

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1658

H.P. 1133

House of Representatives, April 24, 1991

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

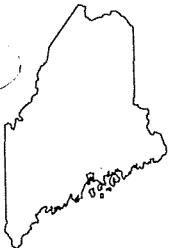
Presented by Representative AULT of Wayne.

Cosponsored by Representative TRACY of Rome, Representative GURNEY of Portland and Representative PENDEXTER of Scarborough.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Regulate Suntanning Booths.



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

4 Sec. 1. 5 MRSA §12004-A, sub-§46 is enacted to read:

6 46. Board of Expenses 32 MRSA
8 Licensure for Tanning Only \$13992
10 Operators

12 Sec. 2. 10 MRSA §8001, as repealed and replaced by PL 1989,
14 c. 806, §2 and c. 878, Pt. D, §6, is repealed and the following
16 enacted in its place:

18 §8001. Department; organization

20 There is created and established the Department of
22 Professional and Financial Regulation, in this chapter referred
24 to as the "department," to regulate financial institutions,
26 insurance companies, commercial sports, grantors of consumer
28 credit and to license and regulate professions and occupations.
30 The department is composed of the following bureaus, boards and
32 commissions:

34 1. Bureau of Banking. Banking, Bureau of;

36 2. Bureau of Consumer Credit Protection. Consumer Credit
38 Protection, Bureau of;

40 3. Bureau of Insurance. Insurance, Bureau of;

42 4. Maine Athletic Commission. Athletic Commission, Maine;

44 5. Maine State Pilotage Commission. Pilotage Commission,
46 Maine State;

48 6. Real Estate Commission. Real Estate Commission;

50 7. Arborist Examining Board. Arborist Examining Board;

8. Board of Licensing of Auctioneers. Auctioneers, Board
of Licensing of;

9. State Board of Barbers. Barbers, State Board of;

10. Board of Commercial Driver Education. Commercial
Driver Education, Board of;

11. Board of Licensing of Dietetic Practice. Dietetic
Practice, Board of Licensing of;

12. Electricians' Examining Board. Electricians' Examining
Board;

- 2 13. State Board of Licensure for Professional Foresters.
3 Foresters, State Board of Licensure for Professional;
- 4
- 5 14. State Board of Funeral Service. Funeral Service, State
6 Board of;
- 7
- 8 15. State Board of Certification for Geologists and Soil
9 Scientists. Geologists and Soil Scientists, State Board of
10 Certification for;
- 11
- 12 16. Board of Hearing Aid Dealers and Fitters. Hearing Aid
13 Dealers and Fitters, Board of;
- 14
- 15 17. Manufactured Housing Board. Manufactured Housing Board;
- 16
- 17 18. Nursing Home Administrators Licensing Board. Nursing
18 Home Administrators Licensing Board;
- 19
- 20 19. Board of Occupational Therapy Practice. Occupational
21 Therapy Practice, Board of;
- 22
- 23 20. Oil and Solid Fuel Board. Oil and Solid Fuel Board;
- 24
- 25 21. Board of Examiners in Physical Therapy. Physical
26 Therapy, Board of Examiners in;
- 27
- 28 22. Plumbers' Examining Board. Plumbers' Examining Board;
- 29
- 30 23. State Board of Examiners of Psychologists.
31 Psychologists, State Board of Examiners of;
- 32
- 33 24. Radiologic Technology Board of Examiners. Radiologic
34 Technology Board of Examiners;
- 35
- 36 25. Board of Respiratory Care Practitioners. Respiratory
37 Care Practitioners, Board of;
- 38
- 39 26. State Board of Social Worker Licensure. Social Worker
40 Licensure, State Board of;
- 41
- 42 27. Board of Examiners on Speech Pathology and Audiology.
43 Speech Pathology and Audiology, Board of Examiners on;
- 44
- 45 28. State Board of Substance Abuse Counselors. Substance
46 Abuse Counselors, State Board of;
- 47
- 48 29. State Board of Veterinary Medicine. Veterinary
49 Medicine, State Board of;
- 50
- 51 30. Acupuncture Licensing Board. Acupuncture Licensing
52 Board;

2 7. Tanning device. "Tanning device" means any equipment
4 that emits electromagnetic radiation with wavelengths in the air
6 between 200 and 400 nanometers and is used for tanning of human
8 skin, including a sunlamp, tanning booth or tanning bed. The
10 term also includes any accompanying equipment, including
12 protective eyewear, timers and handrails.

14 8. Tanning facility. "Tanning facility" means a business
16 that provides persons access to tanning devices.

18 §13992. Board of Licensure for Tanning Operators; establishment

20 1. Establishment. The Board of Licensure for Tanning
22 Operators within the department is established by Title 5,
24 section 12004-A, subsection 46 to carry out this chapter.

26 2. Membership. The board consists of 5 members appointed
28 by the Governor, 3 of whom must be operators and 2 of whom must
30 be representatives of the general public.

32 3. Appointment. The Governor shall make initial
34 appointments by January 1, 1992. The board shall elect a chair
36 and secretary at its first meeting of each year. A person may
38 not serve as chair for more than 2 years. The commissioner shall
40 call the first meeting of the board within 30 days of the
42 completion of the appointments of the initial members.

44 4. Terms of office. Of the first board members, 2 shall
46 serve for a term of one year, 2 for a term of 2 years and one for
48 a term of 3 years. Their successors shall serve for terms of 3
50 years each, except that any person chosen to fill a vacancy shall
52 serve only for the unexpired term of the board member succeeded.
 Upon the expiration of a member's term, the member shall serve
 until that member's successor is qualified and appointed. A
 person may not serve for more than 2 consecutive terms. The
 Governor may remove any member of the board for cause. Vacancies
 in the membership of the board must be filled for the unexpired
 term by appointment by the Governor.

5. Compensation. Members of the board are compensated
 according to Title 5, chapter 379, provided that expenses do not
 exceed the fees collected by the board. If the fees collected
 under this chapter are insufficient to pay the expenses provided
 by this section, the board members are entitled to a pro rata
 payment in any years in which those fees are insufficient.

6. Meetings; quorum. The board shall hold at least 2
 regular meetings each year. Additional meetings may be held upon
 the call of the chair or the secretary or upon the written
 request of any 2 board members. Three members of the board
 constitute a quorum.

2 §13993. Powers and duties of the board

4 1. Powers. The board shall administer and enforce this
6 chapter and evaluate the qualifications of applicants for
8 licensing. The board may examine witnesses and administer oaths
 and shall investigate or cause to be investigated any complaints
 made to it of any cases of noncompliance with or violations of
 this chapter.

10

12 2. Rules. The board may, in accordance with procedures
14 established by the Maine Administrative Procedure Act, Title 5,
 chapter 375, adopt rules as necessary for the proper performance
 of its duties and the administration of this chapter.

16

18 3. Hearings. The board may conduct hearings to assist with
 investigations to determine whether grounds exist for nonrenewal,
 suspension, revocation or denial of a license, or other
 disciplinary action as necessary to carry out this chapter.

20

22 4. Contracts. The board may enter into contracts to carry
 out its responsibilities under this chapter.

24

26 5. Employees. With the advice of the board, the
 commissioner may appoint, subject to the Civil Service Law,
 employees as necessary to carry out this chapter. Employees are
 located in the department and are under the administrative and
28 supervisory direction of the commissioner.

30

32 6. Records; report. The board shall keep records and
 minutes as necessary. On or before August 1st of each year, the
34 board shall submit to the commissioner, for the preceding year
 ending June 30th, an annual report of its operations and
 financial position, together with comments and recommendations
 the board determines essential.

36

38 7. Budget. The board shall submit to the commissioner its
 budgetary requirements in the same manner as provided in Title 5,
40 section 1665.

42

42 §13994. Licensing

44

46 1. License required. A person may not engage in the
 operation of a tanning device for a fee, monetary or otherwise,
 unless that individual is licensed pursuant to this chapter. A
 license issued by the board must be displayed conspicuously in
 each place of employment of the licensee.

48

50 2. Person. Only a person may be licensed pursuant to this
 chapter.

2 §13995. Exemption

4 This chapter does not apply to a phototherapy device used by
6 or under the supervision of a licensed physician trained in the
 use of phototherapy devices.

8 §13996. License requirements; fee; renewal

10 The board shall establish guidelines and rules to govern the
12 following.

14 1. License requirements. The board shall adopt rules
16 relating to the license requirements and application authorized
 under this chapter to ensure that licensees are competent to
 operate a tanning device.

18 2. Fee. The board shall establish by rule a fee that is
20 reasonable for the licensing of an operator.

22 3. Renewal. A license expires annually on December 31st or
24 on another date as the commissioner may determine. Notice of
26 expiration must be mailed to each licensee's last known address
28 at least 30 days in advance of the expiration of the license.
 The notice must include any requests for information necessary
 for renewal. The board shall establish by rule a fee that is
 reasonable for the renewal of a license.

30 Licenses may be renewed up to 90 days after the date of
32 expiration upon payment of a late fee of \$10 in addition to the
34 renewal fee. Any person who submits an application for renewal
 more than 90 days after the license renewal date is subject to
 all requirements governing new applicants under this chapter.

36 §13997. Miscellaneous provisions

38 Before each use of a tanning device, the operator shall
40 provide the customer with properly sanitized protective eyewear
42 that protects the eyes from ultraviolet radiation and allows
44 adequate vision to maintain balance. An operator may not allow a
46 person to use a tanning device if that person does not use the
 protective eyewear. The operator also shall show each customer
 how to use suitable physical aids, including but not limited to
 handrails and markings on the floor, to maintain the proper
 exposure distance recommended by the manufacturer of the tanning
 device.

48 Before any minor between 14 and 18 years of age uses a
50 tanning device, the minor shall give the operator a statement
 signed by the minor's parent or legal guardian stating that the
 parent or legal guardian consents to the minor's use of a tanning

2 device. This statement may remain at the tanning facility for
3 future use by the minor. A minor under 14 years of age must be
4 accompanied by a parent or legal guardian when using a tanning
5 device.

6 **§13998. Penalty**

8 A person who violates any provision of this chapter is
9 guilty of a Class E crime.

10 **Sec. 4. Sunset provision.** This Act is repealed on October 1,
11 2000, pending review by the joint standing committee of the
12 Legislature having jurisdiction over audit and program review
13 matters.

16 **STATEMENT OF FACT**

18 This bill creates the Board of Licensure for Tanning
19 Operators within the Department of Professional and Financial
20 Regulation. The bill defines the responsibilities of the board
21 and details an exemption to licensure.
22