

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

A. The customer requesting the use of the employee toilet facility suffers from an eligible medical condition;

B. Three or more employees of the retail establishment are working at the time the customer requests the use of the employee toilet facility;

C. Allowing the customer to use the toilet facility would not impose an undue burden on the retail establishment;

D. The retail establishment does not normally make a toilet facility available to the public;

E. The employee toilet facility is not located in an area where providing access would create an obvious health or safety risk to the customer or an obvious security risk to the retail establishment; and

F. A public toilet facility is not immediately accessible to the customer.

2. Liability. A retail establishment or an owner or employee of a retail establishment is not civilly liable for any act or omission in allowing a customer to use an employee toilet facility that is not a public toilet facility pursuant to subsection 1 unless:

A. The retail establishment or owner or employee of the retail establishment is willfully or grossly negligent;

B. The act or omission occurs in an area of the retail establishment that is not accessible to the public; and

C. The act or omission results in an injury to or death of the customer or an individual other than an employee accompanying the customer.

3. Modifications not required. A retail establishment is not required to make any physical change to an employee toilet facility under this section.

4. Application. This section may not be construed to limit the rights, remedies and procedures afforded to individuals pursuant to the Maine Human Rights Act. The civil penalties in section 1674 may not be assessed for any violation of this section.

Sec. 3. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 270, in the chapter headnote, the words "shopping centers" are amended to read "shopping centers and retail establishments" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 153

H.P. 591 - L.D. 860

An Act Relating to Geothermal Heat Exchange Wells

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

Sec. 1. 32 MRSA §4700-E, sub-§3-C is enacted to read:

3-C. Geothermal heat exchange well. "Geothermal heat exchange well" means a hole drilled, driven or bored into the earth for the purpose of using the heat exchange capacity of the earth for heating and cooling.

Sec. 2. 32 MRSA §4700-E, sub-§3-D is enacted to read:

3-D. Geothermal heat exchange well driller. "Geothermal heat exchange well driller" means a person, firm or corporation engaged in the work of drilling, driving or boring geothermal heat exchange wells.

Sec. 3. 32 MRSA §4700-E, sub-§3-E is enacted to read:

3-E. Geothermal heat exchange well pump installer. "Geothermal heat exchange well pump installer" means a person who is engaged to work at and learn the trade of geothermal heat exchange well pump installation.

Sec. 4. 32 MRSA §4700-E, sub-§6, as amended by PL 2001, c. 209, Pt. B, §2, is further amended to read:

6. Pump or pump system. ~~"Pump"~~ For purposes of a water well, "pump" or "pump system" means mechanical equipment or a device used to remove water from a well including all piping and wiring up to the existing equipment in the structure. For the purposes of a geothermal heat exchange well, "pump" or "pump system" means the mechanical equipment or device used to move fluid from the geothermal heat exchange well, including all piping and wiring, up to the existing equipment in the structure.

Sec. 5. 32 MRSA §4700-E, sub-§11, as enacted by PL 2001, c. 209, Pt. B, §2, is amended to read:

11. Well drilling company. "Well drilling company" means a person, firm, partnership or corporation that owns or otherwise operates any mechanical equipment used to drill, drive or bore water wells or geothermal heat exchange wells.

Sec. 6. 32 MRSA §4700-F, sub-§1, as amended by PL 1993, c. 25, §6, is further amended to read:

1. Applicability. The provisions of this chapter apply to all water wells constructed in the State after January 1, 1994. The provisions of this chapter relating to geothermal heat exchange well construction, geothermal heat exchange well pump installation and licensing requirements for geothermal heat exchange well drillers and geothermal heat exchange well pump installers apply after final adoption of initial rules pursuant to section 4700-I, subsection 2-A.

Sec. 7. 32 MRSA §4700-G, sub-§1, as amended by PL 2001, c. 209, Pt. B, §3, is further amended to read:

1. Establishment of commission. The Maine Water Well Commission, as authorized by Title 5, chapter 379, is established to carry out the provisions of this chapter. The purpose of the commission is to provide the public with the highest quality drinking water possible by ensuring that water wells and geothermal heat exchange wells are drilled, constructed, altered or abandoned in a manner that protects groundwater from contamination.

Sec. 8. 32 MRSA §4700-G, sub-§2, as amended by PL 2001, c. 209, Pt. B, §4 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

2. Membership. The commission consists of the ~~Director~~ director of the ~~Division~~ division of ~~Health Engineering environmental health~~ within the Department of Health and Human Services or the director's designee; the Director of the Bureau of Geology and Natural Areas within the Department of Conservation or the director's designee; the Commissioner of Transportation or the commissioner's designee; and 4 public members, 3 of whom must be well drillers.

Sec. 9. 32 MRSA §4700-H, sub-§1-A, as enacted by PL 1993, c. 25, §8 and affected by §15, is amended to read:

1-A. Administer examinations. The commission shall develop and administer all examinations required by section 4700-I, subsection 4. All examinations must be written examinations and must test an applicant's knowledge of the ~~principles of water well drilling, abandonment of water wells and the installation of water well pumps.~~ following matters as is appropriate for the license or license endorsement for which the application is made:

A. Principles of water well drilling;

B. Principles of geothermal heat exchange well drilling;

C. Abandonment of water wells;

D. Abandonment of geothermal heat exchange wells;

E. Installation of water well pump systems;

F. Installation of geothermal heat exchange well pump systems; and

G. The code of performance adopted by the commission.

Sec. 10. 32 MRSA §4700-H, sub-§2, as amended by PL 2001, c. 209, Pt. B, §7, is further amended to read:

2. Licensing. The commission shall license well drillers, geothermal heat exchange well drillers, well drilling companies, geothermal heat exchange well pump installers, pump installers and pump installation companies and may initiate action for the revocation or suspension of such licenses.

Sec. 11. 32 MRSA §4700-H, sub-§3, as amended by PL 2001, c. 209, Pt. B, §7, is further amended to read:

3. Investigate complaints. The commission shall investigate complaints and cases of noncompliance with, or violation of, this chapter or of the ~~well driller and pump installer~~ code of performance adopted by the commission. Complainants must petition the commission in writing within 24 months of completion of a water well or geothermal heat exchange well or the installation, repair or replacement of a pump system. At its discretion, the commission may request that an investigation of an alleged violation be conducted by a neutral qualified individual, acceptable to both the alleged violator and the commission, who shall report to the commission. At its discretion, the commission may refer a complaint to the Attorney General.

Sec. 12. 32 MRSA §4700-H, sub-§4, as amended by PL 2001, c. 209, Pt. B, §8, is further amended to read:

4. Revocation and suspension of license. If the commission determines a violation of this chapter, the ~~well driller and pump installer~~ code of performance adopted by the commission or other laws and rules in effect, including for a well driller or a well drilling company the water well information laws, under Title 12, section 550-B, has occurred, the commission shall notify the responsible ~~water~~ well driller, geothermal heat exchange well driller, well drilling company, geothermal heat exchange well pump installer, pump installer or pump installation company by certified or registered mail of the violation. The commission may order the responsible party or parties to correct, within 48 hours of notification, any violation it determines to be a significant threat to public health, including, but not limited to, potential contamination by pathogenic organisms. The commission may order that all other violations be corrected within a period of 60 days following receipt of notification. If the violation is not corrected within 60 days, or within 48 hours for significant threats to public health, the commission may revoke or suspend the license of the responsible party

or parties. A licensee who receives a written notice of a violation or of a revocation or suspension of a license under this subsection may request a hearing before the commission. The commission shall conduct such hearings and issue its decision within 30 days of the request. A decision of the commission under this subsection is a final agency action. The commission shall adopt rules governing criteria for license reinstatement. Rules adopted by the commission pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 13. 32 MRSA §4700-H, sub-§5, as amended by PL 1993, c. 25, §9 and affected by §15, is further amended to read:

5. Adopt code of performance. The commission shall adopt rules establishing a minimum code of performance for well drillers ~~and~~ pump installers, geothermal heat exchange well drillers and geothermal heat exchange well pump installers. The code of performance must set forth appropriate minimum standards of professional conduct for well drillers ~~and~~ pump installers, geothermal heat exchange well drillers and geothermal heat exchange well pump installers.

Sec. 14. 32 MRSA §4700-H, sub-§6, as enacted by PL 2001, c. 209, Pt. B, §9, is amended to read:

6. Levy fines. The commission may levy fines for violations of the ~~well driller and pump installer~~ code of performance adopted by the commission of not more than \$1,000 per violation.

Sec. 15. 32 MRSA §4700-H, sub-§7, as enacted by PL 2001, c. 209, Pt. B, §9, is amended to read:

7. Order well abandonment. The commission shall adopt rules establishing procedures for determining that a water well or geothermal heat exchange well must be abandoned because of prior contamination or because it has been constructed in violation of existing regulations and standards, can not be altered or repaired to meet existing regulations or standards and poses a significant threat to public health or groundwater contamination. Rules adopted by the commission pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 16. 32 MRSA §4700-I, first ¶, as amended by PL 2001, c. 209, Pt. B, §10, is further amended to read:

Effective January 1, 1994, a person may not participate in the physical construction of a water well for compensation or any public drinking water well unless licensed under this section. After final adoption of initial rules pursuant to subsection 2-A, a person may not participate in the physical construction of a geo-

thermal heat exchange well for compensation unless licensed under this section.

Sec. 17. 32 MRSA §4700-I, sub-§2, as amended by PL 2001, c. 209, Pt. B, §10, is further amended to read:

2. Licensure. ~~As~~ Except as provided in subsection 2-A, an applicant for licensure shall submit to the commission, on a form provided by the commission, a written application for licensure containing such information as the commission requires. A person who holds a valid license as provided for in this section must be in the charge of a licensed well drilling company or pump installation company in order to actively practice well drilling or pump installation, repair or replacement. A company license is valid only while the company employs at least one licensed master well driller for a well drilling company or one master pump installer for a pump installation company. The commission shall license an applicant for well driller licensure as either a master well driller or a journeyman well driller and applicants for pump installer licensure as either a master pump installer or a journeyman pump installer, based on the following criteria.

A. A master well driller must have a minimum of 3 years experience in well drilling and have worked an average of 1,000 hours per year as a journeyman well driller for each of those years.

B. A journeyman well driller must have at least one year experience in well drilling and have worked at least 1,000 hours during that year as an apprentice well driller.

C. A master pump installer must have a minimum of 3 years experience as a pump installer and have worked at least 350 hours as a pump installer during each of those years.

E. A journeyman pump installer must have at least one year experience in pump installing and have worked at least 350 hours during that year as an apprentice pump installer.

F. A well drilling company must be issued a license upon presentation to the commission of a valid master well driller license issued to and held by the owner or an employee of the firm, partnership or corporation.

G. A pump installation company must be issued a license upon presentation to the commission of a valid master pump installer license issued to and held by the owner or an employee of the firm, partnership or corporation.

The commission shall license a well driller or pump installer applicant who is not eligible for licensure under paragraphs A to E as an apprentice.

Sec. 18. 32 MRSA §4700-I, sub-§2-A is enacted to read:

2-A. Geothermal heat exchange well drillers and geothermal heat exchange well pump installers; licensure. The commission shall adopt rules establishing a licensing structure for geothermal heat exchange well drillers and geothermal heat exchange well pump installers. The rules may allow licensure by endorsement. After adoption of the initial rules, rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. The initial rules must be adopted through major substantive rulemaking as defined in Title 5, chapter 375, subchapter 2-A. The commission shall consult with appropriate departments and agencies, including the Department of Environmental Protection, during the rule-making process.

Sec. 19. 32 MRSA §4700-I, sub-§3, as amended by PL 2001, c. 209, Pt. B, §10, is further amended to read:

3. Term of license. Well drillers, geothermal heat exchange well drillers, geothermal heat exchange well pump installers and pump installers must be licensed annually. All licenses expire on December 31st of each year. Any person who is a well driller or pump installer on the effective date of this Act is deemed to be licensed.

Sec. 20. 32 MRSA §4700-I, sub-§4-A is enacted to read:

4-A. Examinations for geothermal heat exchange well drillers and geothermal heat exchange well pump installers. After final adoption of initial rules pursuant to subsection 2-A, the commission may require a person to successfully complete a written examination administered by the commission in order to be licensed as a geothermal heat exchange well driller or a geothermal heat exchange well pump installer.

Sec. 21. 32 MRSA §4700-J, first ¶, as amended by PL 2001, c. 209, Pt. B, §11, is further amended to read:

Effective January 1, 1994, a person may not engage in the business of constructing water wells within the State or engage in the installation, replacement or repair of a pump in a water well unless licensed with the commission. After final adoption of initial rules pursuant to subsection 2-A, a person may not engage in the business of constructing geothermal heat exchange wells or engage in the installation, replacement or repair of a pump in a geothermal heat exchange well unless licensed with the commission. An applicant for licensure must complete an application form supplied by the commission, successfully complete any examination required by this chapter and pay an annual license fee established by the commission. The person so licensed shall display on each side of the drilling rig or the pump installer vehicle a seal issued by the commission indicating that person's license

number and the current year of licensure. A person licensed under chapter 49 as a master plumber is not required to be licensed with the commission to perform the work of a pump installer.

Sec. 22. 32 MRSA §4700-K, as enacted by PL 1991, c. 455, Pt. B, §1, is amended to read:

§4700-K. Compliance with other laws and rules

Notwithstanding this chapter, all water wells and geothermal heat exchange wells must be constructed and maintained in accordance with all other laws and rules in effect, including for water wells the water well information laws, Title 12, section 550-B.

Sec. 23. 32 MRSA §4700-L, sub-§1, as enacted by PL 2001, c. 209, Pt. B, §13, is amended to read:

1. Fine. Any person, company, firm, partnership or corporation who installs, alters, repairs or replaces a water well, geothermal heat exchange well or pump system without being licensed as provided in this chapter or in violation of the code of performance adopted by the ~~Maine Water Well Commission~~ commission pursuant to section 4700-A, subsection 5, except for an apprentice well driller or an apprentice pump installer as set forth in this chapter, or any person, firm, partnership or corporation who procures a license as provided in this chapter wrongfully or by fraud commits a civil violation punishable by a fine of not more than \$1,000.

Sec. 24. 32 MRSA §4700-L, sub-§3, as enacted by PL 2001, c. 209, Pt. B, §13, is amended to read:

3. Exclusion. This chapter does not prevent a person from making water well, geothermal heat exchange well or pump system installations, alterations, repairs or replacements in a single-family residence occupied by that person or to be occupied by that person as a bona fide personal abode, ~~providing as long as~~ the installation, ~~alternation~~ alteration, repair or replacement conforms to the standards set forth in this chapter and any rules adopted by the commission or the department.

Sec. 25. 32 MRSA §4700-M, as amended by PL 2001, c. 209, Pt. B, §13, is further amended to read:

§4700-M. Reciprocity

The commission may issue a license without examination, in a comparable classification, to any person who holds a registration or license in any state, territory or possession of the United States or any country, if the commission determines that the requirements for registration or licensure of well drillers, geothermal heat exchange well drillers, geothermal heat exchange well pump installers or pump installers under which the person's registration or license was

issued do not conflict with this chapter or the code of performance adopted by the commission under this chapter.

Sec. 26. Rulemaking; report; authority to submit legislation. The initial rules adopted by the Maine Water Well Commission pursuant to the Maine Revised Statutes, Title 32, section 4700-I, subsection 2-A are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. By January 1, 2010, the Maine Water Well Commission shall submit provisionally adopted initial rules to the Legislature for review by the Joint Standing Committee on Natural Resources. By January 1, 2010, the Maine Water Well Commission shall submit to the Joint Standing Committee on Natural Resources draft legislation to amend the provisions of this Act if any necessary amendments are identified during the rule-making process. The Joint Standing Committee on Natural Resources may submit legislation relating to geothermal heat exchange well construction and licensing to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 154

H.P. 724 - L.D. 1049

An Act To Encourage Cooperation among School Administrative Units

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the economic situation confronting our nation and all levels of government in the State will likely result in flat funding or reduced state and local general funds available for appropriation to support prekindergarten to grade 12 public education; and

Whereas, school administrative units in the State must achieve maximum efficiencies and reductions in administrative and other noninstructional costs while maintaining and fostering excellence in the classroom; and

Whereas, the enactment of this legislation is necessary to allow school administrative units to initiate organizational efforts to enter regional education cooperatives in order to achieve maximum efficiencies by carrying out specified educational functions and support services in a region of the State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 20-A MRSA c. 113, as amended, is repealed.

Sec. 2. 20-A MRSA c. 113-A is enacted to read:

CHAPTER 113-A

REGIONAL EDUCATION COOPERATIVES

§2511. Definitions

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

1. Cooperative. "Cooperative" means a regional education cooperative formed pursuant to this chapter.

2. Cooperative agreement. "Cooperative agreement" means an agreement between school administrative units that form a regional education cooperative to share the responsibility for and cost of the delivery of specified educational functions and support services in a region such as, without limitation:

A. Alternative education programs;

B. Special education programs or support services;

C. Public preschool programs or 2-year kindergartens pursuant to chapter 203;

D. Gifted and talented education programs pursuant to chapter 311;

E. Online learning and distance education programs;

F. Postsecondary education options pursuant to chapter 208-A;

G. Adult education programs pursuant to chapter 315;

H. Purchasing or contracting for goods or services;

I. Staff training or professional development;

J. Technology or technology support services;

K. Accounting, payroll and financial management;

L. Transportation routing and vehicle maintenance;

M. Food service planning and purchasing; and

N. Energy management and facilities maintenance.