

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1073

H. P. 864

House of Representatives, March 14, 1975

Speaker laid before the House and on Motion of Mr. Goodwin of South Berwick referred to the Committee on Human Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Mitchell of Vassalboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Revise Certain Statutory Provisions for the Licensing of Boarding Homes and Day Care Facilities.

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

Sec. 1. 22 MRSA § 3797, sub-§ 1, as last amended by PL 1973, c. 303, § 3, is repealed and the following enacted in place thereof:

1. Licensing. No person, firm, corporation or association shall conduct or maintain a boardinghouse or home for one or more children under 16 years of age, unattended by parents or guardian, or day care facilities for 3 or more children under 16 years of age, excepting children related to such persons by blood or marriage, or who have been legally adopted by such persons, or engage in, or assist in conducting a business of placing out or finding homes or otherwise disposing of children under 16 years of age, without having in full force, subject to the rules and regulations of the department, a written license therefor from the department. No such license shall be issued until the applicant has furnished the department with a written statement signed by one of the officials designated in Title 25, section 2360, that the home and premises comply with said section 2360; or a written statement signed by one of the officials designated in Title 25, section 2392, that the home and premises comply with said section 2392 or the State Fire Marshal shall, if requested, direct such inspection to be made in accordance with Title 25, section 2391. Said written statement shall be furnished annually thereafter in those cases where the home is licensed to board more than 2 children. The department shall establish and pay reasonable fees to the municipal official or the State Fire Marshal for each such inspection. The term of such license shall be for one year and the license may be sus-

pended or revoked for failure to comply with this subsection of the rules and regulations pertaining thereto. When the department believes a license should be suspended or revoked it shall file a statement or complaint with the Administrative Court Judge 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 said Administrative Court Judge. Whoever violates this subsection shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

When any such boarding home or day care facility, upon inspection by the department, shall be found not to meet all requirements of this section and 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 boarding home or day care facility for compliance with this section and departmental regulations thereunder, if in the judgment of the commissioner the best interests of the public will be so served, or a conditional license setting forth conditions which must be met by the boarding home or day care facility to the satisfaction of the department. Failure of said boarding home or day care facility to meet any such conditions shall immediately void such conditional license by written notice thereof to the conditional licensee or if said licensee cannot be reached for personal service by notice thereof being left at the licensed premises. A new application for a regular license may be considered by the department if, when and after the conditions set forth by the department at the time of issuance of such temporary or conditional license have been met and satisfactory evidence of this fact has been furnished to said department.

Sec. 2. 22 MRSA § 3797, sub-§ 2, 3rd ¶, as enacted by PL 1965, c. 401, § 2, is repealed and the following enacted in place thereof:

The term "day care facilities" means, for purposes of this chapter, a house or other place in which a person or combination of persons conducts, maintains, or otherwise carries out a regular program for consideration for any part of a day providing care and protection of children under 16 years of age. The term includes nursery schools, so-called, and similar facilities, but does not include any facility operated as a formal public or private school in the nature of a kindergarten, or elementary or secondary school approved by the Commissioner of Educational and Cultural Services in accordance with Title 20, section 911.

STATEMENT OF FACT

The change of the term "Commissioner of Public Safety" to "State Fire Marshal" is to bring this statute into agreement with statutory revisions of the previous legislative sessions.

The Department of Health and Welfare presently needs to have the authority to issue temporary or conditional licenses for day care facilities

and boarding homes for children as they do in adult boarding homes. Without this authority, if operating facilities fail to immediately meet standards, they cannot operate. New facilities may have to delay providing services. This change will reduce problems for many boarding homes and day care facilities serving children, services which are sorely needed in Maine.

The change removing the exclusion of facilities the chief purpose of which is education is the result of a written opinion of the Administrative Court Judge and an informal opinion of the Assistant Attorney General that the Department of Health and Welfare is responsible for licensing all privately operated preschool facilities. This change clarifies the statute and enables the department to comply with these opinions.