



Janet T. Mills
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

Anne L. Head
Commissioner

TESTIMONY OF ANNE L. HEAD

**DIRECTOR, OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION
COMMISSIONER, DEPARTMENT OF PROFESSIONAL AND FINANCIAL
REGULATION**

IN OPPOSITION TO LD 1691

“An Act to Require Licensing for Certain Mechanical Trades”

Sponsored by Senator Troy Jackson

**BEFORE THE JOINT STANDING COMMITTEE ON
INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS**

Public Hearing: MAY 13, 2021, 9:30 AM

Senator Curry, Representative Roberts and members of the Committee, my name is Anne Head. I am the Director of the Office of Professional and Occupational Regulation and Commissioner of the Department of Professional and Financial Regulation (“DPFR” or “Department”) and I write today to express opposition to LD 1691.

As you are aware, proposals to establish regulation of previously unregulated professions and those that seek to expand the scope of practice of regulated professions trigger a Sunrise Review, as required by Title 5, Section 12015. LD 1691 would trigger such a review. Sunrise review guides state policymakers through a process to aid in their analysis as to whether the proposed regulation is necessary to protect the health, safety, and welfare of the public.

A sunrise review also helps identify the potential impact of the proposed regulation on the availability and cost of services to consumers. The State should impose only the minimum level of regulation necessary to ensure public health and safety. State licensure should not be used for economic purposes to create unnecessary barriers of entry to a profession that could limit access to services or increase their cost. Nor should it be used to give one profession equal stature to other professions that may be required to be licensed. Finally, state regulation should not be used to benefit any organization or specific training program. While these organizations play an important role to support their members, licensure should not be a tool for growing membership. Sunrise review requires the **proponents** of a new licensing program to obtain and provide information on *thirteen* (13) criteria (Title 32, Section 60-J) for the Committee to use in evaluating the public need for regulation and the costs of the new program. Under Title 5,

OFFICES LOCATED AT: 76 NORTHERN AVENUE, GARDINER, MAINE

Section 12015, the Committee may select one of three methods of proceeding with a sunrise review:

1. Hold a public hearing on the bill to receive information on the 13 statutorily-specified evaluation criteria;
2. Request the Commissioner of the Department of Professional and Financial Regulation to conduct an independent review of the proposal to determine the need for regulation; or
3. Ask the Commissioner to appoint a technical review committee to analyze the information produced by the proponents of the bill and submit a report with recommendations for action to the Committee.

As I have noted in other bills before the Committee this session, I have serious concerns about whether DPFR could responsibly take on a study of this magnitude. The Department's funding is solely from license fees, which are intended to be directed to the regulatory purposes for each of the licensed professions from which the fees were collected. We do not currently receive any general fund appropriations to support these kinds of general studies. We have always done our best to assist the Committee with these unfunded studies, but we are constrained in our ability to do so going forward.

With respect to the bill itself, I have the following concerns:

1. **The bill repeals and replaces an existing regulatory program without justification.** LD 1691 repeals an existing regulatory program already in place. Under current law, Title 32, Chapter 20 authorizes the Fire Marshal's Office within the Department of Public Safety to license and regulate the individuals and companies that plan, install, and inspect fire sprinkler systems. This program has been in place for many years, and the Fire Marshal's Office has promulgated rules, created an inspection protocol, and has experienced staff to administer the program. So, the bill would move an existing regulatory/licensing program out of one department whose function is among other things, fire suppression and prevention, into another department without the same level of experience or expertise. There is no information to my knowledge that any issues or problems with the existing DPS program have arisen.
2. **LD 1691 purports to create a board with too many members.** The bill provides for an 11 member board. Title 5, Section 12015 limits any new licensing board to 9 members and of those, two must be public members.
3. **The terminology and structure of the bill is confusing.** The license categories appear to be: pipefitter, refrigeration technician, sprinkler fitter, sheet metal worker, fire sprinkler contractor, mechanical contractor, refrigeration contractor, sheet metal contractor and for these categories there are apprentice, journeyman and master levels. All definitions of these functions would require extensive tightening.
4. **Fees need to be set based on the licensee pool.** Without a great deal of information about the scope of activity of each of these license categories and the numbers of individuals within each category, the fee cap may not be reasonable.

Finally, I am concerned about the cumulative impact of these types of regulation. Individually, each of those regulatory efforts is significant, but when considered as a whole, they will profoundly impact workforce development and economic growth in Maine.

LD 1691 creates five new categories of licensure. The other bills considered by the Committee this session, LD 210, 1168 and 195 seek to create new state licensure categories for crane operators, personnel hoist operators and a registration process for anyone building or constructing a residence and fixing, replacing, altering, converting, modernizing, improving or making an addition to real property primarily designed or used as a residence including structural work, related to the construction, installation, replacement, improvement of inground swimming pools, porches, kitchens, chimneys, chimney liners, garages, fall-out shelters, central air conditioning, central heating, heat pumps, boilers, furnaces, hot water heaters, electric wiring, sewers, plumbing fixtures, storm doors, storm windows, siding or awnings and other improvements to structures within a residence or upon the land adjacent to a residence. Thank you for your time. I would be happy to answer any questions at the work session.