasonable fees to the ~~State Fire Marshal~~ Department of Public Safety for services rendered under this section. Fees collected by the ~~State Fire Marshal~~ Department of Public Safety under this section must be deposited into a special revenue account to carry out the purposes of this section. A balance remaining in the account at the end of the fiscal year may not lapse but must be carried forward into subsequent fiscal years.

**3. Inspectors.** The Commissioner of Public Safety may appoint subject to the Civil Service Law employees needed to carry out the purposes of this section. A person appointed pursuant to this subsection is under the administrative and supervisory direction of the ~~State Fire Marshal~~ Commissioner of Public Safety.

**Sec. 14. 22 MRSA §8403**, as enacted by PL 1975, c. 709, §2, is amended to read:

#### **§8403. Fire safety**

**1. Inspection required.** ~~No~~ A license ~~shall~~ may ~~not~~ be issued by the department for a nursery school until the department has received from the ~~State Fire Marshal~~ Commissioner of Public Safety a written statement signed by one of the officials designated in Title 25, ~~sections~~ section 2360, 2391 or 2392 to make fire safety inspections.

**2. Requirements.** This written statement, ~~which shall~~ must be furnished, annually, ~~by the State Fire Marshal~~ to the department, ~~shall~~ and must indicate that the nursery school has complied with at least the requirements of the Life Safety Code of the National Fire Protection Association ~~as adopted by the State Fire Marshal~~, ~~which~~ that are specified in:

A. The family day care homes section, if the nursery school has at least 3 but no more than 6 children per session; ~~or~~

B. The group day care homes section, if the nursery school has at least 7 but no more than 20 children per session; or

C. The child day care centers section, if the nursery school has more than 20 children per session.

**3. Fees.** The department shall establish and pay reasonable fees to the ~~State Fire Marshal~~ Department of Public Safety or municipal officials for each such inspection. Fees collected by the Department of Public Safety must be deposited into a special revenue account to defray expenses in carrying out this section. Any balance of fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

**Sec. 15. 22 MRSA §8605**, as enacted by PL 1987, c. 389, §5, is amended to read:

#### **§8605. Fire safety**

**1. Inspection required.** ~~No~~ A license may ~~not~~ be issued by the department for an adult day care program until the department has received from the ~~State Fire Marshal~~ Commissioner of Public Safety a written statement signed by one of the officials designated under Title 25, section 2360, 2391 or 2392 to make fire safety inspections. This statement, ~~which shall~~ must indicate that a facility has complied with the applicable fire safety provisions referred to in subsection 2 and Title 25, section 2452, ~~shall~~ and must be furnished annually ~~by the State Fire Marshal~~ to the department.



**2. Life Safety Code.** The written statement ~~which shall must~~ be furnished annually by the ~~State Fire Marshal~~ to the department ~~shall and must~~ indicate that the adult day care program has complied with at least the requirements of the Life Safety Code of the National Fire Protection Association ~~as adopted by the State Fire Marshal which that~~ are specified in:

- A. The family day care homes section, if the adult day care program has no more than 6 adults per session;
- B. The group day care homes section, if the adult day care program has at least 7 but no more than 12 adults per session; or
- C. The child day care section, if the adult day care program has more than 13 adults per session.

**3. Fees.** The department shall establish and pay reasonable fees to the ~~State Fire Marshal~~ Department of Public Safety or municipal official for each such inspection. Fees collected by the Department of Public Safety must be deposited into a special revenue account to defray expenses in carrying out this section. Any balance of fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

**Sec. 16. 25 MRSA §2392**, as amended by PL 1979, c. 58, §§1 and 2, is further amended to read:

**§2392. Inspection by State Fire Marshal; removal of dangerous matter; appeal; exits**

The State Fire Marshal or ~~fire~~ public safety inspectors, upon the complaint of ~~any~~ a person or whenever they ~~shall deem~~ determine it necessary, may inspect ~~or cause to be inspected~~ all buildings and premises within their jurisdiction. ~~Said officers~~ The State Fire Marshal or a public safety inspector may forbid the use of ~~any~~ a building or other structure ~~which, that~~ does not conform to the laws, ordinances, and rules ~~and regulations promulgated~~ adopted by the Commissioner of Public Safety or enforceable by ~~him~~ the commissioner, pursuant to section 2396 ~~which~~ and that creates a danger to other property or to the public. ~~Any such officer~~ The State Fire Marshal or a public safety inspector shall serve an order in writing upon the owner and the occupant, if any, to repair or remove the building or structure or part ~~thereof~~ of the building or structure and to vacate ~~such the~~ building or structure within a reasonable time to be stated in the order. The owner or occupant may within 24 hours appeal ~~from such an~~ the order to the Commissioner of Public Safety, who shall, within 30 days after notice to the owner or occupant and a hearing ~~thereon~~, review ~~such the~~ order and file ~~his~~ a decision, ~~thereon and his~~ The commissioner's decision shall be ~~is~~ final and ~~shall~~ must be complied with within such time as may be

fixed in ~~said the~~ order or decision of the ~~Commissioner of Public Safety~~ commissioner.

~~Any~~ An owner or occupant who neglects to comply with ~~such the~~ order ~~shall be~~ is guilty of a Class E crime, except that a fine of not less than \$100 ~~shall~~ must be imposed for each conviction.

Every hospital, sanatorium, convalescent home, nursing home, rest home or other institution for the hospitalization or nursing care of human beings ~~shall~~ must between sundown and sunrise maintain lighted exitways and all main exit doors ~~shall~~ must be hung to swing outward.

**Sec. 17. 25 MRSA §2396, first ¶**, as amended by PL 1991, c. 837, Pt. A, §57, is further amended to read:

The ~~office~~ Office of the State Fire Marshal is established as a bureau within the Department of Public Safety. The Commissioner of Public Safety shall appoint, as State Fire Marshal, a person experienced in fire prevention work, who may be removed for cause by the commissioner. The ~~State Fire Marshal~~ Commissioner of Public Safety or the commissioner's designee shall appoint, subject to the Civil Service Law, such investigators, inspectors and other employees as are necessary to carry out the duties assigned to the office. The State Fire Marshal ~~has~~ and the Commissioner of Public Safety or the commissioner's designee have all of the duties and responsibilities assigned to the office ~~and such other duties as may be prescribed or delegated by the Commissioner of Public Safety and the State Fire Marshal shall devote full time to the duties of the office.~~

**Sec. 18. 25 MRSA §2396, 2nd ¶**, as amended by PL 1991, c. 837, Pt. A, §58, is further amended to read:

~~It is the duty of the~~ The State Fire Marshal, the State Fire Marshal's deputy and any public safety inspectors and investigators ~~to shall~~ enforce all of the laws, ordinances and rules adopted by the Commissioner of Public Safety or enforceable by the Commissioner of Public Safety, directed toward and concerned with protection of the public in the following areas:

**Sec. 19. 25 MRSA §2396, sub-§1**, as amended by PL 1979, c. 43, is further amended to read:

**1. Fires.** The prevention and containment of fire and the protection of life and property ~~therefrom~~ from fire;

**Sec. 20. 25 MRSA §2396, sub-§7**, as amended by PL 1991, c. 837, Pt. A, §59, is further amended to read:

**7. Other duties.** The performance of such other duties as are set forth in this and other sections of the statutes and as may be conferred or imposed from time to time by law. The State Fire Marshal, the State Fire Marshal's deputy and investigators appointed under this Title shall carry out those functions that the Commissioner of Public Safety may direct and in so doing have the same enforcement powers and duties throughout the State as sheriffs have in their respective counties. The enforcement powers are to be limited in scope to enforcement of statutes, ordinances and rules concerned with fire prevention, arson and other burnings and enforcement of such other specific areas of responsibility as are assigned to the Office of the State Fire Marshal by statute, and to arrest for impersonation of or interference with, the State Fire Marshal, the State Fire Marshal's deputy or their designees.

**Sec. 21. 25 MRSA §2396-A** is enacted to read:

**§2396-A. Public safety inspector, defined**

For purposes of this Part, unless the context indicates otherwise, "public safety inspector" means an inspector acting under the direction of the Commissioner of Public Safety or the commissioner's designee.

**Sec. 22. 25 MRSA §2399**, as amended by PL 1991, c. 9, Pt. J, §1, is further amended to read:

**§2399. Commissioner of Public Safety's expenses**

The Commissioner of Public Safety may incur reasonable expenses in educating the public in fire prevention and protection.

Every fire insurance company or association that does business or collects premiums or assessments in the State shall pay to the State Tax Assessor, in addition to the taxes now imposed by law to be paid by those companies or associations, 1.4% of the gross direct premiums for fire risks written in the State, less the amount of all direct return premiums thereon and all dividends paid to policyholders on direct fire premiums. That tax must be paid as provided for insurance premium taxes as specified in Title 36, section 2521-A, except that the tax prescribed by this section must be paid on an estimated basis at the end of each ~~quarter month~~ starting with the first quarter of ~~1983~~ July 31, 1998, with each installment equal to at least ~~25%~~ 1/12 of the estimated total tax to be paid for the current calendar year. The State Tax Assessor shall pay over all receipts from that tax to the Treasurer of State daily. Of these funds 75.7% must be used to defray the expenses incurred by the Commissioner of Public Safety in administering all fire preventive and investigative laws and rules and in educating the public in fire safety and is appropriated

for those purposes and to carry out the administration and duties of the Office of the State Fire Marshal. Of these funds 24.3% must be used to defray the expenses of the fire training and education program as established in Title 20-A, chapter 319.

~~Whenever there shall accumulate in the special fund created by this section a surplus sufficient to defray the expenses of such administration for an ensuing period of one year a surplus accumulates in the special fund created by this section that is sufficient to defray the expenses of administration of this section for an ensuing period of one year, then, in the discretion of the Commissioner of Public Safety, the foregoing special tax for that year may be omitted, and the Commissioner of Public Safety shall certify to the State Tax Assessor that the special tax is to be omitted and said . The certification is to must be made not later than the 31st day of January of the year in which the tax would otherwise be assessed.~~

**Sec. 23. 25 MRSA §2444**, as amended by PL 1971, c. 592, §35, is further amended to read:

**§2444. Transportation of explosives**

As a condition to the granting of a permit or license to transport explosives, the Commissioner of Public Safety may require that the vehicle used in transportation of explosives may be accompanied by a representative of the commissioner, ~~who shall be paid mileage by the person to whom the license is issued at the rate allowed to fire inspectors by the State for the use of his car.~~ This condition is not applicable to loads of 4,000 pounds or less. "Explosives" ~~referred to herein shall~~ does not include petroleum products.

**Sec. 24. 25 MRSA §2450**, as amended by PL 1993, c. 410, Pt. X, §4, is further amended to read:

**§2450. Examinations by Department of Public Safety**

The Commissioner of Public Safety shall adopt, in accordance with requirements of the Maine Administrative Procedure Act, a schedule of fees for the examination of all plans for construction, reconstruction or repairs submitted to the ~~Office of the State Fire Marshal~~ Department of Public Safety. A fee charged pursuant to this section may not exceed \$450. The fees must be credited to ~~the State Fire Marshal to defray the expenses of that office~~ a special revenue account to defray expenses in carrying out this section. Any balance of the fees may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

**Sec. 25. 25 MRSA §2452**, as amended by PL 1985, c. 770, §17, is further amended to read:

**§2452. Exits**

The Commissioner of Public Safety shall adopt and may amend, after notice and public hearing, reasonable rules governing the safety to life from fire in all buildings or other structures within ~~his~~ the commissioner's jurisdiction. These rules ~~shall do~~ not apply to nursing homes having 3 or ~~less~~ fewer patients. Automatic sprinkler systems ~~shall may~~ not be required in existing noncommercial places of assembly. Noncommercial places of assembly ~~shall~~ include those facilities used for such purposes as deliberation, worship, entertainment, amusement or awaiting transportation ~~which that~~ have a capacity of 100 to 300 persons.

**1. Effective date.** The ~~regulations~~ rules, and amendments ~~thereto to the rules~~, become effective when reviewed for form and legality by the Office of the Attorney General and a certified copy of them has been approved in writing by the Commissioner of Public Safety and filed with the Secretary of State.

**2. Rights declared.** Any person aggrieved by a ~~regulation rule~~ or by an act of the commissioner in enforcing ~~it~~ the rule may have ~~his~~ that person's rights declared by bringing an action for declaratory judgment under Title 14, chapter 707, naming the commissioner as defendant.

**3. Violation.** ~~Any~~ A person who violates a ~~regulation rule~~ issued by the commissioner under this section ~~shall must~~ be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both.

Existing buildings licensed pursuant to Title 22, subtitle 6, having more than 6 boarders, with the exception of boarding care facilities, ~~shall must~~ comply with any rules for residential-custodial care facilities required by the ~~State Fire Marshal's Office~~ Commissioner of Public Safety, except that such existing facilities of not more than 2 stories in height ~~shall are~~ not ~~be~~ required to be fire resistive, protected or unprotected noncombustible, protected wood frame or heavy timber construction. Such existing facilities must be protected by a complete approved automatic sprinkler system and meet all other requirements of residential-custodial care facilities as required by the ~~State Fire Marshal's Office~~ Commissioner of Public Safety.

Existing boarding care facilities licensed pursuant to Title 22, subtitle 6, ~~shall must~~ comply with the applicable fire safety requirements of the Life Safety Code adopted by the ~~State Fire Marshal~~ Commissioner of Public Safety pursuant to Title 22, section 7904-A.

**Sec. 26. 25 MRSA §2463, 4th ¶**, as amended by PL 1991, c. 359, is further amended to read:

~~The State Fire Marshal, or the marshal's designee, The Commissioner of Public Safety or the commissioner's designee~~ shall inspect all systems installed pursuant to this section and shall approve all systems ~~which that~~ comply with this section, except that when the hotel is located in a municipality ~~which that~~ has a municipal fire department or incorporated volunteer fire department, that department is responsible for the inspection and approval of the system, unless the ~~State Fire Marshal~~ Commissioner of Public Safety agrees to undertake that responsibility.

**Sec. 27. 25 MRSA §2464, sub-§1**, as amended by PL 1997, c. 95, §1, is further amended to read:

**1. Definition.** "Smoke detector" means ~~any~~ a device that, when activated by the presence of smoke, provides an alarm suitable to warn the occupants within the individual dwelling unit in which it is attached and that has been ~~approved for use in this State by the State Fire Marshal~~ listed for use by a nationally recognized independent testing laboratory.

**Sec. 28. 25 MRSA §2464, sub-§3**, as amended by PL 1985, c. 175, is further amended to read:

**3. Multiapartment buildings.** In multiapartment buildings more than 3 stories in height, approved smoke detectors ~~shall must~~ also be installed in each corridor and hallway on each floor.

**Sec. 29. 25 MRSA §2464, sub-§4**, as enacted by PL 1981, c. 399, §1, is repealed.

**Sec. 30. 25 MRSA §2464, sub-§5**, as enacted by PL 1981, c. 399, §1, is amended to read:

**5. Penalties.** ~~Whoever~~ A person who violates this section is guilty of a civil ~~infraction~~ violation and ~~shall be is~~ subject to a forfeiture of not more than \$500 for each violation. The court may waive any penalty or cost against any violator upon satisfactory proof that the violation was corrected within 10 days of the issuance of a complaint.

**Sec. 31. 25 MRSA §2465, sub-§§2 and 3**, as amended by PL 1991, c. 714, §7, are further amended to read:

**2. Prohibitions.** ~~No~~ A person may not, for compensation, construct or install any vent or solid fuel burning appliance unless constructed or installed in accordance with the provisions of the National Fire Protection Association Code #211, "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances." Construction and installation of chimneys and fireplaces are governed by Title 32, chapter 33.

**3. Enforcement.** Subject to Title 32, chapter 33, the ~~Fire Marshal~~ Commissioner of Public Safety or the ~~marshal's commissioner's~~ designees, state oil and solid fuel compliance officers, duly appointed fire chiefs or their designees, and municipal building inspectors and code enforcement officers may enforce the requirements of "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances" and Title 32, section 2313-A.

**Sec. 32. 25 MRSA §2465, sub-§5-A,** as amended by PL 1989, c. 501, Pt. DD, §32, is further amended to read:

**5-A. Safety information.** ~~No~~ A new factory-built fireplace, fireplace stove or solid fuel burning room heater may not be sold in retail trade, unless the seller provides the buyer, on or before the sale, with an installation instruction manual or, in the case where such a manual is not available, with a publication of the Department of Economic and Community Development containing recommended clearances the same as those prescribed in the National Fire Protection Association Code #211, The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances, as approved by the ~~Office of the State Fire Marshal~~ Commissioner of Public Safety.

**Sec. 33. 32 MRSA §1371, sub-§§1, 5, 6 and 9,** as enacted by PL 1989, c. 247, §§2 and 4, are amended to read:

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

**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~~ commissioner to undertake the planning, installation or inspection of a fire sprinkler system or any part of such a system.

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

**Sec. 34. 32 MRSA §1372,** as enacted by PL 1989, c. 247, §§2 and 4, is amended to read:

### §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~~ may 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~~ Department of Public Safety must be certified by the ~~State Fire Marshal~~ commissioner. A person ~~shall~~ may 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~~ commissioner.

**2. Posting of licenses, certificates and registrations.** Each license, certificate and registration issued under this chapter ~~shall~~ must 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~~ A municipality may not require fire sprinkler system contractors to be municipally licensed nor ~~shall~~ may any municipality issue a permit for any fire sprinkler system unless satisfied that the person applying for the permit complies with this chapter.

**Sec. 35. 32 MRSA §1375,** as enacted by PL 1989, c. 247, §§2 and 4, is amended to read:

### §1375. Qualifications

**1. Fire sprinkler system contractor.** The ~~State Fire Marshal~~ commissioner 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~~ commissioner 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~~ commissioner 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.

**Sec. 36. 32 MRSA §§1376, 1377 and 1378,** as enacted by PL 1989, c. 247, §§2 and 4, are amended to read:

**§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~~ commissioner 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~~ commissioner 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~~ Department of Public Safety 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~~ must 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~~ must 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~~ commissioner 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~~ is under the administrative and supervisory direction of the ~~State Fire Marshal~~ commissioner.

See title page for effective date.

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**CHAPTER 729**

**H.P. 1679 - L.D. 2297**

**An Act Relating to the Taxation of  
Certain Federal Entities, the  
Business Equipment Tax  
Reimbursement Program, the  
Administration of the Tax Laws and  
to Make a Technical Correction**

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

**PART A**

**Sec. A-1. 36 MRSA §1760, sub-§2,** as corrected by RR 1995, c. 2, §94, is amended to read:

**2. Certain governmental entities.** Sales to the State or any political subdivision, or to the Federal Government, or to any unincorporated agency or instrumentality of either of them or to any incorporated agency or instrumentality of them wholly owned by them. This exemption does not apply where title is held or taken as security for any financing arrangement. This exemption also does not apply to corporations organized under Title IV, Part E of the Farm Credit Act of 1971, 12 United States Code, Sections 2211 to 2214.