

MAINE STATE LEGISLATURE

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(New draft of: H. P. 141, L. D. 167)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 806

H. P. 683

House of Representatives, February 27, 1975

Reported by Mrs. Laverty from Committee on Health and Institutional Services. Printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Require the Licensing of Alcoholic Treatment Facilities.

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

Sec. 1. 22 MRSA § 5-A, first sentence, as enacted by PL 1973, c. 164, § 2, is amended to read:

No person, firm, corporation or association shall operate, conduct or maintain in the State any residential facility for the care, treatment or rehabilitation of drug users, or any residential facility for the care, treatment or rehabilitation of alcohol users, not otherwise licensed as a medical care facility, without having in full force, subject to the rules and regulations of the department, a written license therefor from the department. The department may promulgate rules and regulations which include but are not limited to the administration and staffing of the facility, the number of residents, the quality of treatment programs, the health and safety of staff and residents, community relations and licensing procedures. The department shall hold a public hearing after the promulgation of new regulations or any change in existing regulations. These regulations shall become effective only after a public review period of 60 days following the public hearing.

Sec. 2. MRSA § 5-A, 3rd sentence, as enacted by PL 1973, c. 164, § 2, is amended to read:

The annual fee for such license shall be ~~\$25~~ \$50.

Sec. 3. 22 MRSA § 5-A, 5th sentence, as enacted by PL 1973, c. 164, § 2, is amended to read:

Failure of said facility to meet any of such conditions shall immediately void such conditional license by written notice thereof by the department to the

conditional licensee or if the said licensee cannot be reached for personal service by notice thereof left at the licensed premises, provided that a conditional licensee shall have a right to file a statement or complaint with the Administrative Court Judge as provided in Title 5, chapters 301 to 307. The voidance of a conditional license shall be stayed pending an appeal to the Administrative Court Judge, unless, in the opinion of the Administrative Court Judge, a stay would immediately endanger the health or safety of persons living in the facility to such an extent as to create an emergency. Any appeal of the loss of a conditional license must be filed within 10 days of receipt of notice of voidance of the conditional license.

Sec. 4. 22 MRSA § 5-A, 6th sentence, as enacted by PL 1973, c. 460, § 2, is amended to read:

The fee for such temporary or conditional license for facilities shall be ~~\$25~~ \$50.

STATEMENT OF FACT

The purposes of this bill are:

1. To increase the license fees of residential facilities;
2. To establish an appeal mechanism for a conditional licensee, thereby insuring that a conditional licensee is not denied due process of law; and
3. To insure that this statute meets the specificity requirements for licensing statutes recently stated by the Maine Supreme Court in **Small v. Board of Optometry**.

This new draft provides for a public review period of 60 days following the public hearing held after promulgation of new regulations or any change in existing regulations.