

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

contract with a term longer than 9 months for disposal of municipal solid waste in that landfill facility.

~~1. **Landfill surcharge.** A disposal surcharge of \$4 per ton is assessed on any municipal solid waste disposed of by landfilling at a commercial landfill facility.~~

~~3. **Imported municipal solid waste.** To support those regulatory and administrative costs associated with imported municipal solid wastes, an administrative fee of \$4 per ton, or the maximum fee on out-of-state waste authorized by federal law, whichever is greater, is assessed on any municipal solid waste originating outside the State and delivered to a commercial solid waste disposal facility or solid waste disposal facility owned by the office or a regional association for disposal.~~

Sec. 9. 38 MRSA §2205, sub-§2, ¶C, as amended by PL 1995, c. 465, Pt. A, §77 and affected by Pt. C, §2, is further amended to read:

C. The letter transmitting the payment that is received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received, unless an alternative date is agreed upon in writing by the operator and the department.

See title page for effective date.

CHAPTER 386

S.P. 720 - L.D. 2042

An Act to Update, Clarify and Amend Licensure Requirements for Occupations and Professions and Registrations

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

PART A

Sec. A-1. 9 MRSA §5002, as enacted by PL 1977, c. 488, §1, is amended to read:

§5002. Intent

It is the intent of the Legislature to require the registration and financial reporting of charitable organizations, the registration and bonding of professional fund-raising ~~counsels~~ counsel and commercial co-venturers and the registration of professional solicitors.

Sec. A-2. 9 MRSA §5003, sub-§1, as amended by PL 1983, c. 277, §1, is further amended to read:

1. Charitable organization. "Charitable organization" means any person or entity, including any person or entity organized in a foreign state, ~~which~~ that is or holds itself out to be organized or operated for any charitable purpose ~~and which or that~~ solicits, accepts or obtains contributions from the public for any charitable purpose. A chapter, branch, area office or similar affiliate or any person soliciting contributions for any charitable purpose within the State for a charitable organization ~~which that~~ has its principal place of business outside the State ~~shall be~~ is considered a charitable organization for the purposes of this Act. For purposes of this chapter, an organization established for and serving bona fide religious purposes is not a charitable organization.

Sec. A-3. 9 MRSA §5003, sub-§3-A, as enacted by PL 1981, c. 456, Pt. A, §23, is amended to read:

3-A. Commissioner. "Commissioner" means the Commissioner of ~~Business~~ Professional and Financial Regulation.

Sec. A-4. 9 MRSA §5003, sub-§4-A is enacted to read:

4-A. Entity. "Entity" means any natural person, corporation, partnership, limited liability company, association or any other organization.

Sec. A-5. 9 MRSA §5003, sub-§5-C, as enacted by PL 1979, c. 678, §1, is amended to read:

5-C. Hospital. "Hospital" means an institution ~~which that~~ is engaged primarily in providing inpatient, outpatient or both inpatient and outpatient medical and psychiatric diagnostic and therapeutic services in the care and treatment of injured, disabled, sick or mentally ill persons who are under the supervision of a physician.

Sec. A-6. 9 MRSA §5003, sub-§§5-E and 5-F are enacted to read:

5-E. Membership. "Membership" means the relationship of a person to an organization that entitles that person to the privileges, professional standing, honors or other direct benefits of the organization in addition to the right to vote, elect officers and hold office in the organization.

5-F. Office. "Office" means the Office of Licensing and Registration within the Department of Professional and Financial Regulation.

Sec. A-7. 9 MRSA §5003, sub-§10, as amended by PL 1979, c. 127, §50, is further amended to read:

10. Professional solicitor. "Professional solicitor" means any person ~~who for a financial or other consideration engages, employs, directs or contracts with any other person to solicit contributions or directs agents, servants or employees specially employed by or for a charitable organization for the purpose of soliciting contributions. A bona fide salaried officer or employee of a charitable organization, including an employee of a parent organization, shall not be deemed to be a professional solicitor unless that person's salary or other compensation is computed on the basis of funds to be raised or actually raised or the services performed by the person are performed on behalf of some organization other than the one which employs that person or a chapter, branch or affiliate thereof or entity that, alone or through its employees or agents, solicits contributions from the public on behalf of a charitable organization in exchange for a fee or other remuneration. "Professional solicitor" does not include a bona fide employee, bona fide salaried officer, attorney, accountant or investment counselor of a charitable organization.~~

Sec. A-8. 9 MRSA §5004, sub-§1, as amended by PL 1981, c. 456, Pt. A, §24, is repealed and the following enacted in its place:

1. Registration statements by charitable organizations. The following provisions govern registration statements by charitable organizations.

A. Unless exempt pursuant to section 5006, a charitable organization, that intends to solicit contributions in this State or to have contributions solicited on its behalf within this State shall file a registration statement with the office at least 30 days before solicitation in each year in which the organization is engaged in solicitation activities. The charitable organization shall identify any affiliate organizations or chapters on its registration statement.

B. A parent organization may file a consolidated registration statement for its affiliates, chapters and branches in this State and shall pay a single fee for such a consolidated registration statement.

C. Before approval of its statement by the office in accordance with section 5008, a charitable organization that is required to file an initial registration statement or annual renewal statement may not solicit contributions or have contributions solicited on its behalf by any other person, charitable organization, commercial co-venturer or professional solicitor, or participate in charitable sales promotion.

Sec. A-9. 9 MRSA §5004, sub-§2-A, as amended by PL 1991, c. 714, §1, is further amended to read:

2-A. Fee for registration statement. Charitable organizations shall pay an application fee of \$50 and an initial and a renewal fee of \$40 \$100.

Sec. A-10. 9 MRSA §5004, sub-§3, as amended by PL 1991, c. 77, §1, is further amended by amending the first paragraph to read:

3. Content of registration statement. The commissioner shall prescribe the form of ~~and issue~~ registration statements. These statements ~~shall~~ must be sworn to or affirmed by the principal officer of any charitable organization and ~~shall~~ must contain the following information, which must be updated when any change occurs in the information filed:

Sec. A-11. 9 MRSA §5004, sub-§3, ¶J, as amended by PL 1991, c. 77, §1, is repealed.

Sec. A-12. 9 MRSA §5004, sub-§4 is enacted to read:

4. Renewal of registration as charitable organization. The following provisions govern the application and qualifications for renewal of a registration as a charitable organization.

A. A person or entity that holds a valid registration must submit a completed application for renewal before the date of expiration of the registration. A registration expires on the stated date of expiration. The department must mail an application form to the registrant's last known address.

B. An application may not be considered for approval until complete. If the application is incomplete, the applicant must include a letter documenting the specific reasons for the incompleteness. If that letter is not included, the incomplete application must be returned for completion.

C. A charitable organization that submits an application for renewal after the expiration date must submit:

(1) A financial report covering the most recently audited fiscal year;

(2) A filing fee of \$50 and a renewal of registration fee of \$100; and

(3) A completed application.

D. The complete renewal of registration application packet must include all the requirements

identified in subsection 3 as well as the following.

(1) The applicant must submit an audited financial statement as required in section 5005, subsections 1 and 2. The content of the financial statement must be in accordance with the requirements under section 5004, subsection 3. Failure to file an audited financial statement of the organization's most recent audited fiscal year may be grounds for disciplinary action as provided under Title 10, section 8003, subsection 5. If a charitable organization files a financial statement in accordance with section 5005, subsection 3, paragraph C, federal Internal Revenue Service 990 and Schedule A forms or a 990 EZ form may be accepted as satisfactory evidence.

(2) The applicant must submit the nonrefundable renewal of registration fee of \$100 plus a filing fee of \$50 for charitable organizations receiving more than \$30,000 in gross contributions.

Sec. A-13. 9 MRSA §5005, sub-§2, as amended by PL 1991, c. 714, §2, is further amended to read:

2. Fee for financial reports. A fee of \$50 must be paid to the ~~commissioner~~ office when any financial report is filed.

Sec. A-14. 9 MRSA §5005-A is enacted to read:

§5005-A. Records

A charitable organization shall maintain accurate and complete books and records of all fund-raising campaigns and shall keep those books and records available for inspection by the Attorney General or by the office for 3 years after the conclusion of each fund-raising campaign.

Sec. A-15. 9 MRSA §5006, as amended by PL 1989, c. 700, Pt. A, §35, is further amended to read:

§5006. Exemptions from registration requirements

1. Exemption. ~~The following shall not be required to file registration statements pursuant to charitable organizations, persons and institutions are exempt from the filing requirements of section 5004:~~

A. Organizations ~~which that~~ solicit primarily within the their membership of the organization and where solicitation activities are conducted by the members. For purposes of this paragraph, the term "membership" does not include those

persons who are granted a membership upon making a contribution as a result of a solicitation;

C. Persons ~~requesting~~ soliciting contributions for the relief of any individual specified by name at the time of the solicitation, when all of the contributions collected, without any deductions whatsoever, are turned over to the named beneficiary for that individual's use;

D. Charitable organizations ~~which that~~ do not intend to solicit and receive and do not actually solicit or receive contributions from the public in excess of \$10,000 during a calendar year or do not receive contributions from more than 10 persons during a calendar year, if all fund-raising activities are carried on by persons who are unpaid for their services and if no part of the assets or income inures to the benefit of or is paid to any officer or member. If a charitable organization which that does not intend to solicit or receive contributions from the public in excess of \$10,000 during a calendar year does actually solicit or receive contributions in excess of such that amount, whether or not all such contributions are received during a calendar year, the charitable organization shall, within 30 days after the date of contributions reach \$10,000, register with and report to the Secretary of State Office of Licensing and Registration as required by this Act;

E. Educational institutions, the curriculums of which in whole or in part are registered or approved by the Department of Education, either directly or by acceptance of accreditation by an accrediting body recognized by the Department of Education, and organizations operated by the student bodies of such institutions; and

F. Hospitals ~~which that~~ are nonprofit and charitable.

3. Procedures for claiming exemption from registration. A charitable organization claiming to be exempt under subsection 1 must submit to the office annually on forms prescribed by that office and accompanied by a \$10 fee a sworn statement setting forth the name and address of the organization and its principal executive personnel, the purpose of the organization and the factual basis for the exemption. The organization claiming exemption must include a copy of any financial statement, report or return filed with the federal Internal Revenue Service. The office shall issue annually a letter of exemption to those organizations considered exempt under subsection 1.

Sec. A-16. 9 MRSA §5008, as amended by PL 1991, c. 714, §3, is further amended to read:

§5008. Registration and bonding of professional fund-raising counsel, professional solicitors and commercial co-venturers

1. Registration. A person or entity may not act as a professional fund-raising counsel, a professional solicitor or a commercial co-venturer before that person or entity has registered with the ~~commissioner~~ office. Applications for registration or reregistration must be in writing, under oath, in the form prescribed by the ~~commissioner~~ office and must be accompanied by an application fee in the amount of \$50 and a registration fee in the amount of \$200. Application fees are nonrefundable. The applicant shall, at the time of making application for registration or reregistration, file with and have approved by the ~~commissioner~~ office a bond, in which the applicant must be the principal obligor, in the sum of ~~\$10,000~~ \$25,000, with one or more responsible sureties whose liability in the aggregate as such sureties ~~will~~ at least equal that sum. The bond runs to any person or entity who may have a cause of action against the principal obligor of the bond for any malfeasance or misfeasance in the conduct of charitable solicitation in this State. Registration is for a period of one year. The registration fee and bond required by this chapter must be waived for an auctioneer, when that auctioneer engages in conduct for which that auctioneer is already bonded, who is licensed by the Department of Professional and Financial Regulation and who has otherwise complied with the requirements of Title 32, chapter 5-A.

1-A. Renewal of registration as professional solicitor, professional fund-raising counsel or commercial co-venturer. The following provisions govern application and qualification for renewal registration as a professional solicitor, professional fund-raising counsel or commercial co-venturer.

A. An entity that holds a valid registration must submit a completed application for renewal before the date of expiration of the registration. A registration expires on the stated date of expiration. The office must mail an application form to the registrant's last known address.

B. An application may not be considered for approval until complete. If the application is incomplete, the applicant must include a letter documenting the specific reasons for the incompleteness. If no such letter is included, the incomplete application must be returned for completion.

C. The complete application packet must include:

- (1) All forms required in this section;

(2) A bond approved by the department in the sum of \$25,000 with one or more responsible sureties whose liability in the aggregate as such sureties at least equals that sum. The bond must expire on the stated date of expiration and be kept on file in the office for 3 years; and

(3) A \$200 renewal of registration fee.

D. A professional solicitor, professional fund-raising counsel or commercial co-venturer that submits an application for renewal of registration after the expiration date must submit:

(1) A bond in the sum of \$25,000 that expires on the stated date of expiration;

(2) A renewal of registration fee of \$200; and

(3) The completed original application.

E. Annual reports must be submitted on a form provided by the office 60 days before the registration expiration date. The reports must state, at a minimum, the following:

(1) For a professional solicitor or professional fund-raising counsel:

(a) The person's address and telephone number;

(b) The person's registration number;

(c) The name, address and telephone number of each charitable organization;

(d) The registration number of each charitable organization in division (c);

(e) The date or dates of fund-raising campaigns;

(f) The total amount raised by the professional solicitor or professional fund-raising counsel; and

(g) The total amount received by each charitable organization in division (c); and

(2) For a commercial co-venturer:

(a) The person's name, address and telephone number;

(b) The person's registration number;

(c) The name, address and telephone number of each charitable organization;

(d) The registration number of each charitable organization in division (c);

(e) The date or dates of fund-raising campaigns;

(f) The total amount raised by the commercial co-venturer; and

(g) The total amount received by each charitable organization in division (c).

F. Failure to file the annual report may result in disciplinary action as provided under Title 10, section 8003, subsection 5. Applications for renewal of registration may not be accepted unless the annual report has been filed with the department.

2. Records. A professional fund-raising counsel, professional solicitor or commercial co-venturer shall maintain accurate and complete books and records of his fund-raising activities and telephone solicitation scripts and shall keep ~~such those~~ books and records available for inspection by the Attorney General or the office for a period of 3 years after the conclusion of each specific instance in which ~~he~~ that person acts as a professional fund-raising counsel, professional solicitor or commercial co-venturer.

~~**3. Annual reports.** A professional fund-raising counsel, professional solicitor or commercial co-venturer shall file an annual report which states the names and addresses of all charitable organizations for whom any solicitation was conducted, the total amount raised and the amount paid to the charitable organization on a form with such verification as the commissioner shall prescribe by regulation.~~

Sec. A-17. 9 MRSA §5009, as amended by PL 1981, c. 456, Pt. A, §35, is repealed and the following enacted in its place:

§5009. Contracts to be filed and retained

1. Contracts to be filed. All contracts entered into between a professional fund-raising counsel, a professional solicitor or a commercial co-venturer and any charitable organization, whether or not the organization is exempted under section 5006, must be in writing, and a true and correct copy of each contract must be filed by the professional fund-raising counsel, professional solicitor or commercial co-venturer who is a party to the contract with the office before services are performed under the contract. The contract must contain the following provisions:

A. A statement of the charitable purpose for which a solicitation campaign is being conducted; and

B. A statement of the percentage of gross proceeds collected to be paid to the charitable organization.

True and correct copies of contracts must be kept on file in the offices of the charitable organization and the professional fund-raising counsel, professional solicitor or commercial co-venturer during the term of the contract and for 3 years after the date of solicitation of contributions provided for in the contract.

2. Contracts to be retained by office. True and correct copies of contracts under subsection 1 must be kept on file by the office for 3 years.

Sec. A-18. 9 MRSA §5012, sub-§1, as enacted by PL 1989, c. 55, §4, is amended to read:

1. Solicitation of contributions. Any person or entity to solicit contributions from a prospective donor without fully disclosing to the prospective donor, at the time of solicitation but prior to the request for contributions, the name and address of the charitable organization for which the solicitation is being conducted; and

Sec. A-19. 9 MRSA §5016, as corrected by RR 1993, c. 1, §19, is amended to read:

§5016. Disposition of fees

All fees collected under this chapter must be credited to the ~~Department of Professional and Financial Regulation~~ office to carry out the purposes of this chapter.

PART B

Sec. B-1. 10 MRSA §8001, sub-§38, ¶C, as enacted by PL 1995, c. 397, §11, is repealed.

Sec. B-2. 10 MRSA §8003, sub-§2, as amended by PL 1997, c. 210, §§1 and 2, is further amended to read:

2. Office of Licensing and Registration. There is created an Office of Licensing and Registration, referred to in this subsection as "the office," which constitutes an office within the department, to provide assistance to the commissioner and to direct the boards ~~and~~ commissions and regulatory functions within the office, as set forth in section 8001, subsection 38, in complaint procedure and investigation, disciplinary actions and enforcement, examinations and licensing and to perform those other duties as the commissioner may designate. The commissioner may appoint a Director of Licensing and Registration and those

clerical and technical assistants as that are necessary to discharge the duties of the office and shall outline their duties and fix their compensation, subject to the Civil Service Law. The office has the following powers, duties and functions:

B. To prepare and administer, with the advice of the boards and commissions, budgets necessary to carry out the regulatory functions of the boards and commissions. There is one office budget that includes a separate account for each board or commission. The office has the authority to disapprove expenditures by boards and commissions that are not necessary to protect the public health and welfare or would seriously jeopardize a board's or commission's fiscal well-being;

C. To provide all staffing necessary and appropriate to assist the various boards and commissions. All clerks, technical support staff and supervisors must be assigned to the office and allocated to the various boards and commissions according to need;

D. To adopt rules establishing a uniform complaint procedure for all boards, commissions and regulatory functions within the office and to adopt rules necessary and proper to administer the regulatory functions within the office;

E. To perform licensing functions for other state agencies on a fee-for-service basis; and

F. To study jurisdictional overlap between the department's boards and commissions and other state agencies for purposes of streamlining and consolidating related legal authorities and administrative processes.

Sec. B-3. 10 MRSA §8003, sub-§4, as amended by PL 1995, c. 502, Pt. H, §10, is further amended to read:

4. Licensing periods; renewal dates. ~~In order that licenses may be processed and issued in a reasonably uniform manner over a fiscal year, the~~ The commissioner may establish expiration or renewal dates and establish whether licenses are issued annually or biennially for all licenses authorized to be issued by bureaus, offices, boards and commissions within the department, notwithstanding any other provisions of law. If an expiration or renewal date established by the commissioner has the effect of shortening the term of a license currently in effect, the bureau, office, board or commission, or the department in the case of a license that it issues directly, shall credit the fee paid, on a prorated basis, for the unexpired term of the current license toward the renewal fee of the renewal license. If a license is not renewed on the new expiration or renewal date

established by the commissioner, the license remains in effect through its original term, unless suspended or revoked sooner under laws or regulations of the respective bureau, office, board or commission. Should a licensee seek to renew the license at the end of the original term, the law or regulations established by the respective bureau, office, board or commission for late renewals or reregistrations apply. For the purpose of implementing and administering biennial licensing, the commissioner may permit bureaus, offices, boards and commissions within the department to issue licenses and establish renewal fees for less than a 2-year term. This section may not change the term or fee for one-time licenses, except as specifically stated.

Sec. B-4. 10 MRSA §8003, sub-§5, ¶C, as amended by PL 1997, c. 210, §3, is further amended to read:

C. The bureau, office, board or commission may:

(1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms;

(2) Require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate. Notwithstanding any contrary provision set forth in a bureau's, office's, board's or commission's governing law, continuing education requirements may coincide with the license or registration renewal period;
 ¶

(3) Refuse to renew a license or registration when the bureau, office, board or commission finds a licensee or registrant to

be in noncompliance with a bureau, office, board or commission order or consent agreement;

(4) Allow licensees or registrants to hold inactive status licenses or registrations in accordance with each bureau's, office's, board's or commission's rules. The fee for an inactive license or registration may not exceed the statutory fee cap established for the bureau's, office's, board's or commission's license or registration renewal set forth in its governing law; or

(5) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules developed pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter II-A.

Sec. B-5. 10 MRSA §8003, sub-§5, ¶E, as enacted by PL 1997, c. 680, Pt. A, §1, is amended to read:

E. The bureau, office, board or commission may issue letters of guidance or concern to a licensee or registrant. Letters of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or registrant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The bureau, office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the bureau, office, board or commission in any subsequent action commenced against the licensee or registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the extent that confidentiality is required pursuant to Title 24, chapter 21, the Maine Health Security Act.

The jurisdiction to suspend occupational and professional licenses conferred by this subsection is concurrent with that of the Administrative Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter IV, and is subject to judicial review exclusively in the Administrative Court in accordance with Title 5, chapter 375, subchapter VII, substituting the term "Administrative Court" for "Superior Court," notwithstanding any other provision of law.

Sec. B-6. 10 MRSA §8003-B, sub-§1, as enacted by PL 1989, c. 173, is amended to read:

1. During investigation. ~~¶~~ Unless otherwise provided by Title 24, chapter 21, all complaints and investigative records of the licensing boards and commissions within or affiliated with the Department of Professional and Financial Regulation shall be are confidential during the pendency of an investigation. Those records shall become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

- A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter IV has been issued;
- B. The complaint has been listed on a meeting agenda of the board or commission;
- C. A consent agreement has been executed; or
- D. A letter of dismissal has been issued or the investigation has otherwise been closed.

PART C

Sec. C-1. 10 MRSA §9021, sub-§1-A is enacted to read:

1-A. Initial training. Beginning July 1, 2000, all licensees and applicants for licensure must obtain initial training, including, but not limited to, the servicing and installation of manufactured housing. Applicants for initial licensure must complete the training before the board approves the application for licensure. All persons holding licenses on July 1, 2000 have 2 years from the time the training requirements are established by the board in which to complete the training. The cost for the training must be set by the board in an amount not to exceed \$25.

Sec. C-2. 10 MRSA §9021, sub-§2, ¶E is enacted to read:

E. The license fee for an installer, as defined in section 9002, subsection 6-A, who installs manufactured housing, as defined in section 9002, subsection 7, may not exceed \$200.

Sec. C-3. 10 MRSA §9022, sub-§4 is enacted to read:

4. Installers. Licensed installers may install manufactured housing and are exempt from any other licensing requirements of any state or political subdivisions but must obtain any permits required.

Sec. C-4. 10 MRSA §9084, 5th ¶, as amended by PL 1995, c. 353, §8, is further amended to read:

All mobile home park licenses expire annually on a date established by the Commissioner of Professional and Financial Regulation. Licenses may be renewed upon application and upon payment of the prescribed fee, subject to compliance with rules of the board and with this subchapter. The board shall ~~provide licensees with notice of the renewal date and necessary forms no less than 30 days prior to the expiration of the license~~ notify each licensee of the expiration date of that licensee's license and indicate the fee required for annual renewal. Notice must be mailed to each licensee's last known address at least 30 days in advance of the expiration of the license. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$50 in addition to the renewal fee. If any licensee fails to renew within 90 days after expiration, that licensee is required to make a new application.

PART D

Sec. D-1. 32 MRSA §60-D, as amended by PL 1995, c. 502, Pt. H, §18, is further amended to read:

§60-D. Contracts

A board or commission listed in Title 10, section 8001, subsection 38 ~~or section 8001-A~~ may enter into contracts to carry out its statutory responsibilities. The Department of Professional and Financial Regulation, Office of Licensing and Registration may enter into contracts in its own right, or on behalf of boards and commissions and to perform regulatory functions, in order to ensure the provision of goods and services necessary to fulfill statutory responsibilities.

Sec. D-2. 32 MRSA §60-H, first ¶, as amended by PL 1995, c. 502, Pt. H, §18, is further amended to read:

When there is a finding of a violation, a board or commission listed in Title 10, section 8001, subsection 38 ~~or section 8001-A~~ may assess the licensed person or entity for actual expenses incurred by the board, commission or its agents for investigations and enforcement duties performed.

Sec. D-3. 32 MRSA §60-I, as amended by PL 1995, c. 502, Pt. H, §18, is further amended to read:

§60-I. Citations and fines

Any board or commission listed in Title 10, section 8001, subsection 38 ~~or section 8001-A~~ may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed \$200. Citations issued by employees of the Office of Licensing and Registration ~~or an affiliated board~~ must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission regarding the violation.

PART E

Sec. E-1. 32 MRSA §553-A, sub-§3, ¶¶A and B, as amended by PL 1995, c. 502, Pt. H, §22, are further amended to read:

A. For the application, an amount set by the board ~~that is reasonable and necessary for its purpose~~ not to exceed \$75;

B. For the examination, an amount set by the board ~~that is reasonable and necessary for its purpose~~ not to exceed \$75;

PART F

Sec. F-1. 32 MRSA §1101, as amended by PL 1997, c. 119, §1, is further amended to read:

§1101. Definitions

As used in this chapter, unless the context otherwise indicates, the following ~~words and phrases shall~~ terms have the following meanings.

1. Apprentice electrician. "Apprentice electrician" means a person ~~who is,~~ as defined in Title 26, chapter 11 ~~and,~~ who is engaged in a written agreement to work at and learn the trade of an electrician under the direct supervision of a master, journeyman or limited electrician. ~~The biennial renewal fee for an apprentice electrician license is set by the board in an amount not to exceed \$20.~~

1-A. Electrical company. "Electrical company" means a person, firm, corporation or partnership employing licensees engaged in the business of doing electrical installations. A company license must be validated by an employee or officer of the company holding a current master or limited electrical license. A limited licensee may validate only a company license making installations specific to the limited license. The company license becomes void upon the

death of or the severance from the company of the validating licensee.

2. Electrical installations. "Electrical installations" ~~shall mean~~ means the installation, repair, alteration and maintenance of electrical conductors, fittings, devices and fixtures for heating, lighting, power purposes or heat activated fire alarms, intrusion alarms, energy management, telephone, telegraph, cable and closed circuit television, sound systems, conduit and raceway systems and electrically supervised manual fire alarms and sprinkler systems. ~~They shall~~ "Electrical installations" does not include the installation or repair of portable appliances and other portable electrical equipment, installation of which involves only the insertion of an attachment plug into a fixed receptacle outlet. It is the meaning and intent of this subsection that the word "portable" ~~shall does~~ not include or apply to any type of fixed electrically operated or driven equipment.

3. Helper electrician. "Helper electrician" means a person making electrical installations in the employment of a master electrician, limited electrician or electrical company and under the direct supervision of a master, journeyman or limited electrician but who does not qualify under subsection 1. ~~The biennial renewal fee for a helper electrician license is set by the board in an amount not to exceed \$20.~~

3-A. Journeyman-in-training electrician. "Journeyman-in-training electrician" means a person making electrical installations in the employment of a master electrician, limited electrician or electrical company and under the supervision of a journeyman, limited or master electrician.

4. Journeyman electrician. "Journeyman electrician" means a person making electrical installations in the employment of a master electrician, limited electrician or electrical company.

4-A. Supervision. One apprentice electrician or one helper electrician may work with and under the supervision of each master electrician, limited electrician or journeyman electrician. A master electrician who teaches an electrical course at a Maine applied technology center, a Maine applied technology region or a Maine technical college may have a maximum of 12 helper electricians under direct supervision while making electrical installations that are a part of the instructional program of the school, as long as the total value of each installation does not exceed \$2,500. An electrical installation may not be commenced pursuant to this subsection without the prior approval of the director or president of the school at which the master electrician is an instructor. These installations are limited to those done in buildings or facilities owned or controlled by:

A. School administrative units;

B. Nonprofit organizations; and

C. Households as defined in Title 36, sections 6206 and 6207.

The Electricians' Examining Board and the municipal electrical inspector of the municipality in which the installation is to be made, if the municipality has an inspector, must be notified of all installation projects entered into pursuant to this subsection prior to the commencement of the project. There must be an inspection by a state electrical inspector or by the municipal electrical inspector of the municipality in which the installation has been made, if the municipality has an inspector, before any wiring on the project is concealed.

5. Limited electrician. "Limited electrician" means a person doing work to install and service the electrical work related to a specific type of electrically operated equipment or to specific electrical installations only authorized by this license.

6. Master electrician. "Master electrician" means an individual qualified under this chapter, engaging in, or about to engage in, the business of installing electrical wires, conduits, apparatus, fixtures and other electrical equipment. The certificate must specify the name of the individual who is authorized to enter upon or engage in business as set forth in this chapter.

7. Public service corporation. "Public service corporation" means a public utility, as defined in Title 35-A, section 102, or a person, firm or corporation subject to the jurisdiction of the Federal Communications Commission.

8. Utility corporation. "Utility corporation" means a utility not described in subsection 7.

Sec. F-2. 32 MRSA §1102, sub-§§2 and 3, as repealed and replaced by PL 1973, c. 363, are amended to read:

2. Utility corporations. Regular employees of utility corporations not qualifying under subsection 1-A, performing electrical work in connection with the construction, installation, operation, repair or maintenance of any utility by a utility corporation in rendering its authorized service, or in any way incidental thereto; or

3. Mines, ships and carriers. The electrical work and equipment in mines, ~~pipe-line~~ pipeline systems, ships, railway rolling stock or automotive equipment, ~~or the operation of portable sound equipment.~~

Sec. F-3. 32 MRSA §1102, sub-§4, as repealed and replaced by PL 1973, c. 363, is repealed.

Sec. F-4. 32 MRSA §1102, sub-§5, as amended by PL 1995, c. 114, §1, is repealed.

Sec. F-5. 32 MRSA §1102, sub-§6, as amended by PL 1995, c. 560, Pt. H, §12 and affected by §17, is repealed.

Sec. F-6. 32 MRSA §1102, sub-§8, as amended by PL 1995, c. 114, §3, is repealed.

Sec. F-7. 32 MRSA §1102, sub-§§9 and 10, as enacted by PL 1995, c. 114, §4, are repealed.

Sec. F-8. 32 MRSA §1102-A, as amended by PL 1991, c. 531, §§4 to 6, is further amended to read:

§1102-A. Exceptions to licensing requirements

All electrical installations must comply with the National Electrical Code that is in effect at the time of the installation. Not all activities that qualify as electrical installations require licensure under this chapter. The licensing provisions of this chapter do not apply to ~~regular employees of the following the~~ entities, persons and licensees enumerated in this section:

1. Industrial plants. ~~Any electrical equipment and work including constructions, installation, operation, maintenance and repair~~ Industrial plants and regular employees of industrial plants making electrical installations in or about industrial or manufacturing plants or electrical generating plants;

2. Other properties of industrial and manufacturing plants. ~~Any electrical equipment and work, including construction, installation, operation, maintenance and repair~~ Other properties of industrial and manufacturing plants and regular employees of other properties of industrial or manufacturing plants making electrical installations in, on or about other properties, equipment or buildings, residential or of any other kind, owned or controlled by the operators of industrial or manufacturing plants, provided as long as such work is done under the supervision of an electrical engineer in the employ of said the operator;

3. Manufacturing plants. ~~Any electrical installations or equipment involved~~ Manufacturing plants and regular employees of manufacturing plants making electrical installations in the manufacture, testing or repair of electrical equipment in the manufacturer's manufacturing plant; or

4. Low-energy installers. Individuals or employees installing telephone, telegraph, cable and closed-circuit television, data communication and sound equipment.

5. Certain laboratories. Installations in suitable laboratories of exposed electrical wiring for experimental purposes only;

6. Elevator mechanics. A person licensed under chapter 133 subject to the restrictions of the license as issued;

7. Oil burner technicians. A person licensed under chapter 33 subject to the restrictions of the license as issued;

8. Propane and natural gas installers. A person licensed under chapter 130, when installing propane and natural gas utilization equipment, subject to the restrictions of that person's license;

9. Plumbers. A person licensed under chapter 49, except that this exemption applies only to disconnection and connection of electrical conductors required in the replacement of water pumps and water heaters of the same or smaller size in residential properties; or

10. Pump installers. A person licensed under chapter 69-C, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps of the same or smaller size in residential properties and the installation of new water pumps and associated equipment of 3 horsepower or smaller.

Sec. F-9. 32 MRSA §1102-B, as amended by PL 1995, c. 325, §7, is further amended to read:

§1102-B. Permits and inspections

1. Permits required. Except as otherwise provided in this section, no electrical equipment may be installed or altered unless the person making the installation first obtains a permit from the Electrician's Examining Board.

2. Application procedure. An application for a permit ~~shall~~ must be made in a form prescribed by the board together with any plans, specifications or schedules the board may require. If the board determines that the installation or alteration planned is in compliance with all applicable statutes, ordinances and rules, it shall issue a permit, provided that the fee required under subsection 3 has been paid.

3. Inspection required. When the installation or alteration is completed, the person making the installation or alteration shall notify the state electrical inspector ~~assigned to the area.~~ The inspector shall inspect the installation within a reasonable time so as not to cause undue delay in the progress of the construction contract or installation. The inspector shall determine whether the installation complies with all applicable statutes, ordinances and rules. If the

inspector determines that the installation does not so comply, the procedures set forth in section 1104 apply. Any utility corporation ~~shall~~ must require proof of permit prior to connecting power to the installation.

4. Procedures and fees. Pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, the board may adopt procedures and fees for permit applications and the conduct of inspections. The combined fee for permit and inspection ~~shall~~ must be paid with every application for a permit. The board shall adopt by rule a schedule ~~and~~ of appropriate fees, but in no event may ~~the~~ any scheduled fee ~~be less than~~ exceed \$100.

5. Exceptions to permitting requirement. This section ~~shall~~ does not apply to the following:

- A. Single-family dwellings;
- B. The electrical work and equipment employed in connection with the construction, installation, operation, repair or maintenance of any utility by a utility corporation in rendering its authorized service or in any way incidental thereto;
- C. Minor repair work, including the replacement of lamps, fuses, lighting fixtures, switches and sockets, the installation and repair of outlets, radio and other low voltage equipment and the repair of entrance service equipment;
- D. Installations or alterations for which a permit and inspection are required by municipal resolution or ordinance under Title 30-A, section 4173;
- E. Any electrical equipment and work, including construction, installation, operation, maintenance and repair in or about industrial or manufacturing facilities; ~~and~~
- F. Any electrical equipment and work, including construction, installation, operation, maintenance and repair in, on or about other properties, equipment or buildings, residential or of any other kind, owned or operated by a person engaged in industrial or manufacturing operations provided that the work is done under the supervision of an electrical engineer or master electrician in the employ of that person;
- G. Work performed by any person licensed under chapter 33 as an oil burner technician, subject to the restrictions of the license as issued;
- H. Work performed by a person licensed under chapter 130 as a propane and natural gas installer, when installing propane and natural gas utilization equipment, subject to the restrictions of that person's license;

I. Work performed by a person licensed under chapter 49 as a plumber, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps and water heaters of the same or smaller size in residential properties;
or

J. Work performed by a person licensed under chapter 69-C as a pump installer, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps of the same or smaller size in residential properties and the installation of new water pumps and associated equipment of 3 horsepower or smaller.

Sec. F-10. 32 MRSA §1105, first ¶, as amended by PL 1983, c. 413, §33, is further amended to read:

Any person, firm or corporation who makes electrical installations without being licensed as provided in this chapter or who, being in that business, employs an unlicensed person, firm or corporation to do that work, ~~unless he the unlicensed person, firm or corporation~~ is an apprentice electrician or an electrician's helper as set forth in this chapter, unless the person, firm or corporation or work is exempted ~~excepted~~ under section 1102 or 1102-A; ~~or any person, firm or corporation who procures a license as provided in this chapter wrongfully or by fraud; or any person, firm or corporation who violates this chapter or rules promulgated thereunder, or standards adopted by the board,~~ is guilty of a Class E crime.

Sec. F-11. 32 MRSA §1151, 2nd ¶, as amended by PL 1995, c. 237, §1, is further amended to read:

The 7 appointive members consist of: one master electrician experienced in low-energy electronics; one electrician who is a bona fide member from organized labor classified as an inside electrician; one electrical inspector; one master electrician from the education field; ~~and~~ one person experienced in the electrical field, all of whom must have at least 10 years of experience in the electrical field; ~~provided that the latter 3 need not be active electricians at the time of their appointment; and 2 representatives of the public. At the time of each appointment, the State Electrical Associates may nominate 3 persons for that appointment. To the extent the State Electrical Associates so nominates persons otherwise qualified for appointment to the board, the appointive members, other than the representatives of the public, may be selected from the persons so nominated.~~

Sec. F-12. 32 MRSA §1153, as amended by PL 1993, c. 636, §1, is further amended to read:

§1153. Meetings; rules

The board shall hold regular meetings at least twice a 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~~ a majority of the board members. At the first meeting in each calendar year, the ~~6~~ 7 appointive members shall choose one appointive member to act as chair. A quorum of the board consists of not less than 4 members. The board shall keep correct records of all its proceedings; may adopt, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, rules it determines necessary for the holding of examinations and for carrying out this chapter; and shall provide for reciprocity of licensing as required to implement section 1206.

Sec. F-13. 32 MRSA §1155-A, sub-§2, ¶A, as enacted by PL 1983, c. 413, §38, is amended to read:

A. The practice of any fraud or deceit in obtaining a license or permit;

Sec. F-14. 32 MRSA §1202, sub-§1, ¶C, as amended by PL 1995, c. 325, §12, is further amended by adding a subparagraph (8) to read:

(8) A crane technician must have 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. Any person having work experience in the installation of cranes and hoists, as defined by the National Electrical Code, prior to the effective date of this subparagraph, qualifies to be licensed as a crane technician. This covers the installation of electrical equipment and wiring used in connection with cranes, monorail hoists, hoists and runways.

Sec. F-15. 32 MRSA §1202, sub-§2, as amended by PL 1991, c. 714, §9, is further amended to read:

2. Apprentice or helper. The board may issue a license upon payment of an annual fee as adopted by the board, ~~not to exceed \$20,~~ to any person who applies for a license, without examination. Any such person employed by an electrician as an apprentice for the purpose of qualifying for any license mentioned in section 1203, or as an electrician's helper, must apply for a license as such immediately after commencing that employment or immediately after starting school in an electrical course.

Sec. F-16. 32 MRSA §1203, as amended by PL 1997, c. 210, §5, is repealed and the following enacted in its place:

§1203. Examinations

Applicants for licensure must present to the board a written application for examination and license containing such information as the board may require.

Sec. F-17. 32 MRSA §1203-A is enacted to read:

§1203-A. Fees

The board shall adopt by rule fees for application, examination, licensure and biennial renewal in amounts that are reasonable and necessary but not to exceed:

- 1. Application fee.** Application fee.....\$25;
- 2. Examination fee.** Examination fee....\$80; and
- 3. Licensure fee.** Licensure fee:
 - A. Journeyman or Journeyman-in-training..\$80;
 - B. Master.....\$150;
 - C. Limited.....\$100;
 - D. Helper.....\$20;
 - E. Apprentice.....\$20; and
 - F. Electrical company.....\$0.

PART G

Sec. G-1. 32 MRSA §1658-B, as amended by PL 1987, c. 597, §2, is repealed and the following enacted in its place:

§1658-B. Payment; trial period

The seller-licensee may require the purchaser to pay the full purchase price for the hearing aid or aids at the time of delivery. On that date of delivery, a 30-day trial period begins. If within this trial period the purchaser notifies the dealer-licensee of the purchaser's wish to cancel the transaction, the dealer-licensee must make a full refund of the purchase price, less the reasonable price of the ear mold or molds and lab fees, at the time the purchaser returns the hearing aid or aids. The dealer-licensee must also return to the purchaser any hearing aids, devices, accessories and ear molds that the dealer-licensee has received from the purchaser.

No fewer than 20 or more than 35 days following the delivery of the hearing aid or aids to the purchaser, the dealer-licensee must contact the purchaser and provide, at no cost to the purchaser, any service, fitting or repair that may be necessary for the beneficial and comfortable use of the hearing aid. If

any service, fitting or repair is performed, a new 30-day trial period commences as of the date of this service.

The dealer-licensee must notify the purchaser in writing of the purchaser's right to cancel the transaction and of the purchaser's entitlement to a full refund, as described in this section.

Any provision of a contract that limits or conditions in any way the rights guaranteed to purchasers by this section is against public policy and void. Any violation of the requirements of this section, in addition to being unethical conduct under section 1658-N, constitutes a violation of the Unfair Trade Practices Act, Title 5, chapter 10.

PART H

Sec. H-1. 32 MRSA §2103, sub-§2, as amended by PL 1993, c. 600, Pt. A, §113, is further amended to read:

2. Students. The practice of nursing that is an integral part of a program by students enrolled in board-approved nursing education programs leading to initial licensure; ~~and the practice of nursing by graduates of board approved programs pending the results of the first licensing examination for which they are eligible following graduation, if they practice under on site delegation and supervision of a registered professional nurse and only in the practice setting. The board may, by rule, define what constitutes supervision and practice setting;~~

PART I

Sec. I-1. 32 MRSA §2272, sub-§12-A, as reallocated by PL 1997, c. 683, Pt. B, §18, is amended to read:

12-A. Occupational therapy practitioner. "Occupational therapy practitioner" means an individual who is licensed as an occupational therapist registered or a certified occupational therapy assistant, both of whom are licensed occupational therapy practitioners under this chapter.

Sec. I-2. 32 MRSA §2276, sub-§1-A, as enacted by PL 1997, c. 294, §3, is amended to read:

1-A. License required. A person may not practice, or profess to be authorized to practice occupational therapy, as an occupational therapist or certified occupational ~~therapist~~ therapy assistant in this State or use the words "occupational therapist," "Registered Occupational Therapist" ~~registered occupational therapist,~~ "occupational therapy assistant" or "certified occupational therapy assistant" or the letters "O.T.," "O.T.R.," "O.T.A.," "C.O.T.A." or other words or letters to indicate that the person

using the words or letters is a licensed occupational therapist or certified occupational therapy assistant, or ~~which that~~ may misrepresent to the public that the person has received formalized training in the field of occupational therapy, unless that person is licensed in accordance with this chapter.

This subsection is not intended to prohibit occupational therapy students and occupational therapy assistant students completing fieldwork from using the letters "O.T.S." and "O.T.A.S." respectively.

PART J

Sec. J-1. 32 MRSA §2311, sub-§§1 and 2, as enacted by PL 1979, c. 569, §4, are amended to read:

1. Accessory equipment. "Accessory equipment" ~~shall mean~~ means equipment, materials and controls ~~which that~~ are not integral parts of the oil or solid fuel burning unit but which that are connected thereto to the oil or solid fuel burning unit and have the potential to affect the safety of the oil or solid fuel burning equipment.

2. Apprentice oil burner technician. "Apprentice oil burner technician" ~~shall mean~~ means a person who is licensed under this chapter ~~to and under the supervision of a master oil burner technician licensed under this chapter.~~ A licensed apprentice oil burner technician may assist in making oil burner installations, repairs and servicing of oil burning equipment under the direct supervision of a master or journeyman oil burner technician. An apprentice oil burner technician may clean oil burners and oil burning equipment without direct supervision.

Sec. J-2. 32 MRSA §2311, sub-§7, as amended by PL 1991, c. 716, §6, is further amended to read:

7. Journeyman oil burner technician. "Journeyman oil burner technician" means any person licensed under this chapter to install, clean, service, alter or repair oil burning equipment. A journeyman oil burner technician ~~shall may~~ install oil burning equipment only under the supervision of a master oil burner technician licensed under this chapter and must at all times be under the supervision of, or in the employ of, a master oil burner technician licensed under this chapter. Applicants for a license of this classification shall present evidence satisfactory to the board of at least one year's licensed practical experience, or 6 months of licensed practical experience and completion of an oil burner technician course at a Maine technical college, regional applied technology center, applied technology region, or comparable institute from Maine or another state consisting, at a minimum, of 160 hours of study of which at least 75

~~hours are made up of laboratory work on oil burner equipment and related systems.~~

Sec. J-3. 32 MRSA §2311, sub-§8, as amended by PL 1997, c. 82, §1, is further amended to read:

8. Master oil burner technician. "Master oil burner technician" means a person who is licensed under this chapter to engage in the business of installing or servicing oil burning equipment. ~~Applicants for a license of this classification shall present to the board satisfactory evidence that they have 4 years licensed practical experience and evidence that the licensed practical experience for at least 2 of those 4 years was as a licensed journeyman oil burner technician, or other such requirement as the Oil and Solid Fuel Board may establish.~~

Sec. J-4. 32 MRSA §2311, sub-§9, as amended by PL 1997, c. 82, §2, is further amended to read:

9. Master solid fuel burner technician. "Master solid fuel burner technician" means a person who is licensed under this chapter to engage in the business of installing and servicing solid fuel burning equipment. ~~An applicant for examination for this classification must be a person who presents to the board satisfactory evidence of at least 2 years of licensed practical experience and related knowledge; or a person having a master oil burner technician's license issued under this chapter; or a person having a bachelor degree in engineering from an accredited university who presents to the board satisfactory evidence of knowledge of solid fuel burning equipment.~~

Sec. J-5. 32 MRSA §2311, sub-§9-A, as amended by PL 1991, c. 714, §10, is repealed.

Sec. J-6. 32 MRSA §2312, as repealed and replaced by PL 1991, c. 198, §9, is repealed.

Sec. J-7. 32 MRSA §2312-A, as enacted by PL 1991, c. 198, §10, is repealed.

Sec. J-8. 32 MRSA §2315, as amended by PL 1991, c. 198, §13, is repealed and the following enacted in its place:

§2315. State oil and solid fuel compliance officers

1. Inspection. State oil and solid fuel compliance officers, upon written complaint of any owner, lessee or tenant of a building, state fire inspector, fire chief, fire department inspector, personnel of an electric utility or local electrical inspector, or whenever they consider it necessary, for purposes of examination of the burner, chimney or fireplace installation, may at all reasonable hours enter into and

upon all buildings or premises within their jurisdiction and inspect the buildings or premises. The inspectors may enter any building only with the permission of the person having control of the building or, after hearing, upon order of the court. Whenever any such compliance officer finds any burner, chimney or fireplace installation in any building or structure that does not comply with the requirements of this chapter, that officer shall order the burner, chimney or fireplace to be removed or remedied, and the order must forthwith be complied with by the owner or occupant of that building or structure or the installer of the equipment. If the compliance officer finds an installation, which falls under the compliance officer's jurisdiction in any building or structure that creates a danger to other property or to the public, the compliance officer 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.

2. Order to correct deficiency; appeal. Any person ordered by a state oil and solid fuel compliance officer to correct a deficiency or to vacate a building or structure may appeal the order by filing with the board within 7 days of receipt of the order a written notice of appeal. The board shall review that appeal and issue its written decision within a reasonable time after receipt of the notice of appeal. If the board upholds the compliance officer's order, it shall prescribe a 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 Title 5, chapter 375, subchapter II-A 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.

3. Final orders. The decision of the Superior Court on an appeal is final. An order by a state oil and solid fuel compliance officer and any order by the board are final and subject to no further appeal upon failure to file a timely, written appeal as provided in subsection 2.

4. Injunction to enforce order. Upon the failure of any person to carry out a final order as provided in subsection 3, 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.

5. Powers of oil and solid fuel compliance officers. Oil and solid fuel compliance officers have powers throughout the several counties of the State, similar to those of sheriffs in their respective counties, relating to enforcement of this chapter and rules adopted under this chapter. These powers are limited to the issuing of citations, the serving of summonses, the conducting of investigations, the ordering of corrections of violations and the issuance of orders to vacate a building or structure in accordance with this chapter. State oil and solid fuel compliance officers may review the burner, chimney or fireplace installation records of any person licensed under this chapter or any person performing installations as authorized under this chapter.

Sec. J-9. 32 MRSA §2317, first ¶, as amended by PL 1997, c. 82, §3, is further amended to read:

Any person, firm or corporation who makes an oil or solid fuel burner installation without being licensed as provided by this chapter; any person, firm or corporation in the oil or solid fuel burner installation business who employs an unlicensed person, unless the work is exempted under this chapter; or any person who procures any license as provided in this chapter wrongfully or by fraud; ~~or any person, firm or corporation who violates the provisions of this chapter or rules adopted under this chapter, or standards adopted by the board,~~ is guilty of a Class E crime.

Sec. J-10. 32 MRSA §2351, 2nd ¶, as amended by PL 1993, c. 659, Pt. A, §6, is further amended to read:

Three of the appointive members must be oil burner technicians who are active in the trade. One of the members must have at least 5 years' experience and the other 2 members must have at least 10 years' experience as oil burner technicians. Nominees for appointment of the oil burner technician members may be recommended to the Governor by the Maine Oil Dealers Association. One of the appointive members must be a representative of the solid fuel burning industry, one must be a representative of the public and one must be a manufacturer, importer or wholesaler or a designee of a manufacturer, importer or wholesaler ~~of the type of equipment requiring product registration pursuant to section 2312 equipment for burning oil and solid fuel, prefabricated fireplaces and chimneys or accessory equipment.~~

Sec. J-11. 32 MRSA §2352, 2nd ¶, as amended by PL 1991, c. 198, §15, is repealed.

Sec. J-12. 32 MRSA §2353, as amended by PL 1991, c. 198, §16, is further amended to read:

§2353. Meetings; rules

The board shall meet at least once a year to conduct its business and elect its officers. 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 a majority of the board members. Four members of the board constitute a quorum for all purposes. The board may adopt standards and rules as necessary, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, for the holding of examinations and for carrying out this chapter, and provide for reciprocity of licensing with similar boards of other states that maintain standards equivalent to those provided under this chapter. ~~The board may establish fees and charges necessary for covering the costs incurred for registering manufacturers and importers. The manufacturer or importer shall pay all fees and charges established by the board or incurred by the board in the process of investigating or verifying the safety of equipment sold in the State.~~

Sec. J-13. 32 MRSA §2401-A, sub-§6, as enacted by PL 1979, c. 569, §13, is amended to read:

6. Personal abode. Nothing in this chapter ~~shall prevent~~ prevents a person from making an oil or solid fuel burner installation in a single family residence occupied or to be occupied by ~~him~~ that person as ~~his~~ that person's bona fide personal abode, providing provided that the installation conforms with ~~the National Fire Protection Association Standard No. 31 board laws and rules.~~

Sec. J-14. 32 MRSA §2401-B is enacted to read:

§2401-B. Issuance of licenses

1. Application; qualifications. The board shall issue a license to any person who files a sworn application, who passes an examination approved by the board and who meets the following applicable qualifications.

A. For a journeyman oil burner technician license, a person must present satisfactory evidence to the board of at least one year's licensed practical experience as an apprentice oil burner technician, or 6 months of licensed practical experience and completion of an oil burner technician course at a Maine technical college, regional applied technology center, applied technology region or comparable institute from Maine or another state consisting, at a minimum, of 160 hours of study of which at least 75 hours are made up of laboratory work on oil burner equipment and related systems. An out-of-state applicant must present satisfactory evidence to the board of experience in installing, cleaning, servicing, altering and repairing oil burning equipment.

B. For a master oil burner technician license, a person must present to the board satisfactory evidence of a total of 4 years' licensed practical experience as an apprentice oil burner technician and a journeyman oil burner technician and evidence that the licensed practical experience for at least 2 of those 4 years was as a licensed journeyman oil burner technician, or other such requirements as the board may establish. Courses approved to become licensed as a journeyman can not be applied toward the licensing requirements for a master. An out-of-state applicant must present satisfactory evidence to the board of experience in installing, cleaning, servicing, altering and repairing oil burning equipment.

C. For a master solid fuel burner technician license, a person must present to the board satisfactory evidence of at least 2 years' licensed practical experience as a journeyman oil burner technician and related knowledge; a master oil burner technician's license issued under this chapter; or a bachelor's degree in engineering from an accredited university and satisfactory evidence of knowledge of solid fuel burning equipment. An out-of-state applicant must present satisfactory evidence to the board of experience in installing, cleaning, servicing, altering and repairing solid fuel burning equipment.

2. Apprentice. The board may issue an apprentice license without examination to any person who applies and submits an annual fee as adopted by the board by rule. Any such person employed by, or under the direct supervision of, a master licensee must apply for an apprentice license immediately upon employment or immediately after beginning school in a heating program. An apprentice oil burner technician may clean oil burners and oil burning equipment as specified by rule.

3. License certificate. All persons licensed by the board must receive a license certificate that must be publicly displayed at the principal place of business of the licensee, if any, and a pocket card license that must be carried on the person and displayed at any time upon request.

Sec. J-15. 32 MRSA §2402, as amended by PL 1997, c. 82, §4, is repealed.

Sec. J-16. 32 MRSA §§2402-A and 2402-B are enacted to read:

§2402-A. Rules

The board may adopt reasonable rules for the issuance of various types and classes of licenses to cover oil and solid fuel burner installations and to set forth standards and rules for product approval. A license may cover one or more types of installations.

The board may further adopt reasonable rules concerning the term and type of experience required by candidates for examination.

§2402-B. Fees

An application fee, an examination fee and original and renewal license fees may be established by the board by rule in amounts that are reasonable and necessary for their respective purposes.

1. Application. The fee for application may not exceed \$25.

2. Examination. The fee for examination may not exceed \$100.

3. Licensure. The fees for licensure may not exceed the following amounts:

- A. Master.....\$200;
- B. Journeyman.....\$100;
- C. Apprentice.....\$40; and
- D. Company.....\$200.

Sec. J-17. 32 MRSA §2403, 2nd ¶, as amended by PL 1979, c. 606, §13, is further amended to read:

Examinations may include questions on the ~~standards~~ rules of the Oil and Solid Fuel Board, applicable National Fire Protection Association Standards and provisions of the National Electrical Code as may be applicable to the installations and the equipment. Any person failing to pass ~~his~~ the first examination in any one category may be reexamined at a time agreeable to the board upon payment of the examination fee.

Sec. J-18. 32 MRSA §2406, as enacted by PL 1989, c. 320, §6, is amended to read:

§2406. Corporations, firms and partnerships

The board may issue a ~~master oil burner or solid fuel burner technician~~ company license to a corporation, firm or partnership which submits an application for a license on a form prescribed by the board or limited liability company. Such a license ~~shall~~ may not be issued unless the applicant provides satisfactory evidence that it has a licensed master oil burner or solid fuel burner technician directly in charge of its heating business activities who is an officer in the case of a corporation, or full-time employee, in the case of a firm or partnership, and the license ~~shall~~ must be issued in the name of that master oil burner or solid fuel burner technician. Upon the death or severance from the company of the licensed master oil burner or solid fuel burner technician in whose name the company license is held, the company license ~~shall~~

automatically ~~terminate~~ terminates 30 days from the date of that death or severance, unless the company applies for reissuance of its license in the name of another licensed master oil burner or solid fuel burner technician who is qualified under this section.

PART K

Sec. K-1. 32 MRSA §3112, sub-§5, ¶H, as amended by PL 1983, c. 553, §46, is further amended to read:

H. To ~~authorize issuance of certificates of licensure by the Central Licensing Division of the Department of Professional and Financial Regulation which shall process and issue initial and renewal certificates of licensure. The licensing division shall~~ maintain a register containing names and addresses of each person licensed and ~~such~~ other information as ~~that~~ is deemed considered necessary by the board and the Commissioner of Professional and Financial Regulation. This information ~~shall be~~ is open for public inspection during regular office hours; and

Sec. K-2. 32 MRSA §3113-B, sub-§4, as enacted by PL 1991, c. 178, §3, is amended to read:

4. Graduate physical therapist or assistant. The supervised practice of a graduate physical therapy by a graduate physical therapist or graduate physical therapist assistant, who ~~has filed with the~~ is approved by the board an application to sit for licensure by examination and has met all the qualifications between the date of filing and the publication of, until the results of the next examination, as long as that person indicates that that person is a have been published. The graduate and works must work in a facility employing at least one physical therapist licensed to practice in this State who assumes responsibility for patient-related activities of the ~~individual applicant.~~ This responsibility must be verified in advance of the graduate engaging in the practice of physical therapy pursuant to this section. That verification must be accompanied by the supervising physical therapist filing a supervisor's affidavit with the board on a form provided by the board;

Sec. K-3. 32 MRSA §3114-A, sub-§1, as amended by PL 1983, c. 413, §§132 and 133, is further amended to read:

1. Qualification. To qualify for a license as a physical therapist or physical therapist assistant, an applicant ~~shall~~ must meet the following requirements:

A. Demonstrate that ~~he~~ the applicant is trustworthy and competent to engage in practice as a physical therapist or physical therapist assistant in such manner as to safeguard the interests of the public;

B. Be a graduate of an educational program for the physical therapist or the physical therapist assistant ~~which that~~ is accredited by an agency recognized by the United States Commissioner of Education or the Council on Post-Secondary Accreditation, or both, and approved by the board; or if the applicant has been trained in another country, present satisfactory evidence that ~~he~~ the applicant has graduated from a school of physical therapy approved or accredited in the country where the school is located and have educational credentials equivalent to those of the United States trained physical therapist or physical therapist assistant; and

C. Pass an examination, approved by the board, to determine the applicant's fitness to practice as a physical therapist or to act as a physical therapist assistant. The board may waive the examination requirement for an applicant who is currently licensed in another state by virtue of having previously passed a qualifying examination acceptable to the board, provided that the passing standards for the examination were equivalent to those then required by the law of this State.

Applicants trained in another country must demonstrate proficiency in written and spoken English ~~and complete up to one year experience in employment approved by the board under the supervision of a licensed physical therapist.~~

Sec. K-4. 32 MRSA §3114-A, sub-§2, as amended by PL 1983, c. 413, §§134 and 135, is further amended to read:

2. Application. To apply for a license as a physical therapist or physical therapist assistant, an applicant shall:

A. Submit a written application with supporting documents to the board on forms provided by the board; and

B. Pay an application fee ~~and examination fee~~ established by the board in ~~amounts which are reasonable and necessary for their respective purposes~~ an amount not to exceed \$75.

In case the application is denied and permission to take the examination refused, the examination fee only must be returned to the applicant. An applicant who fails to pass the examination is entitled to a reexamination within 6 months upon repayment of the examination fee only. If an applicant fails one section of the examination, that applicant must repeat the entire examination. An applicant may not take any part of the examination more than 3 times, unless that applicant submits evidence of having acquired

additional formal education related to the previously failed examination section or sections.

Sec. K-5. 32 MRSA §3116, as repealed and replaced by PL 1983, c. 413, §137, is amended to read:

§3116. Biennial licensure renewal; fees

All licenses ~~shall~~ must be renewed biennially on or before March 31st of each even-numbered year or at such other times as the Commissioner of ~~Business Professional and Financial~~ Regulation may designate. The biennial licensure renewal fee ~~shall may~~ not exceed \$60. ~~The Central Licensing Division shall notify each licensee, at his last known address, 30 days in advance of the expiration of his license. Renewal notices shall be on forms provided by the board. Any license not renewed by March 31st automatically expires. The board may renew an expired license if the renewal notice is returned within 90 days of the expiration date and 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 shall be~~ is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of that expiration.

PART L

Sec. L-1. 32 MRSA §3301, as amended by PL 1995, c. 502, Pt. H, §31, is further amended to read:

§3301. Definitions

~~The As used in this chapter, unless the context otherwise indicates, the following words and phrases when used in this chapter shall be construed as follows: terms have the following meanings.~~

1-A. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

1-B. Department. "Department" means the Department of Professional and Financial Regulation.

2. Board. "Board" ~~shall be~~ means the Plumbers' Examining Board appointed under section 3401.

2-A. Journeyman-in-training. ~~A "journeyman in training license" "Journeyman-in-training" means that license issued to a person who is in the process of accumulating experience in order to qualify for a journeyman plumber's license, pursuant to section 3501, subsection 2, paragraph B, who has~~

~~met the education requirements set forth in that paragraph and has achieved a passing grade, as determined by the board, on the journeyman's examination. A licensed journeyman in training may a person who is licensed under this chapter to assist in making plumbing installations under the direct supervision of a journeyman plumber or a master plumber, but who may not act as or represent that the person is a journeyman plumber, as defined in subsection 3. A journeyman in training license is valid for a single nonrenewable period of 4 years, and may be issued only once to any individual. The fee for a journeyman in training license is set by the board and may not exceed \$8.~~

3. Journeyman plumber. "Journeyman plumber" ~~shall mean~~ means any person who customarily performs the work of installing plumbing and drainage under the employment and direction of a master plumber or, not being a master plumber, does plumbing repair work as a regular ~~part-time~~ part-time occupation. ~~The biennial fee for a journeyman plumber's license shall not exceed \$75.~~

4. Limited license. "Limited license" ~~shall mean~~ means a limited plumber's license to install and service plumbing work related to a specific type of plumbing equipment or to specific plumbing installations ~~shall be~~ granted to any person who has passed a satisfactory examination before the board. It ~~shall~~ must specify the name of the person who ~~shall be~~ is limited to engage in the occupation of installing and servicing the plumbing work related to the type of equipment or to specific plumbing installations only as authorized by the license. ~~The biennial fee for a limited license shall not exceed \$75.~~

5. Master plumber. "Master plumber" means any person, firm or corporation, qualified under this chapter, engaging in, or about to engage in, the business of installing plumbing or plumbing systems. The license ~~shall~~ must specify the name of the person, firm or corporation to whom the license is issued and in the case of a firm or corporation the license ~~shall~~ must further specify the licensed master plumber in whose name it is issued, pursuant to the requirements of section 3507. ~~The biennial fee for a master plumber's license shall not exceed \$150.~~

5-A. Propane and natural gas installer. A "propane and natural gas installer" means a person ~~carrying a certification of qualification issued by the person's employer pursuant to the training requirements and qualifications required by National Fire Protection Association Code Number 58, subsection 1-6 "Qualification of Personnel," 1992 edition licensed under chapter 130 when installing propane and natural gas utilization equipment, subject to the restrictions of that person's license.~~

6. Trainee plumber. "Trainee plumber" means any person who is engaged in assisting in making plumbing installations under the direct supervision of a journeyman plumber or master plumber, whether for the purpose of learning the trade or otherwise. ~~The biennial fee for a trainee plumber license shall not exceed \$40.~~

Sec. L-2. 32 MRSA §3302, as amended by PL 1993, c. 9, §2, is further amended to read:

§3302. Applicability

1. License required. A license ~~shall be~~ is required for any person, corporation, partnership or other entity who is engaged in plumbing or ~~working in performing~~ plumbing installations. No license is required for any activity for which a permit is not required under Title 30, section 3223 or its successor. This section ~~shall~~ does not apply to the following:

A. Plumbing by regular employees of public utilities as defined in Title 35-A, section 102, when working as such;

B. Plumbing by oil burner technicians, duly licensed under chapter 33, and propane and natural gas installers, ~~provided licensed under chapter 130, except~~ that this exception only applies to hot and cold water connections to existing piping in the same room where the installation is taking place and does not apply beyond any existing branch connection supplying water; and

C. Plumbing ~~in a dwelling house or place and its appurtenant structures by the owner thereof~~ by a person in a single-family residence occupied or to be occupied by that person as that person's bona fide personal abode provided that installation conforms with board laws and rules.

2. Municipal licenses not required. ~~No~~ A municipality ~~shall~~ may not require plumbers to be municipally licensed nor ~~shall~~ may any municipality issue a permit for any plumbing installation unless satisfied that the person, firm or corporation applying for the permit complies with this chapter.

3. Supervision of trainee plumber. A master or journeyman plumber ~~shall~~ may not have ~~no~~ more than 3 trainee plumbers working ~~with him under his personal~~ under the master or journeyman plumber's direct supervision.

Sec. L-3. 32 MRSA §3402, 2nd ¶, as enacted by PL 1989, c. 483, Pt. A, §51, is amended to read:

Any person ordered by a state plumbing inspector to correct a plumbing deficiency or to vacate a building or structure may, within 7 days, appeal ~~the~~

~~order to the Plumbers' Examining Board by filing with that 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, which shall within a reasonable time review the order and file its decision on the appeal. The decision of the board must be complied with within the time that is fixed in the decision. If any person, firm or corporation fails or refuses to carry out any such order of any state plumbing inspector or decision of the board, a court may order appropriate relief. Any person ordered by the board to correct a plumbing deficiency or to vacate a building or structure may appeal the order to the Superior Court pursuant to the Maine Rules of Civil Procedure, Rule 80B, by filing a petition for review within 48 hours of receipt of the order. The order by the Plumbers' Examining Board shall may not be stayed unless by order of the Superior Court for good cause.~~

Sec. L-4. 32 MRSA §3403-A, sub-§4, as enacted by PL 1985, c. 389, §19, is repealed.

Sec. L-5. 32 MRSA §3403-A, sub-§5, as repealed and replaced by PL 1989, c. 878, Pt. B, §28, is repealed.

Sec. L-6. 32 MRSA §3501, as amended by PL 1993, c. 25, §1, is further amended to read:

§3501. Issuance of licenses

1. License required. ~~No plumbing installation shall be made, except as provided in this chapter, unless done by a plumber or other person licensed by the board.~~

1-A. Application; qualifications. The board shall issue a license to any person who files a sworn application, who passes an examination approved by the board and who meets the qualifications set forth in this section.

2. Journeyman or limited license. The board may issue a journeyman plumber or limited plumber license to persons who submit an application ~~therefor~~ on a form prescribed by the board and who provide satisfactory evidence of the following qualifications:

A. A minimum of at least 2 years with 4,000 hours of work in the field of plumbing installations as a licensed trainee plumber under the supervision of a master plumber, or the equivalent thereof, and obtaining a passing grade as deter-

mined by the board on the journeyman's examination; or

B. A minimum of 2,000 hours of work in the field of plumbing installations as a journeyman-in-training under the supervision of a licensed master plumber, ~~provided that as long as the work experience is obtained within 4 years of the date upon which the applicant was issued a journeyman-in-training license.~~ A journeyman-in-training license ~~shall~~ must be issued upon sworn application ~~therefor~~ to any person who has satisfactorily completed one academic year of instruction in plumbing at a Maine board-approved technical college and who has obtained a passing grade, as determined by the board on the journeyman's examination. ~~Any person who is enrolled in a course of instruction in plumbing at a Maine vocational technical institute on July 1, 1983, may be licensed as a journeyman upon successful completion of that course of instruction and passage of the journeyman's examination.~~

2-A. Master plumber license. The board may issue a master plumber license to a person who submits an application ~~therefor~~ on a form prescribed by the board and who provides satisfactory evidence of the following qualifications:

A. A minimum of at least one year with 2,000 hours of work in the field of plumbing installations as a journeyman plumber or a minimum of at least 4 years with 8,000 hours of work in the field of plumbing installations as a trainee plumber under the supervision of a master plumber, or the equivalent; and

B. Obtaining a passing grade, as determined by the board on the master's examination.

2-B. Journeyman-in-training. The board may issue a journeyman-in-training license to a person who provides satisfactory evidence of completion of a plumbing course consisting of one year or 2 semesters at a board-approved technical college. A journeyman-in-training license is valid for a single nonrenewable period of 4 years and may be issued only once to any individual.

3. Trainee license. The board may issue a trainee plumber license without examination to any person who submits a written application ~~therefor~~ on a form ~~prescribed~~ supplied by the board and who provides satisfactory evidence that ~~he~~ the person has entered the employ of a licensed master plumber to assist ~~him~~ the licensed master plumber as a plumber's trainee. Any person employed as a trainee plumber shall apply for a license within 10 business days after the day ~~he~~ the person commences employment.

4. License certificate. All persons licensed by the board ~~shall~~ must receive a license certificate ~~which that~~ must be publicly displayed at the principal place of business of the plumber ~~or, if no such place of business, shall, if any, and a pocket card license that~~ must be carried on the person and displayed at any time upon request, ~~as long as that person continues in the business as defined.~~

5. Examinations. ~~Applicants for license shall present to the board a written application for examination and license, containing such information as the board may require, accompanied by a required fee as set forth by board rules. Examinations must be in whole or in part in writing and of a thorough and practical character commensurate with the responsibilities of the prospective license holder.~~

~~The board shall establish by rule cutoff dates for applications for examinations.~~

~~The passing grade on any examination may not be less than 70%. 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 licensure having an average grade of less than 50% may not apply for reexamination for one year.~~

~~Applicants applying for an initial license with a term of one year or less are required to pay only 1/2 of the biennial license fee.~~

6. Installation of well pumps. A person licensed under this subchapter who performs the initial installation of a pump in a well, as defined in section 4700-E, subsection 8, shall install that pump in compliance with the code of performance adopted by the Maine Water Well Drilling Commission pursuant to section 4700-H, subsection 5. Any person licensed under this subchapter who performs the initial installation of a water well pump in violation of that code of performance commits a civil violation punishable by a fine of not more than \$1,000.

Sec. L-7. 32 MRSA §3501-A is enacted to read:

§3501-A. Examinations

An applicant for a master, journeyman or journeyman-in-training plumbing license shall present to the board a written application for examination, containing information that the board requires, accompanied by the prescribed fee as set forth by board rules. Examinations must be in whole or in part in writing and of a thorough and practical character commensurate with the responsibilities of the prospective license holder.

The passing grade on a master plumbing license examination may not be less than 75%. The passing grade on a journeyman plumbing license examination may not be less than 70%. 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 licensure having an average grade of less than 50% may not apply for reexamination for one year.

Sec. L-8. 32 MRSA §3501-B is enacted to read:

§3501-B. Fees

An application fee, an examination fee, original and renewal license fees and plan review fees may be established by the board by rule in amounts that are reasonable and necessary for their respective purposes.

1. Application. The fee for application may not exceed \$25.

2. Examination. The fee for examination may not exceed \$100.

3. Licensure. The fees for licensure may not exceed the following amounts:

- A. Master..... \$150;
- B. Journeyman.....\$75;
- C. Journeyman-in-training.....\$8;
- D. Trainee..... \$40; and
- E. Limited..... \$75.

4. Plan review fee. A plan review fee may not exceed \$50.

Sec. L-9. 32 MRSA §3504, first ¶, as amended by PL 1983, c. 413, §145, is further amended to read:

All licenses shall expire October 31st of each biennial period as to master plumbers and April 30th of each biennial period as to other licensees and may be renewed thereafter for 2-year periods without further examination, upon the payment of the proper renewal fee as set forth in section 3301. The expiration dates for licenses issued under this chapter may be established expire 2 years from the original date of issue or at such other times time as the Commissioner of Business Regulation commissioner may designate.

Sec. L-10. 32 MRSA §3504, 3rd ¶, as enacted by PL 1983, c. 413, §145, is amended to read:

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 ~~shall be~~ is subject to all requirements governing new applications under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination ~~if the renewal application is made within 2 years from the date of the expiration or other requirements.~~ The board may assess penalties for late renewal that is more than 90 days after the date of expiration. Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew ~~his~~ the person's license because ~~he~~ the person was on active duty in the United States Armed Forces; provided that the waiver of examination ~~shall~~ may not be granted if the person served more than 4 years in the United States Armed Forces, except if ~~he~~ the person is required by some mandatory provision to serve a longer period and ~~he~~ shall submit the person submits satisfactory evidence to the board.

Sec. L-11. 32 MRSA §3504-A is enacted to read:

§3504-A. Reciprocity

The board shall issue a license to any person who files a sworn application and who is licensed under the laws of another state or territory of the United States as long as that state or territory has licensing standards and experience requirements at least equivalent to this State's and as long as that state or territory grants similar privileges to persons licensed under this chapter. Reciprocal licenses may not be denied on the basis of current residency.

Sec. L-12. 32 MRSA §3507, as amended by PL 1987, c. 597, §13, is further amended to read:

§3507. Corporations, firms and partnerships

The board may issue a ~~master plumber company~~ license to a corporation, firm ~~or~~ partnership ~~which submits an application therefor on a form prescribed by the board,~~ limited partnership or limited liability company. Such a license ~~shall~~ may not be issued unless the applicant provides satisfactory evidence that it has a licensed master plumber directly in charge of its plumbing business activities who is an officer or full-time employee, in the case of a corporation, or a partner, member or full-time employee, in the case of a firm or partnership, and the license ~~shall~~ must be issued in the name of that master plumber. A master plumber ~~can~~ may only be affiliated with one corporation. Upon the death or severance from the company of the licensed master plumber in whose name the company licensed is held, the company license ~~shall~~ automatically terminate terminates 30 days from the

date of that death or severance, unless the company applies for reissuance of its license in the name of another licensed master plumber who is qualified under this section.

PART M

Sec. M-1. 32 MRSA §3821-A, as enacted by PL 1987, c. 395, Pt. A, §173, is amended to read:

§3821-A. Consultant

The board ~~shall~~ may contract with a psychologist or psychologists or other qualified individual or individuals familiar with the board's purpose and operation who ~~shall be~~ are available as needed to respond to inquiries from applicants for licensure, primarily inquiries regarding the component of the licensure process dealing with credentials review. The ~~psychologist consultant~~ contractor shall advise, consult and assist the board with the credentials review process, as well as other matters as needed.

Sec. M-2. 32 MRSA §3833, as repealed and replaced by PL 1983, c. 413, §153, is amended to read:

§3833. Fees

An application fee not to exceed \$200 and an examination fee not to exceed \$375 may be established by the board ~~in amounts which are reasonable and necessary for their respective purposes~~. No part of these fees ~~may be~~ is returnable under any circumstances other than failure of the board to hold examinations at the time originally announced, whereupon the examination fee only may be returned at the option of the candidate.

PART N

Sec. N-1. 32 MRSA §4681, sub-§7, as amended by PL 1983, c. 285, is further amended to read:

7. Transient seller of consumer merchandise. "Transient seller of consumer merchandise" means any person who engages in the business of selling merchandise to consumers by means of personal contact or telephone contact, whether or not the seller is present in the State at the time of the contact or the time of sale, and who does not have, for the purposes of carrying on such business, any permanent place of business within this State. "Transient sellers of consumer merchandise" does not include persons who sell at public fairs, expositions or bazaars or members selling on behalf of public service organizations. "Transient sellers of consumer merchandise" does not include persons who sell exclusively by mail contact, except for persons who offer merchandise or money prizes as free of charge, such as contest prizes or gifts

for answering a survey, but who require the recipient to pay something of value in order to participate in this offer, including, but not limited to, entrance fees, processing fees or handling charges. A "transient seller of consumer merchandise" does not include a supervised lender as defined in Title 9-A, section 1-301, subsection 39.

PART O

Sec. O-1. 32 MRSA §4861, first ¶, as amended by PL 1997, c. 246, §13, is further amended to read:

Any person desiring a license to practice veterinary medicine in this State shall make written application to the board. The application must show that the applicant is a graduate of a veterinary school recognized and approved by the American Veterinary Medical Association and by the board, a person of good moral character and such other information and proof as the board may require. The application must be accompanied by a fee ~~in the amount~~ not to exceed \$50 established by the board.

Sec. O-2. 32 MRSA §4861, sub-§1, as amended by PL 1997, c. 246, §16, is further amended to read:

1. Examinations. The board shall hold at least one examination during each year and may hold such additional examinations as are necessary. The secretary shall give public notice of the time and place for each examination reasonably in advance of the date set for the examination. A person desiring to take an examination ~~shall~~ must make application at least 45 days before the date of the examination and pay an examination fee not to exceed \$100, as determined by the board.

The preparation, administration and grading of examinations is governed by rules prescribed by the board.

After each examination, the secretary shall notify each examinee of the result of the examination, and the board shall issue a certificate to each person successfully completing the examination. The secretary shall record the certificate and issue a license upon payment of the license fee. Any person failing an examination must be admitted to any subsequent examination on payment of the application fee.

Sec. O-3. 32 MRSA §4861, sub-§3, as amended by PL 1977, c. 694, §640, is further amended to read:

3. Temporary permit. The board may issue without examination a temporary permit to practice veterinary medicine in this State to a qualified applicant for license pending examination, ~~provided~~

~~that such.~~ A temporary permit shall expire issued pursuant to this subsection expires the day after the notice of results of the first examination given after the permit is issued. The fee for the temporary permit, which may not exceed \$30, must be set by the board.

All persons granted permits under this section shall furnish proof of liability insurance to cover the date of this permit.

Sec. O-4. 32 MRSA §4861, sub-§4, as enacted by PL 1983, c. 48, §5, is amended to read:

4. Permit for performance of relief veterinary service. The board may issue without examination a permit to perform relief veterinary service in this State to a qualified graduate of a veterinary school, recognized and approved by the American Veterinary Medical Association and by the board, who holds a current license for the practice of veterinary medicine issued by another state, territory or district of the United States. The board may establish, by rule, the application process. The initial term of a permit issued under this subsection ~~shall~~ may not exceed 30 days. Extensions may be granted in the discretion of the board. The fee for the relief permit, which may not exceed \$50, must be set by the board.

PART P

Sec. P-1. 32 MRSA §4909, sub-§2-A, as enacted by PL 1975, c. 760, §13, is amended to read:

2-A. Soil scientist examination requirements. As a soil scientist, to qualify to sit for the examination for certification, an applicant ~~shall~~ must:

A. Be a graduate of an approved 4-year college curriculum leading to a Baccalaureate Degree, in which the applicant has successfully completed a minimum of 15 credit hours of soil or ~~soil-related~~ soil-related courses of a pedological nature and have a specific record of an additional 3 years or more of experience in soil science of a grade and character ~~which that~~ indicates to the board that ~~he the applicant~~ may be competent to practice as a soil scientist and be otherwise qualified. Teaching pedological courses in a college or university offering an approved 4-year soil science or agronomic curriculum ~~shall~~ must be considered as experience in soils investigations.

Applicants may sit for the general practice examination upon graduation from an approved 4-year college and may sit for the professional practice examination upon completion of the experience requirement as stated in this subsection.

"Additional 3 years of experience" does not imply a sequence of obtaining a degree and then experience. Experience time ~~shall~~ may not be granted for time

while enrolled in courses, but summer employment ~~shall~~ must be counted even though a degree may not have been obtained.

Actual field experience in an acceptable apprenticeship program ~~shall count~~ counts as experience time.

Each degree beyond the ~~Bachelor's Degree shall be counted~~ bachelor's degree counts as one year of experience.

~~Soil-related~~ Soil-related courses ~~will~~ may amount to only 20% of the required 15 credits for a maximum of 3 credits.

PART Q

Sec. Q-1. 32 MRSA §6020-A, first ¶, as repealed and replaced by PL 1997, c. 683, Pt. B, §21, is amended to read:

To be eligible for licensure by the board as a speech-language pathologist, audiologist or ~~for~~ registration as a speech-language pathology assistant, a person must possess the following:

PART R

Sec. R-1. 32 MRSA §6208-A, sub-§1, as amended by PL 1997, c. 727, Pt. C, §10, is further amended to read:

1. Membership. The State Board of Alcohol and Drug Counselors, as established by Title 5, section 12004-A, subsection 41, consists of ~~11~~ 9 members. ~~Nine~~ Seven members are appointed by the Governor. One member must be the Director of the Office of Substance Abuse or a designee. One member, appointed by the Chancellor of the University of Maine System, must be a member of the university faculty involved in the training of substance abuse or alcohol and drug counselors. Of these ~~11~~ 9 members, 5 members must be licensed alcohol and drug counselors and 2 members must be public members. Members must represent a broad geographic distribution of the State. ~~Two members must be nonproviders, one of whom must be a family member of a consumer of alcohol and drug counseling services. One member must be a public member. One member must be a representative of a regional alcohol and drug abuse council. Members must represent a broad geographic distribution of the State and must be from among the professional associations representative of the field.~~

Sec. R-2. 32 MRSA §6215, as amended by PL 1995, c. 502, Pt. H, §38, is further amended to read:

§6215. Application; membership fees

Application for registration as a registered alcohol and drug counselor or licensure as a licensed alcohol and drug counselor must be on forms prescribed and furnished by the board. Application and examination fees may be established by the board in amounts ~~that are reasonable and necessary for their respective purposes~~ not to exceed \$100 each. Successful applicants shall pay biennial fees set by the board in an amount not to exceed \$75 for registration and \$150 for licensure as an alcohol and drug counselor. The payment of fees is suspended during the term of inactive status.

PART S

Sec. S-1. 32 MRSA §9705, sub-§1, as amended by PL 1997, c. 210, §12, is further amended to read:

1. License required. An individual may not practice or represent that individual as authorized to practice as a respiratory care practitioner in this State or use the words "respiratory care practitioner" or other words or letters to indicate that the person is a licensed respiratory care practitioner, unless that individual is licensed in accordance with this chapter. A respiratory therapist licensed in accordance with this chapter may use the initials "R.R.T." A respiratory care technician licensed in accordance with this chapter may use the initials "~~C.R.T.T~~ C.R.T." An individual who holds a temporary license in accordance with this chapter may use the initials "~~G.R.T.T~~ G.R.T." until the individual has taken and passed the examination or until the term of the license has expired. A student or trainee may use the initials "S.R.T." while enrolled in the clinical portion of a respiratory care education program.

Sec. S-2. 32 MRSA §9705-A is enacted to read:

§9705-A. Associate permit required

A person may not perform respiratory care services in association with a respiratory care practitioner licensed under this chapter unless that individual is approved by the board in accordance with this section.

1. Licensed in another state. The associate shall file verification that the associate holds a valid license in good standing from another state that has licensure requirements equivalent to the requirements of this chapter.

2. Certified or registered. The associate must be certified or registered by the National Board of Respiratory Care and must reside in a nonlicensure state.

At the time of application, the associate must report the dates and locations that respiratory care services will be performed in this State, which may not exceed 30 days in a calendar year. If the board determines that the applicant meets the requirements of this section, it may issue an associate permit for a fee not to exceed \$10.

Sec. S-3. 32 MRSA §9706-A, sub-§3, as enacted by PL 1989, c. 450, §41, is repealed.

Sec. S-4. 32 MRSA §9710, sub-§1, as amended by PL 1995, c. 502, Pt. H, §40, is further amended to read:

1. Amount. Application and examination fees may be established by the board in amounts ~~that are reasonable and necessary for their respective purposes~~ not to exceed \$50. Original and renewal license fees for respiratory care practitioner licenses are set by the board and may not exceed \$135 biennially. Temporary license fees are set by the board and may not exceed \$70. Trainee registration fees are set by the board and may not exceed \$50.

PART T

Sec. T-1. 32 MRSA §12514, sub-§1, as enacted by PL 1995, c. 671, §13, is amended to read:

1. Application. Application for licensing as an acupuncturist must be on forms prescribed and furnished by the board. The application fee is set by the board by rule, is nonrefundable and ~~must be an amount that is reasonable and necessary for its purpose~~ may not exceed \$200.

Sec. T-2. 32 MRSA §13858, first ¶, as enacted by PL 1989, c. 465, §3, is amended to read:

To be eligible for a license to practice counseling at any level, an applicant ~~shall~~ must be at least 18 years of age and ~~shall~~ must satisfactorily pass any examination as the board may prescribe by its rules. Each applicant ~~shall~~ must demonstrate trustworthiness and competence to engage in the practice of counseling in such a manner as to safeguard the interests of the public. The license categories "licensed clinical professional counselor," "licensed pastoral counselor" and "licensed marriage and family therapist" are of equivalent clinical status. Clinical status grants the ability to diagnose and treat mental health disorders.

PART U

Sec. U-1. 32 MRSA §14204, as amended by PL 1997, c. 210, §21, is further amended to read:

§14204. Instructors

A person may not instruct in any of the branches of aesthetics, barbering or, cosmetology or manicuring unless that person holds a valid license to practice and is authorized to instruct in each respective practice issued under this chapter, except that when specifically authorized by law, physicians may instruct without holding a license to practice in a branch of aesthetics, barbering or, cosmetology or manicuring.

The board shall adopt rules for the qualification and examination of applicants for licensure as instructors of barbering or cosmetology in accordance with Title 5, chapter 375, subchapter II.

Upon satisfactory completion of an instructor examination, the applicant must pay a fee to receive the instructor license be authorized to instruct.

Sec. U-2. 32 MRSA §14224, sub-§4, as enacted by PL 1991, c. 397, §6, is amended to read:

4. Student registration required. A student enrolled in the study of cosmetology, barbering, manicuring or aesthetics must file an application for a student permit be registered with the board pursuant to section 14233 on a form prescribed and supplied by the board. The application must contain satisfactory evidence of the qualifications required of the applicant under this chapter and must be notarized. The applicant must submit evidence of age and satisfactory completion of the 10th grade or its equivalent. The applicant must pay a fee set by the board at the time of application. The permit expires 12 months from the date of issuance and may be renewed upon filing the appropriate application and prescribed fee. A permit may not be issued to a person who has not attained 16 years of age.

Sec. U-3. 32 MRSA §14228, sub-§3, as amended by PL 1997, c. 210, §32, is further amended to read:

3. Training. Has satisfactorily completed a course of instruction in aesthetics of ~~750~~ 600 hours in not less than 5 months in a school licensed by the board or has experience in the practice of aesthetics as a trainee of ~~1,250~~ up to 1,000 hours distributed over a period of at least 7 months. The board shall establish by rule the specific number of hours of course work required up to a maximum of 600 hours. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A; and

Sec. U-4. 32 MRSA §14233, as amended by PL 1997, c. 210, §39, is further amended to read:

§14233. Registered students

The Schools licensed by the board shall furnish to each applicant a student permit upon the student's

~~completion and filing of an application, on a form supplied by the board, that demonstrates the student's eligibility for this permit register students in accordance with rules established by the board.~~

To be eligible for a ~~student permit~~, a registration, ~~the~~ student must be at least 16 years of age and have satisfactorily completed the 10th grade or its equivalent. ~~The application must include evidence~~ Evidence of the student's eligibility and enrollment in a the school licensed must be provided on a form provided by the board.

~~The student permit expires 12 months from the date of issuance.~~

All training or services rendered to a member of the public by a student must be under the direct supervision of a duly licensed instructor in a licensed school.

Sec. U-5. 32 MRSA §14238, as amended by PL 1997, c. 622, §§3 and 4, is further amended to read:

§14238. Fees

1. Fees. Application, examination ~~and~~ license, and related fees may be established by the board in amounts that are reasonable and necessary for their respective purposes. With the exception of the various application, examination, registration and permit fees collected as specified in this chapter, all fees are collected by the board on a biennial basis. The fees may not exceed the following amounts:

- A. For a each registered student permit, \$25;
- B. For a temporary work permit, \$25;
- C. For a trainee registration, \$25;
- D. For an original or biennial renewal of a shop license, \$100;
- E. For an original or biennial renewal of a cosmetology license, \$100;
- F. For an original or biennial renewal of a barber license, \$100;
- G. For an original or biennial renewal of a manicurist license, \$100;
- H. For an original or biennial renewal of an aesthetician license, \$100;
- I. For an original or biennial renewal of a demonstrator license, \$100;
- J. For an original or biennial renewal of ~~an instructor license~~ authorization to instruct, \$100;

K. For a cosmetology, barber, manicurist, aesthetician or instructor examination, \$100;

L. For special shop inspections, \$40;

M. For a late fee, \$30;

N. For a late filing penalty fee for repeat offenders, \$100; ~~and~~

O. For reissuance of a shop license after an ownership change when at least one owner retains ownership, \$10-;

P. For the application fee, \$75;

Q. For a replacement or duplicate license, \$10; and

R. For a certified verification of licensure, \$20.

PART V

Sec. V-1. 32 MRSA §14802, sub-§1-A is enacted to read:

1-A. ASME container. "ASME container" means a container constructed in accordance with the pressure vessel code jointly developed by the American Petroleum Institute, or its successor organization, and the American Society of Mechanical Engineers, or its successor organization.

Sec. V-2. 32 MRSA §14802, sub-§6, as enacted by PL 1995, c. 389, §4, is amended to read:

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

Sec. V-3. 32 MRSA §14802, sub-§7, as enacted by PL 1995, c. 389, §4, is amended to read:

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~~ 500,000 BTUs per appliance; and large equipment connection and service technician over ~~2,000,000~~ 500,000 BTUs per appliance.

Sec. V-4. 32 MRSA §14804, sub-§8, as enacted by PL 1997, c. 727, Pt. C, §16, is amended to read:

8. Inspection of aboveground and underground propane and natural gas storage facilities and rooftop installations of ASME containers. The

board shall inspect and issue permits to aboveground and underground propane and natural gas storage facilities and rooftop installations of ASME containers. The cost of inspection ~~of an aboveground propane and natural gas storage facility under this subsection~~ and the permit may not exceed \$50.

Sec. V-5. 32 MRSA §14805, sub-§3, as enacted by PL 1995, c. 389, §4, is amended to read:

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~~ 7 days of receipt of the order a written notice of appeal. The board shall review that appeal and issue its written decision within ~~40 days~~ a reasonable time 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.

Sec. V-6. 32 MRSA §14805, sub-§§7 and 8 are enacted to read:

7. Failure to comply with order of propane and natural gas inspector. If the owner, occupant of any building or dispensing station or an installer neglects or refuses, without justification, for more than 10 days to comply with any order of a propane and natural gas inspector concerning the performance of any functions governed by this chapter, that person commits a civil violation for which a forfeiture of not less than \$100 for each day's neglect may be adjudged.

8. Violations; forfeiture. Any person, firm or corporation who makes a propane or natural gas installation without being licensed as provided by this chapter; any person, firm or corporation in the propane or natural gas installation business who employs an unlicensed person, unless the work is exempted under this chapter; or any person who procures any license as provided in this chapter wrongfully or by fraud is guilty of a Class E crime. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether proceedings to impose a civil forfeiture have been or may be instituted.

Sec. V-7. 32 MRSA §14807, sub-§1, ¶¶D and E, as enacted by PL 1995, c. 389, §4, are amended to read:

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~~ 500,000 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~~ 500,000 BTUs per appliance.

Sec. V-8. 32 MRSA §14807, sub-§3-A is enacted to read:

3-A. License required. A person may not perform the functions governed by this Act after July 1, 1997 without first being licensed by the board.

Sec. V-9. 32 MRSA §14807, sub-§4-A is enacted to read:

4-A. Personal abode. Nothing in this chapter prevents a person from making a propane or natural gas installation in a single family residence occupied or to be occupied by that person as that person's bona fide personal abode, as long as that installation conforms with board laws and rules.

Sec. V-10. 32 MRSA §14807, sub-§7, as enacted by PL 1997, c. 270, §2, is repealed.

Sec. V-11. 32 MRSA §14807-A is enacted to read:

§14807-A. Exceptions

The licensing provisions of section 14807 do not apply to the following:

1. Highway transport drivers. Highway transport drivers who deliver propane to bulk plants or industrial customers;

2. Industrial plant employees. Regular employees of industrial plants installing and servicing propane or natural gas-fired equipment of greater than 10,000,000 BTUs per hour input; and

3. Internal combustion engine technicians. Persons working on internal combustion engines and associated gas trains.

Sec. V-12. 32 MRSA §14813, sub-§5 is enacted to read:

5. Application fee. An application fee, which may not exceed \$25, may be established by the board by rule.

Sec. V-13. 32 MRSA §14814, as enacted by PL 1995, c. 389, §4, is amended to read:

§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.

The board shall notify a person registered under this chapter of the date of expiration of that person's license and the fee required for its renewal for a 2-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.

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 if the renewal is made within 2 years from the date of the expiration. The board may establish penalties for nonrenewal. Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew the license because the person was on active duty in the Armed Forces; except that the waiver of examination may not be granted if the person served more than 4 years in the Armed Forces, unless the person was required by some mandatory provision to serve a longer period and the person submits satisfactory evidence to the board.

Sec. V-14. 32 MRSA §14817, as enacted by PL 1995, c. 625, Pt. A, §45, is repealed.

PART W

Sec. W-1. 5 MRSA §12004-A, sub-§7, as amended by PL 1995, c. 560, Pt. H, §14 and affected by §17, is further amended to read:

<u>7. Board of- Boiler Rules Boilers and Pressure Vessels</u>	Expenses Only	32 MRSA §15103
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Sec. W-2. 32 MRSA c. 131 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 131

BOARD OF BOILERS AND PRESSURE VESSELS

Sec. W-3. 32 MRSA §15101, sub-§§2, 3 and 4, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, are amended to read:

2. Authorized inspector. "Authorized inspector" means a person holding a ~~certificate of authority license~~ to inspect boilers and pressure vessels within this State issued under section ~~45407~~ 15108-A or a person, employed by a company licensed to insure boilers and pressure vessels in this State, holding a certificate to inspect boilers and pressure vessels within this State issued under section 15120.

3. Board. "Board" means the Board of ~~Boiler Rules~~ Boilers and Pressure Vessels.

4. Chief inspector. "Chief inspector" means the Chief Inspector of Boilers and Pressure Vessels approved under section 15106.

Sec. W-4. 32 MRSA §15102, sub-§2, ¶J, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

J. Pressure vessels that do not exceed:

- (1) Five cubic feet in volume ~~and~~ or 250 pounds per square inch gauge pressure;
- (2) One and 1/2 cubic feet in volume and 600 pounds per square inch gauge pressure; or
- (3) An inside diameter of 6 inches with no limitation on pressure; or

Sec. W-5. 32 MRSA §15103, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15103. Board of Boilers and Pressure Vessels

1. Membership. The Board of ~~Boiler Rules~~ Boilers and Pressure Vessels, as established by Title 5, section 12004-A, subsection 7, consists of 7 members appointed by the Governor. Of these 7 appointed members, 2 must be representatives of labor within this State who are boilermakers or have boiler licenses, one must be a representative of the owners and users of steam boilers within this State, one must be a representative of the boiler manufacturers within this State, one must be a representative of the operating steam engineers in this State, one must be a

representative of a boiler inspection and insurance company licensed to do business within the State and one must be a representative of the public. The board shall annually elect a chair from its membership. Appointments are for 3-year terms. Appointments of members must comply with section 60. A member may be removed by the Governor for cause.

2. Compensation. The members of the board are entitled to compensation according to the provisions of Title 5, chapter 379.

3. Meetings. The board shall meet at least ~~twice~~ yearly once a year to conduct its business and to elect a chair. 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 a majority of the board members. Four members of the board constitute a quorum for all purposes. The board shall keep records and minutes necessary to the ordinary dispatch of its function.

4. Records. The board shall keep a complete record of the type, dimensions, age, conditions, pressure allowed upon, location and date of last inspection of all boilers and pressure vessels to which this chapter applies.

Sec. W-6. 32 MRSA §15104, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed.

Sec. W-7. 32 MRSA §15104-A is enacted to read:

§15104-A. Powers and duties

The board shall administer, coordinate and enforce the provisions of this chapter and has the following powers and duties in addition to those otherwise set forth in this chapter.

1. Rules. The board shall, in accordance with Title 5, chapter 375, adopt rules for the safe and proper construction, installation, repair, use and operation of boilers and pressure vessels in this State. The rules must conform as nearly as practicable to the code.

The board shall publish and distribute among boiler manufacturers and others requesting them copies of the rules adopted by the board at a cost sufficient only to cover the printing and mailing expenses of distribution.

2. 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 considered 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, as long as the request for a hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of the applicant's application, the reasons for the denial and the applicant's right to request a hearing. Hearings must be conducted in conformity with Title 5, chapter 375, subchapter IV to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

3. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

Sec. W-8. 32 MRSA §15105, 2nd ¶, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

Unless otherwise exempt, all new boilers and pressure vessels to be installed must be inspected during construction by an inspector authorized to inspect boilers in this State, or, if constructed outside the State, by an inspector holding a ~~certificate of authority~~ license from the chief inspector of this State or an inspector who holds a certificate of inspection issued by the National Board of Boiler and Pressure Vessel Inspectors, or its successor organization.

Sec. W-9. 32 MRSA §15106, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15106. Chief and deputy inspectors

~~The commissioner shall appoint, with the approval of the Governor, and may remove for cause when so appointed, a citizen of this State person to be Chief Inspector of Boilers~~ chief inspector at any time the office may become vacant. ~~The Chief Inspector of Boilers must have, at the time of the appointment, not fewer than 5 years' practical experience with steam boilers as a steam engineer, mechanical engineer, boilermaker or boiler inspector, and must have passed the same kind of an examination as that prescribed for deputy and authorized inspectors in section 15107.~~

The commissioner may likewise hire deputy inspectors as necessary to carry out this chapter ~~from among applicants who have successfully passed the examination provided for in section 15107.~~

Sec. W-10. 32 MRSA §§15107 and 15108, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, are repealed.

Sec. W-11. 32 MRSA §§15108-A and 15108-B are enacted to read:

§15108-A. Boiler and pressure vessel inspectors

The board shall issue a license to any person who files an application and meets the qualifications as specified by rule. The fee for issuing a license as a boiler inspector must be set by the board, but may not exceed \$50 per year. The application fee may not exceed \$25. The board shall issue a license to any person who files an application and holds a certificate as an inspector of steam boilers from a state that has a standard of licensing equal to that of this State or a certification from the National Board of Boiler and Pressure Vessel Inspectors, or its successor organization.

§15108-B. Investigations of complaints; revocation of license

1. Investigations. The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any person licensed or required to be licensed under this chapter. These complaints must be in writing, sworn to by the person making them and filed with the Office of Licensing and Registration.

2. Suspension; revocation. The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may suspend or revoke a license of any licensed person or applicant who is found guilty of:

A. The practice of fraud or deceit in obtaining a license;

B. Any gross negligence, incompetency or misconduct in the licensee's job performance;

C. Operating or being in charge of a plant while under the influence of intoxicating beverages or narcotic drugs;

D. Suffering from physical or mental incapacity of such nature as would jeopardize physical property or lives in the exercise of the license;

E. Operating or having charge of a plant over which the licensee or applicant lacked authority;

F. Violating any provisions of this chapter or any rule of the board; or

G. Conviction of a crime, subject to the limitations of Title 5, chapter 341.

Sec. W-12. 32 MRSA §15109, sub-§3, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

3. Issuance of license. The board shall issue a license to an applicant in the grade ~~for which the committee certifies to the board that requested.~~ if the applicant has satisfactorily met the examination and other requirements of this section.

A. A license is valid for 3 years from the date of issuance. A license must designate the name of the holder, the license number, the grade of license, the issuing date and the expiration date. Any license issued under this ~~section~~ chapter is automatically renewable upon payment of the renewal fee as set forth in this ~~section~~ chapter. The expiration dates for licenses issued under this chapter may be established at such other times as the commissioner may designate. The board shall notify everyone registered under this chapter of the date of expiration of the license and the fee required for its renewal for a 3-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.

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 may in its discretion, giving due consideration to the protection of the public, waive examination or other requirements. The board may levy penalties for nonrenewal. Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew that person's license because that person was on active duty in the Armed Forces; except that the waiver of examination may not be granted if the person served more than 4 years in the Armed Forces, except if that person is required by some mandatory provision to serve a longer period and that person submits satisfactory evidence of this mandatory provision to the board.

B. The license certificate must be displayed in plain view in the plant where the licensee is employed.

C. The ~~committee board shall certify to the board as eligible~~ determine the eligibility for a license licensure of any applicant who holds a

current stationary steam engineering license issued by the proper authority of any state, territory or possession of the United States, the District of Columbia or Canada that has requirements equal to those of this State and recognizes the license issued by this State without further examination. The ~~committee board~~ shall certify to the board as eligible for a license any applicant who holds a current Canadian marine or United States Coast Guard marine engineer's license and who has worked as a boiler engineer or operator 3 of the last 5 years prior to application. The applicant bears the burden of proving those matters necessary for a license based on reciprocity.

Sec. W-13. 32 MRSA §15109, sub-§4, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed.

Sec. W-14. 32 MRSA §15109, sub-§5, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

5. Examination committee. ~~The~~ An examination committee ~~must~~ may be appointed by the board and consists of 5 members, one of whom must be a member of the board, one of whom must be an authorized boiler inspector employed by an insurance carrier licensed to do business in this State, one of whom must be appointed from the public at large and who must be knowledgeable in matters dealing with plant operation, one of whom must have charge of plants and one of whom must be an operator of plants. The secretary of the committee is the chief inspector or a duly appointed designee. The members are appointed for a term of 5 years and until their successors are appointed and duly qualified.

Sec. W-15. 32 MRSA §15109, sub-§5-A is enacted to read:

5-A. Examination committee; duties. The examination committee may cause all examinations required under this section to be conducted and may certify qualifying applicants to the board for issuance of licenses.

Sec. W-16. 32 MRSA §15109, sub-§6, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed.

Sec. W-17. 32 MRSA §15109, sub-§6-A is enacted to read:

6-A. Examinations. Applicants for licensure shall present to the board a written application for examination, containing such information as the board may require, accompanied by a required fee as set forth by board rules. Examinations must be in whole or in part in writing and of a thorough and practical

character commensurate with the responsibilities of the prospective license holder.

The board shall establish by rule cutoff dates for applications for examination.

The passing grade on any examination may not be less than 70%. A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board.

Sec. W-18. 32 MRSA §15109, sub-§7, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

7. Class of license. There must be 2 grades of boiler operator's license and 4 classes of engineering licenses as set out in this subsection.

A. The holder of a low pressure heating boiler operator's license may operate a heating plant covered by this chapter with steam boilers not exceeding 15 psi or hot water and hot water supply boilers not exceeding 160 psi or 250 degrees Fahrenheit, or both.

B. The holder of a high pressure boiler operator's license may operate, supervise or have charge of a heating plant having a capacity of not more than 20,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. The applicant for a high pressure boiler operator's license must have 6 months' operating experience prior to examination under a boiler operator's training permit. The board shall issue a permit for the purpose of gaining that experience. Such a permit must be limited to a specified plant and must be limited to one year. The board may extend the permit for a period not to exceed one year under unusual circumstances. The cost of a boiler operator's training permit may not exceed \$20. The board may allow the owner of a small plant to sit for the high pressure boiler operator's examination without first obtaining a boiler operator's training permit.

C. The holder of a 4th-class engineer's license may have charge of a plant of not more than 50,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. An applicant for a 4th-class engineer's license must be a high school graduate or have equivalent education and at least one year of operating or supervising experience under a duly licensed engineer having charge of a plant. An applicant for a 4th-class engineer's license must have at least one year operating or supervising experience as a high pressure boiler operator.

D. The holder of a 3rd-class engineer's license may have charge of a plant of not more than 100,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. An applicant for a 3rd-class engineer's license must have at least one year operating or supervising experience as a 4th-class engineer.

E. The holder of a 2nd-class engineer's license may have charge of a plant of not more than 200,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. An applicant for a 2nd-class engineer's license must have at least 2 years operating or supervising experience as a 3rd-class engineer.

F. The holder of a first-class engineer's license may operate, supervise or have charge of a plant of unlimited steam capacity. An applicant for a first-class engineer's license must have at least 2 years operating or supervisory experience as a 2nd-class engineer.

G. One year of schooling in the field of boiler operation in a school approved by the board is equivalent to 6 months of operating experience. The board may conduct an accreditation review of the technical school. The cost of the accreditation review must be paid by the technical school and may not exceed \$500.

H. In the event of a lack of qualified personnel in the plant in which the applicant is employed, the ~~committee~~ board may waive the operating experience requirements of the applicant for examination for the next higher grade of license. Any such license issued must be limited to that plant.

I. Notwithstanding the provisions of this subsection, the ~~examining committee~~ board may permit an applicant to take the examination for a license if, in the ~~committee's~~ board's opinion, the experience or educational qualifications, or both, of the applicant are equivalent to the operating experience required by this subsection.

Sec. W-19. 32 MRSA §15109, sub-§9, ~~¶¶C and D~~, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, are amended to read:

C. A late fee not to exceed \$75 on all renewals for which the board receives a renewal application up to 2 years after the expiration of the license; ~~and~~

D. Examination fee for engineers and operators, \$50; ~~and~~

Sec. W-20. 32 MRSA §15109, sub-§9, ¶E is enacted to read:

E. Application fee, \$25.

Sec. W-21. 32 MRSA §15110, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended by adding at the end a new paragraph to read:

The board may conduct a welding test facility review. The cost of that review must be paid by the welding test facility and may not exceed \$500.

Sec. W-22. 32 MRSA §15111, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15111. Operation of condemned vessels

A boiler or pressure vessel that has been condemned for further use in this or any other state by ~~an~~ authorized a licensed boiler inspector employed by an insurance company or by an inspector authorized to inspect boilers by a state or the Federal Government may not be installed or operated in this State.

Sec. W-23. 32 MRSA §15113, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended by inserting after the 2nd paragraph a new paragraph to read:

The board may conduct shop inspections. The cost of the shop inspection must be paid by the shop and may not exceed \$3,000.

Sec. W-24. 32 MRSA §15114, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15114. Certificate required

It is unlawful for any person, firm, partnership or corporation to operate under pressure in this State a boiler or pressure vessel to which this chapter applies without a valid inspection certificate as provided in this chapter. The operation of a boiler or pressure vessel without an inspection certificate constitutes a Class E crime on the part of the owner or user of the boiler or pressure vessel and is punishable by a fine of not more than \$100 or by imprisonment for not more than 30 days, or by both.

Sec. W-25. 32 MRSA §15115, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15115. Temporary certificate

If an emergency affecting public safety and welfare exists, the board may authorize the chief inspector to issue a temporary inspection certificate for a period

not exceeding 6 months after an inspection certificate has expired. A temporary inspection certificate may be issued without an internal inspection being made. If the boiler or pressure vessel is insured, the temporary inspection certificate may not be issued until recommended in writing by the authorized inspector of the company insuring the boiler or pressure vessel and by the chief inspector or one of the deputies; or, if the boiler or pressure vessel is not insured, the temporary inspection certificate must be recommended in writing by at least 2 authorized state inspectors. The provisions as to posting of the inspection certificate apply to the temporary inspection certificate.

Sec. W-26. 32 MRSA §15116, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15116. Insurance

When a boiler or pressure vessel is insured and inspected by a duly accredited insurance company licensed to do business in this State, a copy of the record of each internal inspection of the boiler or pressure vessel must be filed with the board.

When an insurance company cancels insurance upon any boiler or pressure vessel requiring inspection under section 15117 that is not exempt under section 15102 or the policy expires and is not renewed, notice must immediately be given to the board. An insurance company shall notify the board immediately upon insuring a boiler or pressure vessel pursuant to this section.

Sec. W-27. 32 MRSA §15117, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15117. Inspection required; certificates issued

Each boiler or pressure vessel used or proposed for use within this State, except boilers or pressure vessels exempt under section 15102, must be thoroughly inspected by the chief inspector or one of the deputy inspectors or authorized inspectors, as to its design, construction, installation, condition and operation. The board shall adopt rules pursuant to the Maine Administrative Procedure Act specifying the method and frequency of inspection. When any boiler or pressure vessel inspected as specified by the board is found to be suitable and to conform to the rules of the board, the chief inspector shall issue to the owner or user of that boiler or pressure vessel, upon payment of a fee to the board, an inspection certificate for each boiler or pressure vessel. The fee must be set by the board and may not exceed \$100. Inspection certificates must specify the maximum pressure that the boiler or pressure vessel inspected is allowed to carry. The inspection certificate may be valid for not more than 14 months from its date and must be posted under

glass in the engine or boiler room containing the boiler or pressure vessel or an engine operated by it or, in the case of a portable boiler, in the office of the plant where it is temporarily located.

In accordance with the provisions of the Maine Administrative Procedure Act, the chief inspector or any deputy inspector may at any time suspend an inspection certificate when, in the inspector's opinion, the boiler or pressure vessel for which it was issued may not continue to be operated without menace to the public safety. ~~An authorized~~ A licensed inspector has corresponding powers with respect to inspection certificates for boilers and pressure vessels insured by the company employing the inspector. ~~This suspension must continue pending decision on the board's application with the Administrative Court for a temporary suspension pursuant to Title 4, section 1153.~~

Sec. W-28. 32 MRSA §15118, first ¶, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

The owner or user of each boiler or pressure vessel required by this chapter to be inspected by the chief inspector or a deputy inspector, shall pay the inspector upon inspection a fee or fees to be determined by the board. Not more than \$500 may be collected for the inspection of any one boiler or pressure vessel made in any one year, unless additional inspections are required by the owners or users of the boiler or pressure vessel or unless the boiler or pressure vessel has been inspected and an inspection certificate has been refused, withheld or withdrawn or unless an additional inspection is required because of the change of location of a stationary boiler or pressure vessel. The nature and size of miniature boilers or pressure vessels to be inspected may be determined by the board.

Sec. W-29. 32 MRSA §15119, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15119. Powers of chief inspector

The chief inspector may:

1. Free access to premises. Have free access for the chief inspector or a deputy or ~~deputies~~ deputy inspectors during reasonable hours to any premises in the State where a boiler or pressure vessel is built or where a boiler or pressure vessel or power plant apparatus is being installed or operated, for the purpose of ascertaining whether the boiler or pressure vessel is built, installed and operated in accordance with this chapter;

2. Inspection certificates. Issue, suspend and revoke inspection certificates allowing boilers or

pressure vessels to be operated, as provided in sections 15115 and 15117, and as provided in the Maine Administrative Procedure Act; and

3. Enforce laws and rules. Enforce the laws of the State governing the use of boilers and pressure vessels and enforce the rules of the board; ~~and.~~

~~**4. Examinations and certificates of competency.** Hold examinations and issue certificates of competency to inspectors who have successfully passed such examinations.~~

Sec. W-30. 32 MRSA §15120, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15120. Licensed inspectors; duties

In addition to any deputy or ~~authorized~~ boiler inspectors certified and appointed under ~~sections~~ section 15106 ~~and 15107~~, the board shall, upon the request of any company authorized to insure against loss from explosion of boilers or pressure vessels in this State, issue to the boiler inspectors of the company certificates of authority as ~~authorized~~ licensed inspectors. Each inspector before receiving a certificate of authority must ~~pass satisfactorily the examination provided for in section 15107 or, in lieu of such an examination,~~ hold a certificate as an inspector of steam boilers for a state that has a standard of examination equal to that of this State or a certificate from the National Board of Boiler and Pressure Vessel Inspectors, or its successor organization. ~~Authorized~~ Licensed inspectors are not entitled to receive a salary from, nor may any of their expenses be paid by, the State. The continuance of ~~an~~ a licensed inspector's certificate is conditioned upon the ~~authorized~~ licensed inspector continuing in the employ of a boiler inspection and insurance company duly authorized and upon maintenance of the standards imposed by this chapter. ~~Authorized~~ Licensed inspectors shall inspect all boilers insured by their respective companies, and the owners or users of those insured boilers are exempt from the payment of the fees provided for in section 15118. Each company employing ~~authorized~~ licensed inspectors shall, within 30 days following each annual internal inspection made by the inspectors, file a report of the inspection with the chief inspector.

PART X

Sec. X-1. 32 MRSA c. 133 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 133**BOARD OF ELEVATOR AND TRAMWAY
SAFETY**

Sec. X-2. 32 MRSA §15202, sub-§5, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

5. Elevator. "Elevator" includes an escalator or a manlift and means a guided hoisting and lowering mechanism equipped with a car, platform or load-carrying unit, including doors, well, enclosures, means and appurtenances. "Elevator" does not include a dumbwaiter, conveyor, chain or bucket hoist or a tiering, piling or feeding device.

Sec. X-3. 32 MRSA §15204, first ¶, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

A person aggrieved by an order or act of the ~~super-~~supervising chief inspector or the state inspector under this chapter may, within 15 days after notice of the order or act, appeal from the order or act to the board, which shall hold a hearing pursuant to Title 5, chapter 375, subchapter IV. After the hearing, the board shall issue an appropriate order either approving or disapproving the order or act.

Sec. X-4. 32 MRSA §15205, sub-§2, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

2. Meetings. The board shall meet at least ~~twice~~yearly once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Four members of the board constitute a quorum for all purposes. The board shall keep those records and minutes that are necessary to the ordinary dispatch of its function.

Sec. X-5. 32 MRSA §15205, sub-§3 is enacted to read:

3. Records. The board shall keep a record of the date of last inspection and the type, dimensions, age, conditions and location of all elevators and tramways to which this chapter applies.

Sec. X-6. 32 MRSA §15206, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed and the following enacted in its place:

§15206. Powers and duties of board

The board shall administer, coordinate and enforce this chapter and has the following powers and

duties in addition to those otherwise set forth in this chapter.

1. Rules. The board shall, in accordance with Title 5, chapter 375, adopt rules for the safe and proper construction, installation, alteration, repair, use, operation and inspection of elevators and tramways in the State. The rules must include standards for the review and audit of inspections performed by elevator inspectors not employed by the State. The rules must conform as nearly as practicable to the established standards as approved by the American National Standards Institute.

The board shall publish and distribute among elevator and tramway owners, lessees, manufacturers, repair companies and others requesting them copies of the rules as adopted by the board, at a cost sufficient only to cover the printing and mailing expenses of distribution, except those rules that are American National Standards Institute standards, which must be obtained from the publisher.

2. 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 considered 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, as long as the request for a hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing. Hearings must be conducted in conformity with Title 5, chapter 375 to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

3. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

Sec. X-7. 32 MRSA §15206-A is enacted to read:

§15206-A. Investigations of complaints; revocation of license

1. Investigations. The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. Any person may register a complaint of fraud, deceit, gross negligence, incompetency or

misconduct against any person licensed or required to be licensed under this chapter. These complaints must be in writing, sworn to by the person making them and filed with the Office of Licensing and Registration.

2. Suspension; revocation. The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may suspend or revoke a license of any licensed person who is found guilty of:

A. The practice of fraud or deceit in obtaining a license;

B. Any gross negligence, incompetency or misconduct in the licensee's job performance;

C. Violating any provision of this chapter or any rule of the board; or

D. Conviction of a crime, subject to the limitations of Title 5, chapter 341.

Sec. X-8. 32 MRSA §15208, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15208. Examination of elevator and lift inspectors; licenses

The board shall set standards necessary for the examination of elevator and lift inspectors. The board may set standards for the examination of inspectors limited to the inspection of categories of equipment within the definition of "elevator," including, but not limited to, accessibility lifts. The examination fee is set by the board and may not exceed \$100. The examination must be written, in part or in whole, and must be confined to questions the answers to which will aid in determining the fitness and competency of the applicant for the intended service and must be of uniform standard throughout the State. ~~If an applicant fails to pass this examination, the applicant may appeal to the board for a 2nd examination within 90 days of notification of the applicant's failure to pass, and the 2nd examination must be given by the board or by examiners other than those by whom the first examination was given. Upon the result of this 2nd examination, the board shall determine whether the applicant is qualified.~~

The record of the applicant's examination, ~~whether original or on appeal~~, must be accessible to the applicant. The examinations must be kept on file in the office of ~~the supervising inspector~~ for a period of not less than 2 years.

Applications for examination and license must be made on forms furnished by the board.

An elevator and lift inspector's license expires on the 3rd anniversary date of the original issue. The license fee must be set by the board and may not exceed \$300.

The license may be renewed for a period of 3 years without further examination if a renewal fee in an amount set by the board, not to exceed \$300, is paid and the licensee has worked as an elevator inspector during the initial 3-year period.

Licensed elevator and lift inspectors that install, service or sell elevator or lift equipment may not inspect the equipment that they install, service or sell.

Sec. X-9. 32 MRSA §15209, sub-§5, ¶¶A and B, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, are amended to read:

A. The examination for a licensed tramway inspector must be given by the ~~supervising chief~~ inspector or by 2 or more examiners appointed by the ~~supervising chief~~ inspector. The examination must be written, in whole or in part, and must be confined to questions the answers to which will aid in determining the fitness and competency of the applicant for the intended service and must be of uniform standard throughout the State. ~~If an applicant fails to pass this examination, the applicant may appeal to the board for a 2nd examination within 90 days of notification of the applicant's failure to pass, and the 2nd examination must be given by the board or by examiners other than those by whom the first examination was given. Upon the result of this 2nd examination, the board shall determine whether the applicant is qualified.~~

B. The record of the applicant's examination, ~~whether original or on appeal~~, must be accessible to the applicant. The examinations must be kept on file in the office of ~~the supervising inspector~~ for a period of not less than 2 years.

Sec. X-10. 32 MRSA §15209-A is enacted to read:

§15209-A. Wire rope inspectors; licenses

The board shall license an applicant as a wire rope inspector, who may perform the inspections required for each tramway equipped with wire rope, if that applicant has a total of 5 years' experience in wire rope manufacture, installation, maintenance or inspection. A wire rope inspector's license expires on the 3rd anniversary date of the original issue. The license fee must be set by the board and may not exceed \$150.

Sec. X-11. 32 MRSA §15210, 1st ¶, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

The board may revoke a tramway ~~or~~ elevator or lift inspection license or remove inspection endorsements from an elevator or lift mechanic's license for the following causes:

Sec. X-12. 32 MRSA §15211, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15211. Notice of accidents

Each elevator or tramway accident caused by equipment failure, resulting in injury to a person or in substantial damage to equipment, must be reported by the owner or lessee to the ~~supervising chief~~ inspector in accordance with the board's rules. When an elevator accident occurs, the inspection certificate for the involved elevator must be summarily revoked in accordance with Title 5, section 10004, pending decision on any application with the Administrative Court for a further suspension.

Sec. X-13. 32 MRSA §15213, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15213. Elevator or lift mechanics; license; definition

A person may not service, repair, alter or install any elevator unless that person is licensed as an elevator or lift mechanic under sections 15214 and 15216. Elevator work in industrial plants, manufacturing plants and hospitals may be performed by plant personnel who are not licensed under sections 15214 and 15216 if the work is supervised by the plant engineer and performed in compliance with rules adopted by the board.

The word "elevator," as used in this section and sections 15214 and 15216, includes all electrical equipment, wiring, steelwork and piping in the elevator machine room, hoistway and pit pertaining to the operation and control of an elevator, except power feeders and required power equipment up to the control panel, heating, lighting, ventilation and drainage equipment.

Sec. X-14. 32 MRSA §15214, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15214. Issuance; qualifications

The board shall issue an elevator or lift mechanic's license to any applicant who has at least 2 years' experience in the service, repair, alteration or installation of elevators and lifts while employed by

an elevator company, or has equivalent experience as defined by rules of the board, and satisfactorily passes the examination provided for in section 15216.

A licensed elevator or lift mechanic may not have more than 2 helpers under direct supervision. These helpers need not be licensed.

A licensed elevator or lift mechanic shall comply with the elevator rules of this State.

Sec. X-15. 32 MRSA §15215, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15215. Inspector endorsement to elevator or lift mechanic's license

An elevator or lift mechanic may inspect elevators and lifts if the mechanic has an inspection endorsement to the mechanic's license. The board shall establish rules to examine and qualify mechanics to conduct elevator and lift inspections. The board shall set an ~~examination for endorsement~~ examination-for-endorsement fee, and endorsement and endorsement renewal fees, which may not exceed 1/3 of the elevator or lift inspector's license and renewal fees.

Sec. X-16. 32 MRSA §15216, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15216. Examination of elevator or lift mechanics; applications; licenses; fees

The examination fee for an elevator or lift mechanic's license must be set by the board and may not exceed \$100. The examination must be written, in whole or in part, and must be confined to questions the answers to which will determine the fitness and competency of the applicant for the intended service.

If an applicant for a mechanic's license fails to pass the examination, the applicant may request a 2nd examination ~~within 90 days of notification of the applicant's failure to pass and the 2nd examination must be given without further fee. Any additional examinations may be given only upon the payment of the examination fee as provided in this section.~~

The record and examination papers of the applicant must be accessible to the applicant and the applicant's employer and must be kept on file in the office of the ~~supervising chief~~ inspector for a period of not less than 2 years.

Applications for examination and license must be made on forms furnished by the board.

An elevator or lift mechanic's license expires on the 3rd anniversary date of the original issue ~~and may be renewed for periods of 3 years without further~~

examination, if a renewal fee in an amount set by the board, not to exceed \$100, is paid and the licensee has worked as an elevator mechanic during the initial 3-year period. The license fee must be set by the board and may not exceed \$100.

The license may be renewed for a period of 3 years without further examination if a renewal fee in an amount set by the board, not to exceed \$100, is paid and the licensee has worked as an elevator or lift mechanic during the initial 3-year period.

Sec. X-17. 32 MRSA §§15216-A, 15216-B and 15216-C are enacted to read:

§15216-A. Application fee

The fee charged for an application, which may not exceed \$25, must be set by the board.

§15216-B. Wire rope inspectors; licenses

The board shall license an applicant as a wire rope inspector, who may perform the inspections required on wire rope, if that applicant submits to the board documented evidence of a total of 5 years' experience in wire rope manufacture, installation, maintenance or inspection. The original license fee and renewal fee for a wire rope inspector for a period of 3 years must be set by the board in an amount not to exceed \$200.

§15216-C. License renewal

Any license issued under this chapter is automatically renewable upon payment of the renewal fee as set forth in this chapter. The expiration dates for licenses issued under this chapter may be established at such other times as the commissioner may designate. The board shall notify persons licensed under this chapter of the date of expiration of the license and the fee required for its renewal for a 3-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.

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 may in its discretion waive the examination and other requirements. The board may levy penalties for nonrenewal in an amount not to exceed \$100. Notwithstanding any other provision of this chapter, the board shall waive the examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who failed to renew that person's license

because that person was on active duty in the Armed Forces; except that the waiver of examination may not be granted if the person served a period of more than 4 years in the Armed Forces, unless that person is required by some mandatory provision to serve a longer period and that person submits satisfactory evidence of this mandatory provision to the board.

Sec. X-18. 32 MRSA §15221, sub-§§1, 3, 4 and 6, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, are amended to read:

1. Fees; inspection certificate. Each elevator or tramway proposed to be used within this State must be thoroughly inspected by either the ~~supervising~~ chief inspector, a state inspector or a licensed elevator or tramway inspector and, if found to conform to the rules of the board, the board shall issue to the owner or user an inspection certificate. Fees for inspection and certification of elevators and tramways must be set by the board pursuant to section 15225 and must be paid by the owner or user of the elevator or tramway. The certificate must specify the maximum load to which the elevator or tramway may be subjected, the date of its issuance and the date of its expiration. The elevator certificate must be posted in the elevator and the tramway certificate at a conspicuous place in the machine area.

3. Temporary suspension of inspection certificate; condemnation card. When, in the inspector's opinion, the elevator or tramway can not continue to be operated without menace to the public safety, the ~~supervising~~ chief inspector or state inspector may temporarily suspend an inspection certificate in accordance with Title 5, section 10004 and post or direct the posting of a red card of condemnation at every entrance to the elevator or tramway. The condemnation card is a warning to the public and must be of such type and dimensions as the board determines. The suspension continues, pending decision on any application with the Administrative Court for a further suspension. The condemnation card may be removed only by the inspector posting it or by the ~~supervising~~ chief inspector.

4. Special certificate; special conditions. When, upon inspection, an elevator or tramway is found by the inspector to be in reasonably safe condition but not in full compliance with the rules of the board, the inspector shall certify to the ~~supervising~~ chief inspector the inspector's findings and the ~~supervising~~ chief inspector may issue a special certificate, to be posted as required in this section. This certificate must set forth any special conditions under which the elevator or tramway may be operated.

6. Follow-up inspections. All follow-up inspections necessary to enforce compliance must be performed by either the ~~supervising~~ chief inspector or

a state inspector. A fee as set forth in section 15225 must be charged for those follow-up inspections.

Sec. X-19. 32 MRSA §15224, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15224. Installation of new elevators and tramways; fees

Detailed plans or specifications of each new or altered elevator or tramway must be submitted to and approved by the supervising chief inspector before the construction may be started. Fees for examination of the plans or specifications must be \$5 per \$1,000 of the valuation of the elevator or tramway as covered by the blueprints. The minimum fee may not be less than \$35 and the maximum fee may not be more than \$100.

Sec. X-20. 32 MRSA §15225, sub-§§1, 2 and 4, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, are amended to read:

1. Initial inspection of elevators; fee. The initial inspection of elevators may be made by the supervising chief inspector or ~~a state inspector or the commissioner's designee~~ and the fee for the initial inspection of each new or altered elevator must be set by the board, not to exceed \$100, plus expenses.

2. Initial inspection of tramways; fee. The initial inspection of tramways may be made by the supervising chief inspector, ~~a state inspector or the commissioner's designee~~ or a licensed tramway inspector and the fee for the initial inspection of each new or altered tramway must be set by the board, not to exceed \$100, plus expenses.

4. Annual inspection of tramways; fee. The annual fee for the required inspections of tramways must be set by the board, not to exceed \$200.

Sec. X-21. 32 MRSA §15226, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15226. Reports by inspectors

A state inspector or licensed inspector shall make a full report to the supervising chief inspector, giving all data required by the rules adopted by the board and shall report to the supervising chief inspector and to the owner or lessee all defects found and all non-compliances with the rules. When any serious infraction of the rules is found by a state inspector or licensed inspector and that infraction is, in the opinion of the inspector, dangerous to life, limb or property, the inspector shall report that infraction immediately to the supervising chief inspector.

Sec. X-22. 32 MRSA §15227, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15227. Powers of chief inspector

The board is authorized to investigate all elevator and tramway accidents that result in injury to a person or in damage to the installation.

The supervising chief inspector is authorized:

1. Enforce laws and rules. To enforce the laws of the State governing the use of elevators and tramways and to enforce adopted rules of the board;

2. Free access to premises or location. To provide free access for state inspectors, including the supervising chief inspector, at all reasonable times to any premises in the State where an elevator or tramway is installed or is under construction for the purpose of ascertaining whether that elevator or tramway is installed, operated, repaired or constructed in accordance with this chapter;

3. Supervise inspectors. To allocate and supervise the work of state inspectors;

4. Certificates. To issue and temporarily suspend certificates allowing elevators and tramways to be operated pursuant to Title 5, chapter 375; and

5. Examinations. To hold examinations and establish the fitness of applicants to become elevator or tramway inspectors or elevator mechanics, and to issue certificates or licenses to those persons who have successfully passed required examinations and been approved by the board as licensed elevator or tramway inspectors or elevator mechanics.

PART Y

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

1999-00

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Office of Licensing and Registration

All Other	\$4,000
Provides funds for the costs of adopting rules on behalf of the Board of Hearing Aid Dealers	

and Fitters, the State Board of Veterinary Medicine, the State Board of Certification for Geologists and Soil Scientists and the State Board of Alcohol and Drug Counselors.

See title page for effective date.

CHAPTER 387

S.P. 764 - L.D. 2156

An Act to Amend the Laws Governing the Construction of Salt and Sand Storage Facilities

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

Sec. 1. 23 MRSA §1851, as amended by PL 1989, c. 502, Pt. A, §89, is repealed and the following enacted in its place:

§1851. State cost-share program for salt and sand storage facilities

The Department of Transportation may administer funds for the construction of municipal or county salt and sand storage facilities in order to reduce salt pollution of ground and surface waters. In administering these funds, the department shall provide reimbursement to municipal and county governmental entities for approved projects in the following order, according to priorities established pursuant to Title 38, section 411:

1. Priority 1 projects. Priority 1 projects, as long as the site was registered with the Department of Environmental Protection pursuant to Title 38, section 413 before October 15, 1997, regardless of the date the priority rating was designated;

2. Priority 2 projects. Priority 2 projects, as long as the site was registered with the Department of Environmental Protection pursuant to Title 38, section 413 before October 15, 1997, regardless of the date the priority rating was designated;

3. Priority 3 projects. Priority 3 projects that were designated before October 15, 1997 and continue to be so designated on April 1, 2000 and Priority 3 projects designated on April 1, 2000 that were designated Priority 5 projects prior to October 15, 1997;

4. Priority 4 projects. Priority 4 projects that were constructed before November 1, 1999 with plans and financial information submitted to the Department of Transportation by November 1, 1999. Notwith-

standing any other provision of this section, 20% of all funds authorized by the Legislature after January 1, 1999 for municipal reimbursement of sand and salt storage facility construction costs must be used to reimburse municipalities with Priority 4 projects eligible under this subsection until all such eligible projects have been fully reimbursed. The department shall reimburse municipalities eligible under this subsection in the order in which those municipalities complete the submission of all required documentation;

5. Priority changes. Priority 3 projects designated on April 1, 2000 that were designated Priority 4 projects as of October 15, 1997;

6. Priority 5 projects. Priority 5 projects that were constructed before November 1, 1999, with plans and financial information submitted to the Department of Transportation by November 1, 1999;

7. Other projects. All other projects eligible for reimbursement. Priority 4 and Priority 5 sites designated on April 1, 2000 are not eligible for reimbursement.

Allocation of funds must be based upon the sum of 25% of the expenses permitted plus 1.25 times the ratio of miles of state and state aid roads maintained for winter maintenance, as described in sections 1001 and 1003, to all miles maintained for winter maintenance by the municipality, quasi-municipal agency or county. The Department of Transportation shall establish guidelines to reimburse eligible local government entities in a consistent and timely manner.

The Department of Transportation shall review and approve municipal and county plans and specifications pursuant to established departmental guidelines for design, construction and size before a municipality or county constructs a facility. Municipal actions inconsistent with such guidelines are reimbursed at the sole discretion of the department.

Reimbursable expenses under this section do not include land acquisition or debt service.

Sec. 2. 23 MRSA §1852, as amended by PL 1997, c. 551, §1, is further amended to read:

§1852. Salt and sand storage facilities

In addition to the provisions of section 1851, and prior to calculating reimbursement under that section, the department shall reimburse each municipality and county for 25% of the expenses permitted under section 1851 and incurred for the construction of salt and sand storage facilities approved under section 1851.