

MAINE STATE LEGISLATURE

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L.D. 1502

(Filing No. S-232)

STATE OF MAINE
SENATE
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 556, L.D. 1502, Bill, "AN ACT Affecting the Statutes of Agencies within the Department of Business, Occupational and Professional Regulation."

Amend the bill in section 1, in paragraph A, by inserting after subparagraph (9) the following:

'(9-A) Board of Registration \$35/ 32 MRSA §9903
of Dietetic Practice Day'

Further amend the bill by striking out all of section 6 and inserting in its place the following:

'Sec. 6. 10 MRSA §8001, as amended by PL 1983, c. 746, §1 and c. 758, §1, is repealed and the following enacted in its place:

§8001. Department; agencies within department

There is created and established the Department of Business, Occupational and Professional Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, commercial sports, grantors of consumer credit and to license and regulate professions and occupations. The department shall be composed of the following bureaus, boards and commissions:

- Banking, Bureau of;
- Consumer Credit Protection, Bureau of;
- Insurance, Bureau of;
- Athletic Commission, Maine;

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- 1 Penobscot Bay and River Pilotage Commission;
- 2 Real Estate Commission;
- 3 Running Horse Racing Commission, State;
- 4 Arborist Examining Board;
- 5 Auctioneers Advisory Board;
- 6 Commercial Driver Education, Board of;
- 7 Dietetic Practice, Board of Registration of;
- 8 Electricians' Examining Board;
- 9 Foresters, State Board of Registration for Pro-
10 essional;
- 11 Funeral Service, State Board of;
- 12 Geologists and Soil Scientists, State Board of
13 Certification for;
- 14 Hearing Aid Dealers and Fitters, Board of;
- 15 Manufactured Housing Board;
- 16 Occupational Therapy Practice, Board of;
- 17 Oil and Solid Fuel Board;
- 18 Physical Therapy, Board of Examiners in;
- 19 Plumbers' Examining Board;
- 20 Psychologists, State Board of Examiners of;
- 21 Social Worker Registration, State Board of;
- 22 Speech Pathology and Audiology, Board of Examin-
23 ers on; and

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1 Substance Abuse Counselors, Board of Registration
2 of.'

3 Further amend the bill in section 7, in that part
4 designated "§9083." in the first paragraph, by strik-
5 ing out all of the 2nd sentence (page 7, lines 18 to
6 20 in L.D.) and inserting in its place the following:

7 'The fee shall be \$5 per mobile home site, but the
8 total fee may not exceed \$500 per mobile home park.'

9 Further amend the bill by striking out all of
10 sections 12 to 30.

11 Further amend the bill by inserting after section
12 35 the following:

13 'Sec. 36. 32 MRSA §3301, sub-§3, as amended by
14 PL 1977, c. 469, §2, is further amended to read:

15 3. Journeyman plumber. "Journeyman plumber"
16 shall mean any person who customarily performs the
17 work of installing plumbing and drainage under the
18 employment and direction of a master plumber or, not
19 being a master plumber, does plumbing repair work as
20 a regular part time occupation. The biennial fee for
21 a journeyman plumber's license shall be \$30.'

22 Further amend the bill in section 37, by striking
23 out all of subsection 5 (page 20, lines 1 to 11 in
24 L.D.) and inserting in its place the following:

25 '5. Orders. The board and any person designated
26 by the board may issue an order to cease and desist
27 the installation or substantial alteration of plumb-
28 ing systems by any person required to be licensed by
29 the board and who is not licensed by the board. The
30 order is immediately effective and shall be accompa-
31 nyed by written notice of opportunity and procedure
32 for appeal. The person ordered to cease and desist
33 may appeal the order and may request a hearing. The

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1 appeal and request for hearing shall be filed with
2 the board within 48 hours of the order. A hearing
3 shall be granted by the board within 5 days of re-
4 ceipt of the request. The board shall issue its
5 written decision of its review within 15 days of re-
6 ceipt of the request for appeal or hearing.

7 Any person ordered by the board to cease and de-
8 sist may appeal to the Superior Court in accordance
9 with the Maine Administrative Procedure Act, Title 5,
10 chapter 375, subchapter VII, by filing a petition for
11 review within 48 hours of receipt of the order. The
12 court shall issue a written decision within 20 days
13 after receipt of the petition for review. The deci-
14 sion of the Superior Court on an appeal, as provided,
15 is final. The decision of the board or order of the
16 board shall also be final and subject to no further
17 appeal upon failure to file a timely written appeal
18 as provided.'

19 Further amend the bill by inserting after section
20 45 the following:

21 'Sec. 46 32 MRSA c. 105 is enacted to read:

22 CHAPTER 105

23 DIETITIANS

24 §9901. Declaration of purpose

25 In order to recognize the professional qualifica-
26 tions of dietitians and dietetic technicians and to
27 assure the availability to the public of information
28 regarding those who hold themselves out to be
29 dietitians and dietetic technicians, it is the pur-
30 pose of this chapter to provide for the registration
31 of qualified dietitians and dietetic technicians.

32 §9902. Definitions

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1 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

4 1. Board. "Board" means the Board of Registration of Dietetic Practice established under this chapter.

7 2. Commissioner. "Commissioner" means the Commissioner of Business, Occupational and Professional Regulation.

10 3. Department. "Department" means the Department of Business, Occupational and Professional Regulation.

13 4. Dietetics. "Dietetics" means the professional discipline of assessing the nutritional needs of an individual, including recognition of the effects of the individual's physical condition and economic circumstances, and the applying of scientific principles of nutrition to prescribing means to ensure the individual's proper nourishment and care.

20 5. Registered dietetic technician. "Registered dietetic technician" means a person registered under this chapter who practices dietetics under the supervision of a dietitian who is registered in accordance with this chapter.

25 6. Registered dietitian. "Registered dietitian" means a person who practices dietetics and who is registered as a dietitian under this chapter.

28 §9903. Board of Registration of Dietetic Practice; establishment; compensation

30 1. Establishment and membership. There is established, within the Department of Business, Occupational and Professional Regulation, the Board of Registration of Dietetic Practice. The board shall consist of 5 members appointed by the Governor, includ-

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1 ing 2 public members who are residents of this State,
2 who do not hold registration to practice dietetics
3 and who have no direct or indirect financial interest
4 in the practice or delivery of dietetic services.
5 Other than these public members, the persons ap-
6 pointed to the board shall have been engaged in ren-
7 dering dietetic services to the public or in teaching
8 or research in dietetics for at least 2 years immedi-
9 ately preceding their appointments. Two board mem-
10 bers shall be dietitians. The 5th member shall be
11 either a dietitian or a dietetic technician. The
12 professional members shall at all times be holders of
13 valid registrations under this chapter, except for
14 the members of the first board, each of whom shall
15 fulfill the requirements for registration under this
16 chapter.

17 2. Terms of appointment. To the first board es-
18 tablished under this chapter, the Governor shall ap-
19 point 2 board members for terms of one year, 2 for
20 terms of 2 years and one for a term of 3 years. Ap-
21 pointments made thereafter shall be for 3-year terms,
22 but no person may be appointed to serve more than 3
23 consecutive terms, provided that for this purpose on-
24 ly, a period actually served which exceeds 1/2 of a
25 3-year term shall be deemed a full term. Any member
26 of the board may be removed from office for cause by
27 the Governor.

28 3. Meetings. The board shall meet at least once
29 a year to conduct its business and to elect a chair-
30 person. Additional meetings shall be held as neces-
31 sary to conduct the business of the board and may be
32 convened at the call of the chairperson or a majority
33 of the board members. A majority of the members of
34 the board shall constitute a quorum for all purposes.

35 4. Compensation. Members of the board shall be
36 compensated as provided in Title 5, section 12002-A.

37 §9904. Board of Registration of Dietetic Practice;
38 powers and duties

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1 1. Powers. The board shall administer and en-
2 force this chapter and evaluate the qualifications of
3 applicants for registration. The board may examine
4 witnesses, administer oaths and shall investigate or
5 cause to be investigated any complaints made to it or
6 any cases of noncompliance with or violation of this
7 chapter.

8 2. Rules. The board may adopt, in accordance
9 with the Maine Administrative Procedure Act, Title 5,
10 chapter 375, rules relating to professional conduct
11 to carry out the policy of this chapter, including,
12 but not limited to, rules relating to professional
13 registration and to the establishment of ethical
14 standards of practice for persons registered to prac-
15 tice dietetics in this State.

16 3. Hearings. Hearings may be conducted by the
17 board to assist with investigations, to determine
18 whether grounds exist for suspension, revocation or
19 denial of a registration or as otherwise deemed nec-
20 essary to the fulfillment of its responsibilities un-
21 der this chapter. Hearings shall be conducted in ac-
22 cordance with the Maine Administrative Procedure Act,
23 Title 5, chapter 375, subchapter IV, to the extent
24 applicable.

25 4. Records. The board shall keep such records
26 and minutes as are necessary to the ordinary dispatch
27 of its functions.

28 5. Contracts. The board may enter into con-
29 tracts to carry out its responsibilities under this
30 chapter.

31 6. Reports. No later than August 1st of each
32 year, the board shall submit to the commissioner, for
33 the preceding fiscal year, its annual report of its
34 operations together with such comments and recommen-
35 dations as the commissioner deems essential.

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1 §9905. Board of Registration of Dietetic Practice;
2 administrative provisions

3 1. Employees. With the advice of the board, the
4 commissioner may appoint, subject to the Personnel
5 Law, such employees as may be necessary to carry out
6 this chapter. Any person so employed shall be lo-
7 located in the department and under the administrative
8 and supervisory direction of the commissioner.

9 2. Budget. The board shall submit to the com-
10 missioner its budgetary requirements in the same man-
11 ner as provided in Title 5, section 1665.

12 §9906. Registration

13 1. Registration required. No person may hold
14 himself out to be a registered dietitian or a regis-
15 tered dietetic technician or use related terms or
16 words, unless he is registered in accordance with
17 this chapter.

18 2. Individual registration. Only an individual
19 may be registered under this chapter.

20 3. Penalty; injunction. A person who violates
21 this section is guilty of a Class E crime.

22 The State may bring an action in Superior Court to
23 enjoin any person from violating this chapter, re-
24 gardless of whether proceedings have been or may be
25 instituted in the Administrative Court or whether
26 criminal proceedings have been or may be instituted.

27 §9907. Requirements for registration; education; ex-
28 perience

29 1. Dietitian's registration. An applicant for
30 registration as a dietitian shall file a written ap-
31 plication on forms provided by the board, showing to
32 the satisfaction of the board that he meets the fol-
33 lowing requirements.

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1 A. The applicant must exhibit adherence to es-
2 tablished ethical professional standards.

3 B. An applicant shall present evidence satisfac-
4 tory to the board of having successfully com-
5 pleted the academic requirements established by
6 the American Dietetic Association or equivalent
7 requirements as determined by the board and shall
8 have received a baccalaureate or higher degree
9 from an accredited college or university. Such a
10 program includes courses in organic and
11 inorganic chemistry, human physiology,
12 microbiology, principles of sociology or psychol-
13 ogy, basic communication skills, economics, food
14 composition, nutrition and management theory.

15 C. An applicant shall submit to the board evi-
16 dence of having successfully completed the expe-
17 rience requirements approved by the American
18 Dietetic Association or equivalent experience ap-
19 proved by the board. That experience shall in-
20 clude at least 6 months full-time clinical expe-
21 rience in the field of dietetics, or its part-
22 time equivalent. The experience shall have been
23 acquired during or within 5 years of completion
24 of the academic requirements in paragraph B and
25 not more than 5 years before the date of license
26 application.

27 2. Dietetic technician's registration. An ap-
28 plicant for registration as a dietetic technician
29 shall file a written application on forms provided by
30 the board showing to the satisfaction of the board
31 that he meets the following requirements.

32 A. The applicant must exhibit adherence to es-
33 tablished ethical professional standards.

34 B. The applicant must have graduated from a
35 dietetic technician program approved by the Com-
36 mission on Accreditation of the American Dietetic

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1 Association or its equivalent, as determined by
2 the board, or graduated with a Bachelor of Sci-
3 ence Degree in Food and Nutrition from an ap-
4 proved 4-year program.

5 §9908. Issuance of registration

6 The board shall issue a registration to any per-
7 son who meets the requirements of this chapter upon
8 payment of the prescribed fee.

9 §9909. Term of registration

10 1. Annual renewal. Registration shall expire
11 annually on December 31st or on such other date as
12 the commissioner may determine. Notice of expiration
13 shall be mailed to each registrant's last known ad-
14 dress at least 30 days in advance of the expiration
15 of his registration. The notice shall include any
16 requests for information necessary for renewal.

17 Registrations may be renewed up to 90 days after the
18 date of expiration upon payment of a late fee of \$10
19 in addition to the renewal fee. Any person who sub-
20 mits an application for renewal more than 90 days af-
21 ter the registration renewal date shall be subject to
22 all requirements governing new applicants under this
23 chapter.

24 2. Continuing education. Each registration re-
25 newal shall be accompanied by evidence of continuing
26 education or other requirements as established in
27 rule by the board.

28 §9910. Disciplinary actions

29 1. Complaints. The board may order an investi-
30 gation of a complaint on its own motion or on written
31 complaint filed with it regarding noncompliance with
32 or violation of any section of this chapter or of any
33 rules adopted by the board.

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1 2. Disciplinary actions; grounds. The board may
2 suspend or revoke a registration pursuant to Title 5,
3 section 1004. In addition, the board may refuse to
4 renew or the Administrative Court may revoke, suspend
5 or refuse to renew any registration issued under this
6 chapter on any of the following grounds:

7 A. The practice of fraud or deceit in obtaining
8 a registration under this chapter or in connec-
9 tion with service rendered within the scope of
10 the registration issued;

11 B. A registrant shall be deemed to have engaged
12 in unprofessional conduct if he violates any
13 standard of professional behavior which has been
14 established in the practice of dietetics;

15 C. Subject to the limitations of Title 5, chap-
16 ter 341, conviction of a crime which involves
17 dishonesty or false statement or which relates
18 directly to the practice for which the individual
19 is registered or conviction of any crime for
20 which imprisonment for one year or more may be
21 imposed; or

22 D. Any violation of this chapter or rules
23 adopted by the board.

24 3. Reinstatement. An application for reinstatement
25 may be made to the board after one year from the
26 date of revocation of a registration.

27 §9911. Fees

28 1. Amount. Application fees may be established
29 by the board in amounts which are reasonable and nec-
30 essary. Registration fees may not exceed the follow-
31 ing amounts:

32 A. For an original dietitians or dietetic tech-
33 nicians registration, \$80; or

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1 B. For a renewal dietitians or dietetic techni-
2 icians registration, \$40.

3 2. Deposit of fees. All fees received by the
4 board shall be paid to the Treasurer of State to be
5 used for carrying out this chapter. Any balance of
6 fees shall not lapse, but shall be carried forward as
7 a continuing account to be expended for the same pur-
8 poses in the following fiscal years.

9 §9912. Reciprocity

10 The board may, in its discretion, grant a regis-
11 tration under this chapter to an individual regis-
12 tered or licensed in another state if it determines
13 that the requirements or standards for registration
14 or licensure in that state are equivalent to, or
15 greater than, those established by this chapter.'

16 Further amend the bill in section 52, in that
17 part designated "§87-A." in subsection 1, paragraph C
18 (page 23, line 23 in L.D.) by striking out the fol-
19 lowing: "sail; or" and inserting in its place the
20 following: "sail;"

21 Further amend the bill in section 52, in that
22 part designated "§87-A." in subsection 1, paragraph
23 D, subparagraph (3), in the last line (page 24, line
24 16 in L.D.) by striking out the following: "years."
25 and inserting in its place the following: "years; or"

26 Further amend the bill in section 52, in that
27 part designated "§87-A.", in subsection 1, by adding
28 at the end the following:

29 'E. All military and commercial ships navigating
30 the Kennebec River to and from the Bath Iron
31 Works Corporation for the purpose of accomplish-
32 ing overhaul, repair, post shakedown availability
33 and sea trials.'

34 Further amend the bill in section 53, in that

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1 part designated "§89." in the 6th line (page 24, line
2 30 in L.D.) by inserting after the underlined words
3 "Bar Harbor" the following: '- Eastport'

4 Further amend the bill by renumbering the sec-
5 tions to read consecutively.

6 Further amend the bill by inserting before the
7 statement of fact the following:

8 'FISCAL NOTE

9 Enactment of this bill will increase dedicated
10 revenues to the Manufactured Housing Board by approx-
11 imately \$3,000 in each year of the biennium. The
12 bill also increases dedicated revenues to the Ath-
13 letic Commission Fund. The exact amount of these in-
14 creases cannot be determined but they are expected to
15 be minor.'

16 STATEMENT OF FACT

17 This amendment does the following:

18 1. Limits the fee for mobile home parks to a
19 maximum of \$500 regardless of the number of sites;

20 2. Deletes sections 12 to 30 covered in other
21 legislation;

22 3. Modifies the power to enjoin the issuance of
23 cease and desist orders and parallel procedures pro-
24 vided in electricians' licensing law;

25 4. Adds to exceptions from jurisdiction of the
26 Maine State Pilotage Commission, the ships being re-
27 paired at the Bath Iron Works;

28 5. Makes a correction in the designation of the
29 district Bar Harbor - Eastport for which interests a

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1 licensed pilot shall represent on the Maine State
2 Pilotage Commission; and

3 6. Adds a chapter for registration of dietitians
4 and dietetic technicians.

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