PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act Regarding the Practice of Professional Engineering without a License

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

Sec. 1. 32 MRSA §1256, as amended by PL 2005, c. 315, §10, is repealed and the following enacted in its place:

§ 1256. Violations; penalties; injunction

1. Violations.   A person may not:

A. Practice or offer to practice professional engineering in this State without being licensed or exempted in accordance with this chapter;

B. Use or employ the word "engineer" or any modification or derivative of "engineer" in that person's name or form of business activity except as authorized in this chapter;

C. Present or attempt to use the license or the seal of another;

D. Give false or forged evidence of any kind to the board or to a member of the board in obtaining a license;

E. Falsely impersonate any other licensee of like or different name;

F. Attempt to use an expired, suspended or revoked license or invalid certificate of licensure; or

G. Violate any of the provisions of this chapter.

2. Civil penalties.   A person who violates subsection 1 commits a civil violation for which a fine of not more than $5,000 may be adjudged. Each day a person violates subsection 1 constitutes a separate violation for which no more than $5,000 may be assessed per violation. Among other factors, the board may consider in assessing penalties under this section:

A. Whether the penalty will be a substantial economic deterrent to the violation;

B. The circumstances leading to the violation;

C. The severity of the violation and the risk of harm to the public;

D. The economic benefit gained by the person in violating subsection 1; and

E. The interest of the public.

3. Criminal penalties.   A person who violates subsection 1 commits a Class D crime for the first offense and a Class C crime for each succeeding offense. Each day a person violates subsection 1 constitutes a separate violation.

4. Injunction.   The State may bring an action in Superior Court to enjoin a person from violating this chapter, regardless of whether other administrative, civil or criminal proceedings have been or may be instituted.

5. Collection of penalties, court costs and attorney's fees.   The board shall notify the attorney general and the attorney general may commence a civil action to recover penalties, attorney's fees and court costs:

A. If the person adjudged of a violation under subsection 1 fails to pay the penalty within 30 days of being adjudged in violation of that subsection; or

B. Within 10 days after the court enters a final judgment in favor of the State on an appeal.

Sec. 2. 32 MRSA §1306, as amended by PL 2005, c. 315, §§14 and 15, is further amended to read:

§ 1306. Powers

The board shall have~~has~~ the following duties and powers in addition to those otherwise set forth in this chapter.

1. Licenses and violations; enforcement.   The board shall evaluate the qualifications and supervise the examination of applicants for licensure under this chapter. The board may order an investigation of a licensee on its own motion or on written complaint filed with the board regarding noncompliance with or violation of any section of this chapter or of any rules adopted by the board. The board is authorized to enforce section 1256 in accordance with this chapter. The Attorney General shall provide legal assistance to the board and the board may employ legal council and other necessary assistance to enforce section 1256. Expenses incurred by the board for activities under section 1256 must be paid from funds of the board.

2. Rules. The board may, in accordance with procedures established by the Maine Administrative Procedure Act, ~~Title 5, chapter 375, subchapter II,~~ adopt such rules as may be reasonably necessary for the proper performance of its duties and the administration of this chapter.

3. 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 and failure to meet the continuing education requirements, 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 charged with a violation under section 1256 or denied a license without a hearing for

any reason other than failure to pay a required fee, ~~provided that~~if the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the <u>violation or</u> denial of the application, the reasons for the <u>violation or</u> denial and the right to request a hearing. Hearings must be conducted in conformity with Title 5, chapter 375, subchapter 4 to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

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

SUMMARY

This bill authorizes the State Board of Licensure for Professional Engineers with the assistance of the Attorney General to enforce provisions of the law regarding the practice of engineering without a license. It also imposes criminal penalties and increases the civil penalties for conducting engineering activities without a license.