

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2468

S. P. 883

In Senate, January 30, 1974

Referred to Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Hichens of York, **BY REQUEST.**

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

**AN ACT to Amend Certain Provisions of the Laws Administered by the
Department of Health and Welfare.**

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

Sec. 1. R. S., T. 22, § 5, amended. The 3rd sentence of section 5 of Title 22 of the Revised Statutes is amended to read as follows:

The fee for such license for boarding homes having ~~4~~ 6 or less boarders shall be ~~\$5~~ a maximum of \$20 and for boarding homes having 5 or more more than 6 boarders the fee shall be ~~\$10~~ a maximum of \$50.

Sec. 2. R. S., T. 22, § 5, amended. The first paragraph of section 5 of Title 22 of the Revised Statutes, as amended, is further amended by adding a new sentence at the end to read as follows:

All fees received by the department under this chapter shall be paid into the State Treasury to the credit of the department for the purpose of carrying out this chapter.

Sec. 3. R. S., T. 22, § 562, amended. The 2nd paragraph of section 562 of Title 22 of the Revised Statutes, as enacted by section 1 of chapter 466 of the public laws of 1971, is amended to read as follows:

The department may make a charge, not to exceed ~~\$2~~ \$9, for chemical and bacteriological examination of private water supplies. **The department, except as specified in the preceding sentence, shall make a charge for certain laboratory tests which shall reflect the actual cost of such tests.** All such fees collected shall be credited to the General Fund.

Sec. 4. R. S., T. 22, § 562, amended. Section 562 of Title 22 of the Revised Statutes, as amended by section 1 of chapter 466 of the public laws of 1971, is further amended by adding a new paragraph at the end to read as follows:

All fees collected for laboratory tests shall be credited to the General Fund. All balances in the following dedicated revenue accounts, are hereby transferred to the General Fund and these dedicated revenue accounts are discontinued:

1. The Health Engineering Fund;
2. The Public Water Supplies Fund;
3. The Public Health Laboratory Fund;
4. The Prophylactic License Fund; and
5. The Plumbing Permits Fund.

Sec. 5. R. S., T. 22, § 1815, amended. The first sentence of section 1815 of Title 22 of the Revised Statutes, as amended by section 4 of chapter 231 of the public laws of 1967, is further amended to read as follows:

Each application for a license to operate a hospital, sanatorium, convalescent home, rest home, nursing home or related institution, within the meaning of this chapter, shall be accompanied by a ~~fee of \$15~~ maximum fee of \$100 per license for each hospital and a maximum fee of \$50 per license for each nursing home.

Sec. 6. R. S., T. 22, c. 562, additional. Title 22 of the Revised Statutes is amended by adding a new chapter 562 to read as follows:

CHAPTER 562

CAMPING AREAS AND EATING ESTABLISHMENTS

§ 2491. Definitions

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

1. **Camping area.** "Camping area" means, in addition to the general accepted interpretations, filling stations, seashore resorts, lakeshore places, picnic and lunch grounds or other premises where trailers, tents, auto homes or house cars are permitted to be parked for compensation either directly or indirectly.

2. **Catering establishments.** "Catering establishments" mean any kitchen, commissary or similar place in which food or drink is prepared for sale or service elsewhere or for service on the premises during special catered events.

3. **Department.** "Department" means the State of Maine Department of Health and Welfare.

4. **Eating and lodging places or lodging place.** "Eating and lodging place or lodging place" means every building or structure or any part thereof kept,

used as, maintained as, advertised as, or held out to the public to be a place where eating and sleeping or sleeping accommodations are furnished to the public as a business, such as: Hotels, motels, guest homes and cottages.

5. Eating establishment. "Eating establishment" means any place where food or drink is prepared and served or served to the public for consumption on the premises, or catering establishments, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile eating places, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments, private or public institutions routinely serving foods, stores, airports, parks, theaters, vacation camps, and any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for vending machines dispensing food other than in original sealed packages.

6. Mobile eating place. "Mobile eating place" means a mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and shall be capable of being moved from its serving site at any time.

7. Mobile home park. "Mobile home park" means a parcel of land which has been planned and improved for the placement of mobile homes for non-transient use.

8. Recreational camp. "Recreational camp" means and includes day camps, boys' and girls', family, hunting, fishing and similar camps.

9. Sanitarian. "Sanitarian" means a person whose education and experience in the biological and sanitary sciences qualify him to engage in the promotion and protection of the public health. He applies technical knowledge to solve problems of a sanitary nature and develops methods and carries out procedures for the control of those factors of man's environment which affect his health, safety well-being.

10. Vending machine establishment. "Vending machine establishment" means any establishment preparing foods for vending machines dispensing foods other than in original sealed packages.

§ 2492. License required

No person, corporation, firm or copartnership shall conduct, control, manage or operate, for compensation, directly or indirectly, any eating establishment, eating and lodging place, lodging place, recreational camp, camping area or mobile home park, unless the same shall be licensed by the department. Licenses issued must be displayed in a place readily visible to customers or other persons using a licensed establishment.

§ 2493. Applicant

Any person, corporation, firm or copartnership desiring a license shall submit satisfactory evidence of their ability to comply with the minimum standards of this chapter and all regulations adopted thereunder.

§ 2494. Fees

Each application for, or for renewal of, license to operate an eating establishment, eating and lodging place, lodging place, recreational camp, camping area or mobile home park within the meaning of this chapter, shall be accompanied by a fee determined by the department and not to exceed \$25. No such fee shall be refunded. All fees received by the department under this chapter shall be paid into the State Treasury to the credit of the General Fund. No license shall be assignable or transferable.

§ 2495. Issuance of licenses

The department is authorized to issue licenses to operate eating establishments, eating and lodging places, lodging places, recreational camps, camping areas and mobile home parks which, after inspection, are found to comply with this chapter and any rules and regulations adopted by said department. When any such applicant, upon inspection by the department, shall be found to not meet all requirements of this chapter or departmental regulations thereunder, then the department is authorized to issue either a temporary license for a specified period not to exceed 90 days, during which time corrections specified by the department shall be made by said applicant for compliance with this chapter and departmental regulations thereunder, or a conditional license setting forth conditions which must be met by the applicant to the satisfaction of the department.

§ 2496. Rules and regulations

The department is authorized and empowered to make and enforce all necessary rules and regulations for the administration of this chapter, and may rescind or modify such rules and regulations from time to time as may be in the public interest, insofar as such action is not in conflict with any of the provisions of this chapter.

§ 2497. Right of entry and inspection

The department and any duly designated officer or employee thereof shall have the right to enter upon and into the premises of any establishment licensed pursuant to this chapter at any reasonable time in order to determine the state of compliance with this chapter and any rules and regulations in force pursuant thereto. Such right of entry and inspection shall extend to any premises which the department has reason to believe is being operated or maintained without a license, but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a complaint is first obtained from the District Court.

§ 2498. Penalties

Any person, corporation, firm or copartnership who shall operate any eating establishment, eating and lodging place, lodging place, recreational camp, camping area or mobile home park without first obtaining a license as required by this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$10 nor more

than \$100, and upon 2nd or subsequent conviction, he shall be punished by a fine of not less than \$100 or imprisonment for not less than 30 days. Each day any such person, corporation, firm or copartnership operates without obtaining a license shall constitute a separate offense. In the event of any violation of this section or any rule or regulation hereunder, the Attorney General may seek to enjoin further violation thereof, in addition to any other remedy.

§ 2499. Municipal inspections

Notwithstanding any other provisions of this chapter, the Department of Health and Welfare may issue a license to establishments as defined in section 2491 on the basis of an inspection performed by an inspector who works for and is compensated by the municipality in which such establishment is located, but only if the following conditions have been met.

1. The municipality involved has adopted a set of rules and regulations, ordinance or other code of standards for such establishments which has been approved by the Department of Health and Welfare and which is no less strict than the regulations used by the department for the issuance of such licenses in effect at the time of inspection.

2. No municipal employed sanitarians shall make inspections under the provisions of this chapter unless certified as qualified by the Commissioner of Health and Welfare.

3. The Department of Health and Welfare may from time to time inspect such municipally inspected establishments to ascertain that the intent of these statutes is being followed.

4. The municipalities shall furnish the department copies of its inspection reports relating to said inspections on a monthly basis.

5. Municipalities may charge a fee for performing such inspections payable to the municipality by licensee only. Such fees may be retained by the municipality as revenue. Municipalities may not charge the department for performing such inspections.

6. When a license is issued on the basis of a municipal inspection as specified in this section, the requirement for payment of a license fee to the department as set forth in section 2494 will be waived. However, the licensee will be required to pay the department the sum of \$3 to support the costs of mailing and handling and such payments will be credited to the General Fund.

7. Licenses issued under section 2499 must be displayed, renewed and in every other way treated the same as licenses issued under this chapter on the basis of inspection by the department.

8. Certification of municipally employed sanitarians shall be in accordance with standards set by the Commissioner of Health and Welfare and shall be for a period of 3 years. The commissioner may grant temporary certification for a period not to exceed 6 months.

§ 2500. Suspension or revocation; appeals

When the department believes a license should be suspended or revoked, it shall file a statement or complaint with the Administrative Hearing Court designated in Title 5, chapters 301 to 307. A person aggrieved by the refusal of the department to issue a license, may file a statement or complaint with the Administrative Hearing Court.

§ 2501. Exceptions

Private homes shall not be deemed or considered lodging places and subject to a license where not more than 2 rooms are let to other than transient guests, unless they hold themselves in any way as ready to accept or do accept transient guests. License shall not be required from dormitories of charitable, educational or philanthropic institutions, nor from private homes used in emergencies for the accommodation of persons attending conventions, fairs or similar public gatherings, nor from temporary eating and lodging places for the same, nor from railroad dining or buffet cars, nor from construction camps, nor from boarding houses and camps conducted in connection with wood cutting and logging operations, nor from any boarding homes for the aged, blind or other persons over 16 years of age which are licensed under section 5, nor from any homes boarding children exclusively and which are licensed under section 3797.

Sec. 7. R. S., T. 22, §§ 2481 to 2487, repealed. Sections 2481 to 2483, section 2484, as amended by section 17 of chapter 494 of the public laws of 1967 and by chapter 221 of the public laws of 1965, section 2485, as amended by section 3 of chapter 303 of the public laws of 1973, section 2486, as amended by chapter 197 of the public laws of 1973 and section 2487 of Title 22 of the Revised Statutes, are repealed.

Sec. 8. R. S., T. 22, § 2433, amended. Section 2433 of Title 22 of the Revised Statutes is amended to read as follows:

§ 2433. Samples of water for school use; examination

The department shall, during each school year, require the school officials of any municipality to have submitted samples of water for chemical and bacteriological examination, if such water is used by any school for drinking or culinary purposes and is taken from sources other than a municipal water system. If such water is found to be contaminated, polluted and unfit for domestic use, the department may issue an order prohibiting the use or supplying of such water to any school as long as such contamination, pollution and unfitness remains. The department shall charge the average cost of the analysis for such examination to the municipality required to have such test made and the resultant fees shall be credited to the General Fund.

Any funds currently held in the Dedicated Revenue Account of the Department of Health and Welfare derived from school water testing services shall be transferred to the General Fund.

Sec. 9. R. S., T. 22, § 2431, amended. Section 2431 of Title 22 of the Revised Statutes, as amended by section 2 of chapter 207 of the public laws of

1965, is further amended by adding a new paragraph at the end to read as follows:

All fees collected under this section shall be credited to the General Fund. Any funds currently held in the Dedicated Revenue Account of the Department of Health and Welfare derived from testing water to be sold under this section shall be transferred to the General Fund.

Sec. 10. Appropriation. There is appropriated to the Department of Health and Welfare from the General Fund the sum of \$168,570 for diagnostic microbiological testing services. The breakdown shall be as follows:

		1974-75
HEALTH AND WELFARE, DEPARTMENT OF		
Personal Services	(12)	\$106,335
All Other		50,435
Capital Expenditures		11,800
		\$168,570

Sec. 11. Appropriation. There is appropriated to the Department of Health and Welfare from the General Fund the sum of \$149,200 to provide for maintenance of laboratory for testing water supplies. The breakdown shall be as follows:

		1974-75
HEALTH AND WELFARE, DEPARTMENT OF		
Personal Services	(11)	\$126,800
All Other		12,900
Capital Expenditures		9,500
		\$149,200

Sec. 12. Appropriation. There is appropriated to the Department of Health and Welfare from the General Fund the sum of \$120,500 to provide for the maintenance of laboratory services in toxicology and drug identification. The breakdown shall be as follows:

		1974-75
HEALTH AND WELFARE, DEPARTMENT OF		
Personal Services	(8)	\$ 82,500
All Other		27,500
Capital Expenditures		10,500
		\$120,500

Sec. 13. Appropriation. There is appropriated to the Department of Health and Welfare from the General Fund the sum of \$48,500 to provide for carrying out its plumbing rules and regulations and the training and certification of plumbing inspectors. The breakdown shall be as follows:

		1974-75
HEALTH AND WELFARE, DEPARTMENT OF		
Personal Services	(4)	\$ 38,000
All Other		10,000
Capital Expenditures		500
		\$ 48,500

Sec. 14. Appropriation. There is appropriated from the General Fund to the Department of Health and Welfare the sum of \$132,000 to carry out the purpose of this Act. The breakdown shall be as follows:

		1974-75
HEALTH AND WELFARE, DEPARTMENT OF		
Health Engineering		
Personal Services	(13)	\$ 89,500
All Other		42,500
		\$132,000

STATEMENT OF FACT

This Act implements Management and Cost Survey Recommendations Nos. 26, 27, 28, 29, 30 and 33, Department of Health and Welfare.

Sections 1, 2 and 5 of this Act implements Recommendation No. 26. The purpose of this recommendation is to meet costs of certifying and licensing hospitals, nursing homes and boarding homes through collection of fees which represent the actual costs of such certification and licensing. The Management and Cost Survey Commission reports that in the fiscal year 1972, licensing and certification costs were \$90,393 and fees collected amounted to \$5,255. However, it is the strong opinion of the Governor that fees sufficient to cover the \$85,000 difference would initially impose a severe burden on these institutions and might well increase costs to patients. Therefore, fees are increased to produce an anticipated additional income of \$21,500.

Sections 3 and 4 implement Recommendations Nos. 27, 28 and 29 and charging a set fee for the testing of private water supplies and a fee to cover the actual cost of all other laboratory tests. All fees presently collected are credited to dedicated revenue accounts. These accounts are abolished and any balances are transferred to the General Fund. All laboratory fees for the effective date of this Act shall be credited to the General Fund. Appropriation sections 9, 10, 11 and 12 are intended to offset the loss in dedicated revenue due to elimination of these dedicated revenue accounts. The Management and Cost Survey anticipates an annual income of \$140,000 upon implementation of Recommendation No. 27; an annual income of \$133,000 upon

implementation of Recommendation No. 28; and a one-time funds transfer of \$202,100 upon the implementation of Recommendation No. 29.

Section 6 implements Recommendation No. 33 and part of Recommendation No. 29. The purpose is to charge a graduated fee for licensing and inspection of eating and lodging establishments. Sections 8 and 9 are intended to cause a charge to cover the actual cost of water testing services for school use and sale for domestic use.

Appropriation section 13 is requested by the Department of Health and Welfare to cover loss of revenues in dedicated funds by charging the actual cost of inspecting eating and lodging establishments.

This bill was supported by Governor Kenneth M. Curtis in his Special Message to the Special Session of the 106th Legislature on January 10, 1974.