

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

2. Duties of commissioner. The commissioner shall:

A. Require a negative Coggins test, taken within 36 months, on all equines raced on, exhibited at or stabled at racetracks or fairgrounds. The commissioner shall require a negative test from all equines entering this State within 6 months before the date of entry and may require any equines to be tested prior to entering the State. Any equine not tested or required by the commissioner to be tested prior to entering this State must be quarantined until tested at the owner's expense;

B. Require that any equine having a positive test be immediately quarantined and isolated from other equines pending a 2nd test done by a state veterinarian; and

C. Require that all other equines on the premises where an equine has tested positive remain on the premises pending an investigation and testing as the commissioner determines necessary.

3. Disposition of reactors. Any equine that has a positive 2nd test pursuant to subsection 2 must be considered a reactor. A reactor must be:

A. Humanely euthanized within 7 days of the 2nd test. Euthanasia must be performed by a licensed veterinarian or as the commissioner directs. A veterinarian euthanizing a reactor shall report the euthanasia to the commissioner within 2 working days;

B. Freeze branded with a brand with an "11 EIA" no less than 4 inches in height on the left side of the neck and shipped directly to a United States Department of Agriculture slaughter facility under a federal order; or

C. Freeze branded with a brand with an "11 EIA" no less than 4 inches in height on the left side of the neck and permanently quarantined and isolated from all other equines. The reactor must be kept a minimum of 1/4 mile from the nearest paddock, pasture or barn having an equine species or may be kept within 1/4 mile if the reactor is immediately placed and kept at all times in a screened-in enclosure acceptable to the commissioner.

See title page for effective date.

CHAPTER 573

H.P. 1553 - L.D. 2056

An Act to Strengthen the Laws Governing Inspections of Boilers, Pressure Vessels, Elevators and Tramways

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

PART A

Sec. A-1. 32 MRSA §15104-A, sub-§1, as enacted by PL 1999, c. 386, Pt. W, §7, is amended to read:

1. Rules. The board shall, in accordance with Title 5, chapter 375, adopt rules to implement the purposes of this chapter, including 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. Rules adopted by the board under this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

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.

Sec. A-2. 32 MRSA §15104-B is enacted to read:

§15104-B. Appeals; variances

A person aggrieved by an order or act of the chief inspector or a deputy 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.

Any person who is or will be aggrieved by the application of any law, code or rule relating to the installation or alteration of boilers and pressure vessels may file a petition for a variance, whether compliance with that provision is required at the time of filing or at the time that provision becomes effective. The filing fee for a petition for a variance must be set by the Director of the Office of Licensing and Registration under section 15109, subsection 9. The chief inspector may grant a variance if, owing to conditions especially affecting the particular boiler or pressure vessel involved, the enforcement of any law, code or rule relating to boilers or pressure vessels would do

manifest injustice or cause substantial hardship, financial or otherwise, to the petitioner or would be unreasonable under the circumstances, provided that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of that law, code or rule. In granting a variance under this section, the chief inspector may impose limitations both of time and of use, and a continuation of the use permitted may be conditioned upon compliance with rules made and amended from time to time. A copy of the decision must be sent to all interested parties.

Sec. A-3. 32 MRSA §15108-B, as amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§15108-B. Investigations of complaints; revocation of license, registration or certificate

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, registration or certificate pursuant to Title 5, section 10004. The board may refuse to issue or renew a license, registration or certificate or the District Court may suspend or revoke a license of any licensed person, firm, partnership, association, corporation or company who holds a license, registration, or certificate or any applicant who is found guilty of for a license, registration or certificate on any of the following grounds:

- A. The practice of fraud or deceit in obtaining a license, registration or certificate;
- 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. A-4. 32 MRSA §15109, sub-§9, as repealed and replaced by PL 2001, c. 323, §39, is amended to read:

9. Fees. The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any accreditation review, facility review or inspection of any one boiler or pressure vessel may not exceed \$500, the fee for any shop inspection may not exceed \$3,000, the fee for an inspection certificate for any one boiler or pressure vessel may not exceed \$100, the fee for a late inspection or a late certificate may not exceed \$250 and the fee for any other purpose may not exceed \$150 triennially. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. A-5. 32 MRSA §15117, first ¶, as amended by PL 2001, c. 323, §43, is further amended to read:

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,~~ a deputy inspectors inspector or an authorized inspectors inspector, 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 under section 15109, subsection 9 must be set by the director. 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~~ the date of inspection in the case of boilers and 38 months from ~~its~~ the date of inspection in the case of pressure vessels 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. The board may adopt rules setting forth criteria by which a temporary extension of an inspection certificate beyond 14 months in the case of boilers and beyond 38 months in the case of pressure vessels may be authorized. Rules

adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. A-6. 32 MRSA §15119, sub-§§2 and 3, as amended by PL 1999, c. 386, Pt. W, §29, are further amended to read:

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~~

Sec. A-7. 32 MRSA §15119, sub-§5 is enacted to read:

5. Order uninspected or unrepaired boilers and pressure vessels out of service. In addition to the chief inspector's powers under section 15117, order that a boiler or pressure vessel be taken out of service if an inspection report is not submitted to the board as required by section 15121, subsection 1, if the inspection certificate fee is not submitted as required by section 15121, subsection 2 or if the owner fails to make repairs as required by the board.

Sec. A-8. 32 MRSA §15120, as amended by PL 1999, c. 687, Pt. E, §17, is further amended to read:

§15120. Authorized inspectors; duties

~~In addition to any deputy boiler inspectors certified and appointed under section 15106, the~~ 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 ~~licensed~~ authorized inspectors. Each inspector before receiving a certificate of authority must 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. ~~Licensed~~ Authorized inspectors are not entitled to receive a salary from, nor may any of their expenses be paid by, the State. The continuance of a ~~licensed~~ an authorized inspector's certificate is conditioned upon the ~~licensed~~ authorized inspector continuing in the employ of a boiler inspection and insurance company duly authorized and upon maintenance of the standards imposed by this chapter. ~~Licensed~~ Authorized inspectors shall inspect all boilers and pressure vessels 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. Authorized inspectors

may, with the permission of the chief inspector, also inspect boilers or pressure vessels for which an application for insurance against loss from explosion of boilers or pressure vessels has been made or when a new boiler or pressure vessel is installed at an insured location and the prospective insured owner or user is exempt from the payment of fees provided for in section 15118. Each company employing ~~licensed~~ authorized inspectors shall, within 30 days following each certificate inspection made by the inspectors, file a report of the inspection with the chief inspector.

Sec. A-9. 32 MRSA §15121 is enacted to read:

§15121. Duties of owners of boilers and pressure vessels

1. Responsibility for inspection. It is the responsibility of the owner to arrange for an inspection of a boiler or pressure vessel and to prepare the boiler or pressure vessel for inspection. The late inspection fee set by the Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation under section 15109, subsection 9 may be assessed against the owner if an inspection report is not submitted within 60 days of the expiration of the most recent inspection certificate.

2. Obtain inspection certificate. The owner of a boiler or pressure vessel shall submit the inspection certificate fee set by the Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation under section 15109, subsection 9 within 60 days of notification from the board that the inspection report required under section 15120 has been received by the board. Failure to submit the required fee within the 60 days provided may result in the assessment of a late certificate fee set by the director under section 15109, subsection 9.

3. Failure to qualify for inspection certificate. The owner of a boiler or pressure vessel that does not qualify for an inspection certificate shall take the boiler or pressure vessel out of operation until the required repairs have been made and a new inspection certificate has been issued.

4. Notify board when required repairs made. The owner of a boiler or pressure vessel shall notify the board when required repairs have been made and provide the board with satisfactory evidence of completion.

5. Notify board when boiler or pressure vessel removed. The owner of a boiler or pressure vessel shall notify the board within 30 days of the removal of the boiler or pressure vessel.

6. Change of ownership. The owner of a boiler or pressure vessel shall notify the board of a transfer of ownership within 30 days of such a transfer.

7. Failure to comply. In addition to the remedies available under this chapter, an owner of a boiler or pressure vessel who fails to comply with the provisions of this chapter or rules adopted by the board is subject to the provisions of Title 10, section 8003, subsection 5 whether or not the boiler or pressure vessel has a current inspection certificate, except that, notwithstanding Title 10, section 8003, subsection 5, paragraph A-1, subparagraph 3, a civil penalty of up to \$3,000 may be imposed for each violation.

PART B

Sec. B-1. 32 MRSA §15201, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15201. Declaration of policy

It is the policy of the State to protect its citizens and visitors from unnecessary mechanical hazards in the operation of elevators and tramways and to ensure that reasonable design and construction are used, that accepted safety devices and sufficient personnel are provided and that periodic maintenance, inspections and adjustments considered essential for the safe operation of elevators and tramways are made. The ~~primary~~ responsibility for design, construction, maintenance and inspection rests with the firm, person, partnership, association ~~or~~, corporation or company that owns ~~or operates~~ elevators or tramways.

Sec. B-2. 32 MRSA §15202, sub-§§2-A, 4-A, 4-B, 4-C and 5-A are enacted to read:

2-A. Chief inspector. "Chief inspector" means an individual in the employ of the State whose duties include the examination and inspection of elevators and tramways and who has been designated as chief inspector by the Commissioner of Professional and Financial Regulation.

4-A. Deputy inspector. "Deputy inspector" means an individual in the employ of the State whose duties include the examination and inspection of elevators and tramways under the direction of the chief inspector.

4-B. Direct supervision. "Direct supervision" means that a helper is working in the presence of a licensed elevator or lift mechanic at all times.

4-C. Director. "Director" means the Director of the Office of Licensing and Registration.

5-A. Elevator contractor. "Elevator contractor" means any person, firm, partnership, association, corporation or company engaged in the installation, sale, service, maintenance or inspection of elevators in this State.

Sec. B-3. 32 MRSA §15202, sub-§7, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed.

Sec. B-4. 32 MRSA §15202, sub-§§7-A and 7-B are enacted to read:

7-A. Helper. "Helper" means a person who is not licensed under this chapter as an elevator mechanic or lift mechanic and who assists in the installation, service or maintenance of elevators located in this State while working under the direct supervision of a licensed elevator mechanic or licensed lift mechanic.

7-B. Licensed private elevator inspector. "Licensed private elevator inspector" or "licensed private elevator and lift inspector" means an individual who has been licensed by the board to inspect elevators pursuant to this chapter and who is not a state employee whose duty is to inspect elevators.

Sec. B-5. 32 MRSA §15202, sub-§8, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

8. Licensed private tramway inspector. "Licensed private tramway inspector" means an individual who has been licensed by the Board of Elevator and Tramway Safety to inspect tramways pursuant to this chapter and who is not a state employee whose duty is to inspect tramways.

Sec. B-6. 32 MRSA §15202, sub-§12, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed.

Sec. B-7. 32 MRSA §15202, sub-§14, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

14. Skier. "Skier" means any person while wearing skis or using a snowboard and any person while actually on a ski slope or trail located at a ski area for the purpose of skiing, including a person engaged in snowboarding or cross-country, nordic or telemark skiing.

Sec. B-8. 32 MRSA §15202, sub-§18, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed.

Sec. B-9. 32 MRSA §15203, first ¶, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

This chapter may not be construed to prevent the use or sale of elevators in this State that were being used or installed prior to January 1, 1950 and that ~~must be~~ have been made to conform to the rules of the board covering existing installations and must be inspected as provided for in this chapter.

Sec. B-10. 32 MRSA §15204, as amended by PL 1999, c. 386, Pt. X, §3, is further amended to read:

§15204. Appeals; variances

A person aggrieved by an order or act of the chief inspector or ~~the state a deputy~~ 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.

Any person who is or will be aggrieved by the application of any law, code or rule relating to the installation or alteration of elevators or tramways may file a petition for a variance ~~with the board~~, whether compliance with that provision is required at the time of filing or at the time that provision becomes effective. The filing fee for a petition for a variance ~~must be set by the board and may not exceed \$100~~ must be set by the director under section 15225-A. ~~The board shall hold a hearing pursuant to Title 5, chapter 375, subchapter IV. The board shall~~ chief inspector may grant a variance if, owing to conditions especially affecting the particular building or installation involved, the enforcement of any law, code or rule relating to elevators or tramways would do manifest injustice or cause substantial hardship, financial or otherwise, to the petitioner or any occupant of the petitioner's building or would be unreasonable under the circumstances or condition of the property, provided that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of that law, code or rule. ~~In exercising its powers~~ granting a variance under this section, the ~~board chief inspector~~ may impose limitations both of time and of use, and a continuation of the use permitted may be conditioned upon compliance with rules made and amended from time to time. ~~The board immediately shall send a copy of its decision by registered mail to all interested parties. A copy of the decision must be sent to all interested parties.~~

Sec. B-11. 32 MRSA §15206, sub-§1, as enacted by PL 1999, c. 386, Pt. X, §6, is amended to read:

1. Rules. The board shall, in accordance with Title 5, chapter 375, adopt rules to implement the purposes of this chapter, including 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 licensed private 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. Rules adopted by the board under this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

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.

Sec. B-12. 32 MRSA §15206-A, as enacted by PL 1999, c. 386, Pt. X, §7 and amended by c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§15206-A. Investigations of complaints; revocation of license, registration or certificate

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, registration or certificate pursuant to Title 5, section 10004. The board may refuse to issue or renew a license, registration or certificate or the District Court may suspend or revoke a license, registration or certificate of any ~~licensed person who is found guilty of~~ person, firm, partnership, association, corporation or company who holds a license, registration or certificate or any applicant for a license, registration or certificate on any of the following grounds:

- A. The practice of fraud or deceit in obtaining a license, registration or certificate;
- 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. B-13. 32 MRSA §15208, as amended by PL 1999, c. 627, §1, is repealed and the following enacted in its place:

§15208. Examination of private elevator and lift inspectors; licenses and renewals

The board shall set standards necessary for the licensure and renewal of private elevator and lift inspectors. The board may adopt rules relating to the qualifications for licensure and renewal of private elevator and lift inspectors, including requirements for examination and continuing education. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The fee for applications, examinations, licenses and renewals must be established by the director pursuant to section 15225-A and Title 10, section 8003, subsection 2-A, paragraph D. Licenses are issued for a period of one year.

An elevator contractor or a person who is licensed as a private elevator and lift inspector who services an elevator or lift equipment may not inspect that elevator or lift equipment within 12 months from the date of servicing that elevator or lift equipment.

Sec. B-14. 32 MRSA §15208-A is enacted to read:

§15208-A. Registration of elevator contractors

Any person, firm, partnership, association, corporation or company engaged in the installation, sale, service, maintenance or inspection of elevators in this State shall register with the board annually. The registration must be submitted on a form provided by the board and must include the names and addresses of all licensed private inspectors, licensed mechanics and all helpers employed by the elevator contractor. An elevator contractor shall notify the board of any change in the information required under this section within 30 days of the change. The required fee for registration must be set by the director under section 15225-A.

Sec. B-15. 32 MRSA §15209, as amended by PL 1999, c. 386, Pt. X, §9, is further amended to read:

§15209. Examination of private tramway inspectors; licenses

The board shall license an applicant as a private tramway inspector, who may perform the inspections required on tramways, if that applicant:

1. Registration. Is a professional engineer with a current valid registration in some state. If an

applicant for a private tramway inspector's license demonstrates to the board that the applicant possesses more than 6 years' experience in the construction, design, inspection and operation of tramways, this registration requirement may be waived by the board;

2. Experience. Has considerable experience in the construction, design or maintenance of tramways;

3. Experience in inspecting. Has 4 years' experience inspecting tramways while working for an insurance company, a government agency or a company performing tramway or similar equipment inspections;

4. Capability and aptitude. Has the physical capability and aptitude to perform the duties of a private tramway inspector in a safe and thorough manner; and

5. Examination. Has sufficient experience and knowledge to achieve a satisfactory rating in an examination designed to test the applicant's knowledge of orders and principles of tramway safety. When an applicant for a private tramway inspector's license demonstrates more than 6 years' experience in the construction, design, inspection and operation of tramways, the provisions for examination must be waived.

A. The examination for a licensed private tramway inspector must be given by the chief inspector or by 2 or more examiners appointed by the 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.

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

C. A private tramway inspector's license ~~expires on the 3rd anniversary date of the original issue~~ is issued for a period of one year. The license fee must be set by the ~~board and may not exceed \$150~~ director under section 15225-A.

D. Applications for examination and license must be on forms furnished by the board. The examination fee for a private tramway inspector's license must be set by the ~~board and may not exceed \$100~~ director under section 15225-A.

Sec. B-16. 32 MRSA §15209-A, as enacted by PL 1999, c. 386, Pt. X, §10, is amended to read:

§15209-A. Private wire rope inspectors; licenses

The board shall license an applicant as a private 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 private wire rope inspector's license ~~expires on the 3rd anniversary date of the original issue~~ is issued for a period of one year. The license fee must be set by the ~~board and may not exceed \$150~~ director under section 15225-A.

Sec. B-17. 32 MRSA §15210, as amended by PL 1999, c. 386, Pt. X, §11, is further amended to read:

§15210. Revocation of private tramway or elevator inspector's license

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

1. Failure to submit true reports. For failure to submit true reports concerning the conditions of a tramway or elevator or for conduct determined by the board to be contrary to the best interests of tramway or elevator safety or the board; ~~or~~

2. Physical infirmities. For physical infirmities that develop to a point at which it appears that an inspector or mechanic is no longer able to perform the required duties in a thorough and safe manner; ~~or~~

3. Failure to comply with chapter or rules. Failure to comply with any provision of this chapter or any rule adopted by the board. Rules adopted by the board pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. B-18. 32 MRSA §15211, as amended by PL 1999, c. 386, Pt. X, §12 and amended by c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

§15211. Notice of accidents

1. Reporting accidents. Each elevator or tramway accident that is caused by equipment failure or results in significant injury to a person or results in substantial damage to equipment must be reported by the owner or lessee to the chief inspector in accordance with the board's rules.

2. Revocation of certificate. When an elevator or tramway accident as described in subsection 1 occurs, the inspection certificate for the involved elevator or tramway may be summarily revoked in accordance with and subject to the standards and limitations of Title 5, section 10004, pending decision

on any application with the District Court for a further suspension.

Sec. B-19. 32 MRSA §15212, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

§15212. Examination of accidents

The ~~board~~ chief inspector may examine or cause to be examined the cause, circumstances and origin of all elevator or tramway accidents within the State. Upon request, the ~~board~~ chief inspector shall furnish to the proper district attorney the names of witnesses and all information obtained.

Sec. B-20. 32 MRSA §15213, as amended by PL 1999, c. 386, Pt. X, §13, is further 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~~ this chapter. Elevator work in industrial plants, and manufacturing plants ~~and hospitals~~ may be performed by plant personnel who are not licensed under ~~sections 15214 and 15216~~ this chapter 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~~ chapter, 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. B-21. 32 MRSA §15214, as amended by PL 1999, c. 386, Pt. X, §14, is further 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~~ meets the requirements established pursuant to 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~~ provisions of this chapter and the rules adopted by the board. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. B-22. 32 MRSA §15215, as amended by PL 1999, c. 386, Pt. X, §15, is repealed.

Sec. B-23. 32 MRSA §15216, as amended by PL 1999, c. 386, Pt. X, §16, is repealed and the following enacted in its place:

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

The board shall set standards necessary for the licensure and renewal of elevator or lift mechanics. The board may adopt rules relating to the qualifications for licensure and renewal of elevator or lift mechanics, including requirements for examination and continuing education. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The fee for applications, examinations, licenses and renewals must be established by the director pursuant to section 15225-A and Title 10, section 8003, subsection 2-A, paragraph D. Licenses are issued for a period of one year.

Sec. B-24. 32 MRSA §§15216-A and 15216-B, as enacted by PL 1999, c. 386, Pt. X, §17, are repealed.

Sec. B-25. 32 MRSA §15216-C, as enacted by PL 1999, c. 386, Pt. X, §17, is amended to read:

§15216-C. License renewal

Any license issued under this chapter is ~~auto-~~ renewable upon satisfaction of the applicable requirements for renewal and payment of the renewal fee as set forth in this chapter required fee set by the director under section 15225-A. 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. B-26. 32 MRSA §15221, as amended by PL 1999, c. 386, Pt. X, §18 and amended by c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§15221. Inspection of elevators and tramways

1. Fees; inspection certificate. Each elevator or tramway proposed to be used within this State must be thoroughly inspected by either the chief inspector, a ~~state deputy~~ inspector or a licensed ~~private~~ 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~~ director under section 15225-A 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.

2. Scheduled inspections. ~~A state inspector or licensed elevator inspector shall inspect every elevator on a schedule determined by the board. The schedule must be based on the class, size and usage of the elevator. A state inspector or licensed tramway inspector shall inspect every tramway twice each year. The owner of an elevator shall have the elevator inspected annually by a licensed private elevator inspector, the chief inspector or a deputy inspector. The owner of a tramway shall have the tramway inspected by a licensed private tramway inspector, the chief inspector or a deputy inspector twice each year.~~ One tramway inspection must be made when weather conditions permit a complete inspection of all stationary and moving parts. The 2nd tramway inspection must be made while the tramway is in operation.

3. Temporary suspension of inspection certificate; condemnation card. When, in the inspec-

tor's opinion, the elevator or tramway can not continue to be operated without menace to the public safety, the chief inspector or state deputy 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 District Court for a further suspension. The condemnation card may be removed only by the inspector posting it or by the 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 chief inspector the inspector's findings and the 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.

5. Inspection reports. Licensed private tramway and elevator inspectors shall submit inspection reports to the board owner on a form provided by the board for ~~all inspections~~ within 15 working days from the date of the inspection.

6. Follow-up inspections. All follow-up inspections necessary to enforce compliance must be performed by either the chief inspector or a state deputy inspector. A fee ~~as set forth in section 15225 set by the director under section 15225-A~~ must be charged for those follow-up inspections.

7. Certificate not transferable. An inspection certificate may not be transferred to any other person, firm, corporation or association. If ownership of an elevator or tramway is transferred, the new owner must apply for a new inspection certificate as required by section 15229, subsection 7.

Sec. B-27. 32 MRSA §15223, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed and the following enacted in its place:

§15223. Criminal operation of elevator or tramway

1. Prohibition. An owner of an elevator or tramway is guilty of criminal operation of an elevator or tramway if that owner operates that elevator or tramway without a current and valid inspection certificate.

2. Strict liability. Criminal operation of an elevator or tramway is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

3. Specific number of days of criminal operation. Each day of criminal operation does not constitute a separate crime.

4. Class of crime; enhanced fine. Criminal operation of an elevator or tramway is a Class E crime. However, notwithstanding Title 17-A, section 1301, subsection 1-A, paragraph E or Title 17-A, section 1301, subsection 3, paragraph E, the court may impose an enhanced fine. The fine amount above that authorized under Title 17-A, section 1301 is based solely on the number of days of criminal operation pleaded and proved by the State. For each day of criminal operation pleaded and proved, the court may increase the fine amount by up to \$100 for each of those days.

5. Imposition of sentence without enhanced fine. Nothing in subsection 3 or 4 may be construed to restrict a court, in imposing any authorized sentencing alternative, including a fine in an amount authorized under Title 17-A, section 1301, subsection 1-A, paragraph E or Title 17-A, section 1301, subsection 3, paragraph E, from considering the number of days of illegal operation, along with any other relevant sentencing factor, which need not be pleaded or proved by the State.

Sec. B-28. 32 MRSA §15224, as amended by PL 1999, c. 386, Pt. X, §19, is further 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 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 set by the director under section 15225-A. The minimum fee may not be less than \$35 and the maximum fee may not be more than \$100.~~

Sec. B-29. 32 MRSA §15225, as amended by PL 1999, c. 386, Pt. X, §20, is repealed.

Sec. B-30. 32 MRSA 15225-A is enacted to read:

§15225-A. Fees

The director, pursuant to Title 10, section 8003, subsection 2-A, paragraph D, may establish by rule fees authorized under this chapter in amounts that are

reasonable and necessary for their respective purposes, subject to the following limitations.

1. Annual inspection or special inspection of elevators; fee. The fee for each annual or special inspection of elevators may not exceed \$100, plus \$10 for each landing.

2. Annual inspection of tramways; fee. The annual fee for the required inspections of tramways may not exceed \$200.

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

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

5. Initial inspection of elevators. The initial inspection of elevators must be made by the chief inspector or a deputy inspector or the commissioner's designee, and the fee for the initial inspection of each new or altered elevator may not exceed \$500, plus expenses.

6. Initial inspection of tramways; fee. The initial inspection of tramways must be made by the chief inspector or a deputy inspector or the commissioner's designee or a licensed private tramway inspector and the fee for the initial inspection of each new or altered tramway may not exceed \$500, plus expenses.

7. Inspection certificate fee. The inspection certificate fee may not exceed \$100.

8. Late inspection certificate fee. The late inspection certificate fee may not exceed \$250.

9. License or registration. The fee for licensure may not exceed \$100 per year.

10. Renewal of license, registration or inspection certificate. The fee for renewal of a license, registration or inspection certificate may not exceed \$100 per year.

11. Review of plans. The fee for review of elevator plans may not exceed \$5 per \$1,000 of valuation as covered by the blueprints, except that the minimum fee for a review may not be less than \$35 and the maximum fee may not be more than \$100.

The fee for any other authorized purpose not specified in this section may not exceed \$100. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. B-31. 32 MRSA §15226, as amended by PL 1999, c. 386, Pt. X, §21, is further amended to read:

§15226. Reports by inspectors

A state deputy inspector or licensed private inspector shall make a full report to the chief inspector, giving all data required by the rules adopted by the board and shall report to the chief inspector and to the owner ~~or lessee~~ all defects found and all noncompliances with the rules. When any serious infraction of the rules is found by a state deputy inspector or licensed private 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 chief inspector.

Sec. B-32. 32 MRSA §15227, sub-§2, as amended by PL 1999, c. 386, Pt. X, §22, is further amended to read:

2. Free access to premises or location. To provide free access for state deputy inspectors, including the 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;

Sec. B-33. 32 MRSA §15227, sub-§§3, 4 and 5, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, are amended to read:

3. Supervise inspectors. To allocate and supervise the work of state deputy 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 licensed private 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 private elevator or tramway inspectors or elevator mechanics; and

Sec. B-34. 32 MRSA §15227, sub-§6 is enacted to read:

6. Take uninspected or unrepared elevators and tramways out of service. To take an elevator or tramway out of service in accordance with Title 5, section 10004 if an inspection report has not been submitted to the board within 60 days of the expiration of the most recent certificate or if the owner has failed to make repairs as required by the board. This power is in addition to the chief inspector's powers under section 15221, subsection 3.

Sec. B-35. 32 MRSA §15229 is enacted to read:

§15229. Duties of owners of elevators or tramways

1. Owner responsibility. The responsibility for design, construction, maintenance and inspection of an elevator or tramway rests with the person, firm, partnership, association, corporation or company that owns the elevator or tramway.

2. Obtain inspection certificate. The owner of an elevator or tramway shall submit an annual application for an annual inspection certificate together with the inspection report within 30 business days of the inspection and prior to the expiration of the current certificate. The application must be on a form provided by the board and must be accompanied by the required fee set by the director under section 15225-A. A late fee set by the director under section 15225-A may be assessed for failure to submit the application and inspection report in a timely manner.

3. Failure to qualify for inspection certificate. The owner of an elevator or tramway that does not qualify for an inspection certificate shall take the elevator or tramway out of operation until the required repairs have been made and a new inspection certificate has been issued.

4. Notify board when required repairs made. The owner of an elevator or tramway shall notify the board when required repairs have been made and provide the board with satisfactory evidence of completion.

5. Elevator or tramway declared idle or placed out of service. The owner of an elevator or tramway that has been declared idle or placed out of service in accordance with rules adopted by the board shall notify the board within 30 days of declaring the elevator or tramway idle.

6. Removal. The owner of an elevator or tramway shall notify the board within 30 days of the removal of the elevator or tramway.

7. Change of ownership. The owner of record of an elevator or tramway shall notify the board of a transfer of ownership of an elevator within 30 days of such transfer. The new owner shall apply, on a form provided by the board, for a new inspection certificate that will be issued without the need for an additional inspection for the remainder of the term of the current certificate. A fee for issuance of a new inspection certificate may be set by the director under section 15225-A.

8. Failure to comply. In addition to the remedies available under this chapter, an owner who fails to comply with the provisions of this chapter or rules

adopted by the board is subject to the provisions of Title 10, section 8003, subsection 5 whether or not the elevator or tramway has a current inspection certificate, except that, notwithstanding Title 10, section 8003, subsection 5, paragraph A-1, subparagraph 3, a civil penalty of up to \$3,000 may be imposed for each violation.

Sec. B-36. Transition. In order to accomplish the transition from licenses issued for a 3-year period to licenses issued for a one-year period, the license or renewal fee assessed will be 1/3 of the fee for a 3-year license until annual license and renewal fees can be adopted by the Director of the Office of Licensing and Registration pursuant to the Maine Revised Statutes, Title 10, section 8003, subsection 2-A, paragraph D and Title 32, section 15225-A.

Sec. B-37. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement

Initiative: Allocates funds for one Boiler Inspector position, one Elevator Inspector position and one Clerk Typist III position and related administrative costs associated with increasing compliance with safety standards that relate to maintenance of boilers and elevators and to strengthen the State's ability to enforce current safety standards.

Other Special Revenue Funds	2001-02	2002-03
Positions - Legislative Count	(0.000)	(3.000)
Personal Services	\$0	\$162,525
All Other	0	29,600
Total	\$0	\$192,125

See title page for effective date.

CHAPTER 574

H.P. 1525 - L.D. 2029

An Act to Amend the Laws Regarding Public Health

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

Sec. 1. 5 MRSA §12004-I, sub-§36-B, as enacted by PL 1991, c. 780, Pt. LL, §1, is repealed.

Sec. 2. 19-A MRSA §651, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

1. Place of recording. Residents of the State intending to be joined in marriage shall record notice