

**§2465. Adoption of rules****1. Adoption of rules.**

[PL 2005, c. 571, §1 (RP).]

**1-A. Routine technical rules.** The Commissioner of Public Safety shall adopt rules pertaining to the construction, installation, maintenance and inspection of chimneys, fireplaces, vents and solid fuel burning appliances. Rules adopted pursuant to this subsection may include rules pertaining to maintenance and inspections, except as provided in subsection 1-B. Rules adopted pursuant to this subsection may not prohibit:

A. The continued use of an existing connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use prior to February 2, 1998 as long as:

- (1) Sufficient draft is available for each appliance;
- (2) The chimney is lined and structurally intact; and
- (3) A carbon monoxide detector is installed in the building near a bedroom; or [PL 2011, c. 225, §1 (NEW).]

B. The connection of a solid fuel burning appliance to a chimney flue to which another appliance burning oil or solid fuel is connected for any chimney existing and in use on or after February 2, 1998 as long as:

- (1) Sufficient draft is available for each appliance;
- (2) The chimney is lined and structurally intact;
- (3) A carbon monoxide detector is installed in the building near a bedroom;
- (4) The solid fuel burning appliance has been listed by Underwriters Laboratories or by an independent, nationally recognized testing laboratory or other testing laboratory approved by the Maine Fuel Board, established under Title 5, section 12004-A, subsection 49; and
- (5) The solid fuel burning appliance is installed in accordance with the manufacturer's installation specifications. [PL 2011, c. 225, §1 (NEW).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2011, c. 225, §1 (RPR).]

**1-B. Major substantive rules.** The Commissioner of Public Safety may adopt rules requiring maintenance and inspection of chimneys, fireplaces, vents and solid fuel burning appliances upon the sale or transfer of property. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 571, §1 (NEW).]

**2. Prohibitions.** A person may not for compensation construct, install or maintain any vent or solid fuel burning appliance unless that vent or appliance is constructed, installed or maintained in accordance with this section or the rules adopted pursuant to this section. Construction and installation of chimneys and fireplaces are also governed by Title 32, chapter 139.

[PL 2009, c. 344, Pt. D, §2 (AMD); PL 2009, c. 344, Pt. E, §2 (AFF).]

**3. Enforcement.** Subject to Title 32, chapter 139, the Commissioner of Public Safety or the commissioner's designees, state fuel inspectors, duly appointed fire chiefs or their designees and municipal building officials and code enforcement officers may enforce the requirements of this section, the rules adopted pursuant to this section and Title 32, section 18108.

[PL 2009, c. 344, Pt. D, §3 (AMD); PL 2009, c. 344, Pt. E, §2 (AFF).]

**4. Prior installation.** Any chimney, fireplace, vent or solid fuel burning appliance constructed or installed prior to July 13, 1982 may be continued in use subject to the provisions of section 2432. [PL 2005, c. 571, §1 (AMD).]

**5. Home rule.** Subject to Title 32, chapter 139, any municipality may adopt ordinance requirements for the materials, installation, construction, maintenance or inspection of chimneys, fireplaces, vents or solid fuel burning appliances that exceed the requirements of this section and the rules adopted pursuant to this section. [PL 2009, c. 344, Pt. D, §4 (AMD); PL 2009, c. 344, Pt. E, §2 (AFF).]

**5-A. Safety information.** A new factory-built fireplace, fireplace stove or solid fuel burning room heater may not be sold in retail trade, unless the seller provides the buyer, on or before the sale, with an installation instruction manual or, in the case where such a manual is not available, with a publication of the Department of Economic and Community Development containing recommended clearances in accordance with the rules adopted pursuant to this section. [PL 2005, c. 571, §1 (AMD).]

**6. Penalty.** The following penalties apply.

A. A person who, for compensation, constructs or installs vents or solid fuel burning appliances in violation of the standards and then permits such violation to remain uncorrected after 30 days' notice from an official empowered to enforce this section commits a civil violation for which a fine of not more than \$500 for each violation may be adjudged. The court may waive any penalty or cost against a violator upon satisfactory proof that the violation was corrected within 30 days of the issuance of a complaint. Construction and installation of chimneys and fireplaces are governed by Title 32, chapter 139. [PL 2009, c. 344, Pt. D, §5 (AMD); PL 2009, c. 344, Pt. E, §2 (AFF).]

B. A person who fails to provide a purchaser with an instruction manual or the authorized publication of the Department of Economic and Community Development, as described in subsection 5-A, commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged. [PL 2003, c. 452, Pt. N, §6 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. A person who violates paragraph B after having previously violated paragraph B commits a civil violation for which a fine of not less than \$500 and not more than \$800 for each offense may be adjudged. [PL 2003, c. 452, Pt. N, §6 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. A person who violates a rule adopted pursuant to this section commits a civil violation for which a fine of not less than \$200 and not more than \$500 may be adjudged, except that this paragraph does not apply to a rule requiring an annual chimney inspection for a single-family home. [PL 2005, c. 571, §1 (NEW).]

In addition to the penalties provided in this subsection, a violation of this chapter constitutes a violation of Title 5, chapter 10.

[PL 2009, c. 344, Pt. D, §5 (AMD); PL 2009, c. 344, Pt. E, §2 (AFF).]

#### SECTION HISTORY

PL 1981, c. 622 (NEW). PL 1983, c. 231, §§1,2 (AMD). PL 1989, c. 501, §§DD32,DD33 (AMD). PL 1991, c. 198, §§3,4 (AMD). PL 1991, c. 714, §§7,8 (AMD). PL 1997, c. 728, §§31,32 (AMD). RR 2003, c. 1, §25 (COR). PL 2003, c. 452, §N6 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 571, §1 (AMD). RR 2007, c. 2, §12 (COR). PL 2009, c. 250, §1 (AMD). PL 2009, c. 344, Pt. D, §§2-5 (AMD). PL 2009, c. 344, Pt. E, §2 (AFF). PL 2011, c. 225, §1 (AMD).

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