

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1858

H.P. 1288

House of Representatives, May 14, 1991

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

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 KUTASI of Bridgton.

Cosponsored by Senator CARPENTER of York and Representative PARADIS of Frenchville.

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STATE OF MAINE

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

---

An Act to Create the Board of Barbering and Cosmetology.

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(EMERGENCY)

2           Emergency preamble. Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4           Whereas, delay in the implementation of changes to the law  
6 will result in unnecessary burden on the ability of the Board of  
Barbering and Cosmetology to function independently and  
8 financially; and

10           Whereas, in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
12 Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
14 safety; now, therefore,

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

18           Sec. 1. 5 MRSA §12004-A, sub-§6, as enacted by PL 1987, c.  
786, §5, is repealed and the following enacted in its place:

20                     6. Board of                     \$35/Day                     32 MRSA §14211  
22                     Barbering and  
24                     Cosmetology

26           Sec. 2. 5 MRSA §12004-A, sub-§9, as enacted by PL 1987, c.  
786, §5, is repealed.

28           Sec. 3. 10 MRSA §8001, sub-§9, as repealed and replaced by PL  
1989, c. 806, §2, and c. 878, Pt. D, §6, is repealed and the  
30 following enacted in its place:

32                     9. Board of Barbering and Cosmetology. Barbering and  
34                     Cosmetology, Board of;

36           Sec. 4. 10 MRSA §8001-A, sub-§2, as enacted by PL 1989, c.  
450, §5, is repealed.

38           Sec. 5. 32 MRSA cc. 7 and 23, as amended, are repealed.

40           Sec. 6. 32 MRSA c. 126 is enacted to read:

42                                     CHAPTER 126

44                                     BARBERING AND COSMETOLOGY LICENSING

46                                     SUBCHAPTER I

48                                     GENERAL PROVISIONS

50           §14201. Short title

2 This chapter may be known and cited as the "Barbering and  
Cosmetology Licensure Act."

4 **§14202. Definitions**

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

10 1. **Apprentice.** "Apprentice" means any person who is  
12 registered with the board and, under the direct supervision of a  
14 person licensed under this chapter in the same category as the  
16 training performed and in accordance with board rules, is engaged  
18 in learning and acquiring a knowledge of the practice of:

20 A. **Cosmetology;**

22 B. **Barbering;**

24 C. **Aesthetics; or**

26 D. **Manicuring.**

28 2. **Board.** "Board" means the Board of Barbering and  
30 Cosmetology.

32 3. **Commissioner.** "Commissioner" means the Commissioner of  
34 Professional and Financial Regulation.

36 4. **Department.** "Department" means the Department of  
38 Professional and Financial Regulation.

40 5. **Establishment; shop.** "Establishment" or "shop" means a  
42 beauty shop or salon, cosmetology shop or salon, barber shop or  
44 salon or hair styling shop or salon, or any premises, structure,  
46 building or part of a building where any activity licensed under  
48 this chapter is practiced.

50 6. **Mobile shop.** "Mobile shop" means a mobile vehicle or  
52 mobile structure designed, constructed or adapted to serve as a  
shop at a number of sites and capable of being readily moved from  
any site at any time.

7. **Practice of aesthetics.** "The practice of aesthetics"  
means the performance by any person for hire or compensation of  
any one or a combination of the following practices:

A. **Beautifying, massaging, cleansing, stimulating, toning,**  
or exercising the skin of the human body by the use of  
cosmetic preparations, tonics, lotions, creams, antiseptics  
or clays or any device, electrical or otherwise, for the  
care of the skin;

2           B. Applying makeup or eyelashes to any person; or

4           C. Trimming or tinting eyebrows and eyelashes.

6           The practice of aesthetics under this subsection does not include  
8           the diagnosis, treatment or therapy of any dermatological  
10           condition.

12           8. Practice of barbering. "The practice of barbering"  
14           means any one or any combination of the following practices, when  
16           done for hire or compensation, upon the upper part of the human  
18           body for cosmetic purposes and not for the treatment of disease  
20           or physical or mental ailments:

22           A. Shaving or trimming the beard, manicuring the  
24           finger nails, or cutting, arranging, waving or styling the  
26           hair;

28           B. Giving facial and scalp massage or treatments with  
30           cosmetic preparations, either by hand or mechanical or  
32           electrical appliances;

34           C. Singeing, dyeing, tinting, bleaching or shampooing the  
36           hair or applying cosmetic preparations to the hair, scalp,  
38           face, neck or upper part of the body;

40           D. Removing superfluous hair from the face, neck or upper  
42           part of the body; or

44           E. Cutting, fitting, coloring or styling hairpieces or wigs.

46           9. Practice of cosmetology. "The practice of cosmetology"  
48           means the performance by any person for hire or compensation of  
50           any one or more of the following practices:

52           A. Beautifying, massaging, cleansing, stimulating, toning,  
54           manipulating or exercising the skin of the human body by the  
56           use of cosmetic preparations, tonics, lotions, creams,  
58           antiseptics, or clays or any device, electrical or  
60           otherwise, for the care of the skin;

62           B. Applying makeup or eyelashes to any person;

64           C. Manicuring or pedicuring the nails of any person;

66           D. Arranging, dressing, curling, waving, cleansing,  
68           cutting, trimming, removing, singeing, bleaching, coloring,  
70           relaxing or similarly treating the hair of any person;

72           E. Arranging, brushing, dressing, curling, waving,  
74           cleansing, shampooing, cutting, trimming, singeing,  
76           bleaching, coloring, tinting, dyeing, straightening,

2 relaxing or similarly treating a wig, wiglet or hairpiece  
3 made of human hair, animal hair or synthetics; or

4 F. Teaching or demonstrating cosmetology, hairdressing or  
5 beauty culture.

6 10. Practice of manicuring. "The practice of manicuring"  
7 means the performance by any person for hire or compensation of  
8 any one or more of the following practices:

9 A. Applying the hands or mechanical or electrical apparatus  
10 with or without cosmetic preparations, lotions, creams or  
11 antiseptics to cut, trim, shape, pedicure, polish, color,  
12 tint or apply artificial nails to the nails of any person or  
13 to massage, cleanse or beautify the hands or feet of any  
14 person.

15 11. Student. "Student" means any person duly enrolled in  
16 a school licensed by the Commissioner of Education and engaged in  
17 learning and acquiring a knowledge of the practice of:

18 A. Cosmetology;

19 B. Barbering;

20 C. Aesthetics; or

21 D. Manicuring.

22 **§14203. Exemptions; exceptions**

23 1. Exemptions. The prohibitions and penalties of this  
24 chapter do not apply to the following persons when acting within  
25 the scope of their profession or occupation:

26 A. Persons authorized by law of this State to practice  
27 medicine and surgery;

28 B. Commissioned medical officers of the United States Armed  
29 Forces;

30 C. Registered nurses, licensed practical nurses and nurse's  
31 aides;

32 D. Persons who practice upon members of their immediate  
33 families or on persons residing in their household and who  
34 receive no payment for such practice; and

35 E. Persons employed by licensed establishments who provide  
36 shampooing services within the licensed establishments.

37 2. Exceptions. The practice of cosmetology, barbering,  
38 aesthetics or manicuring may be carried on only by persons duly

2 licensed to practice in this State and only in an establishment  
4 licensed by the board, except as provided in this subsection.  
6 Duly licensed persons may practice their respective practices:

8 A. On patients in hospitals or nursing homes;

10 B. On residents of summer camps;

12 C. On inmates or residents of institutions of the  
14 Department of Mental Health and Mental Retardation;

16 D. On invalids or handicapped persons in those persons'  
18 places of residence;

20 E. On residents of nursing homes;

22 F. On hotel or motel occupants in their hotel or motel  
24 rooms;

26 G. On persons in their residences, if the licensee  
28 maintains or is employed in a licensed shop; and

30 H. On persons in their private businesses.

32 The exceptions listed in this subsection do not permit the  
34 practice of barbering, cosmetology, manicuring or aesthetics in  
36 food establishments or food preparation areas.

#### 38 §14204. Instructors

40 A person may not instruct in any of the branches of  
42 barbering or cosmetology unless that person holds a valid license  
44 to practice and to instruct in each respective practice issued  
46 under this chapter, except that when specifically authorized by  
48 law, physicians may instruct without holding a license to  
50 practice in a branch of barbering or cosmetology.

The board and the Department of Education shall adopt rules  
for the qualification and examination of applicants for licensure  
as instructors of barbering or cosmetology in accordance with  
Title 5, chapter 375, subchapter II.

Examination applications must be furnished by the board.  
The application must be filed with the board and be accompanied  
by an examination fee as determined by the board. Upon  
satisfactory completion of the examination, the applicant must  
pay a fee to receive the initial instructor license, which is  
valid until the next renewal period.

#### 52 §14205. Violations

2 1. Penalties. A person commits a Class E crime if that  
person:

4 A. Practices barbering, cosmetology, manicuring or  
aesthetics in this State without having obtained a license  
6 as provided by this chapter;

8 B. Employs a person to practice barbering, cosmetology,  
manicuring or aesthetics who does not have a license, unless  
10 that person is an apprentice within the meaning of this  
12 chapter; or

14 C. Falsely professes to be qualified to practice barbering,  
cosmetology, manicuring or aesthetics under this chapter.

16 2. Court action. The State may bring an action in Superior  
Court to enjoin any person from violating this chapter,  
18 regardless of whether proceedings have been or may be instituted  
in the Administrative Court or whether criminal proceedings have  
20 been or may be instituted.

22 SUBCHAPTER II

24 BOARD OF BARBERING AND COSMETOLOGY

26 §14211. Board

28 1. Membership. The Board of Barbering and Cosmetology, as  
established by Title 5, section 12004-A, subsection 6, consists  
30 of 11 members who must be citizens of this State and have  
practiced in their respective fields for at least 3 years  
32 immediately prior to their appointment. Of the members, 4 must  
be licensed as cosmetologists, 1 must be licensed as a  
34 cosmetologist and instructor of cosmetology, 4 must be licensed  
as barbers and 2 must be representatives of the public.

36 The members of the board are appointed by the Governor for terms  
38 of 3 years. None of the members are eligible to serve more than  
3 consecutive 3-year terms or to serve more than 9 years  
40 consecutively; for this purpose only, a period actually served  
that exceeds 1/2 of the 3-year term is deemed a full term. Upon  
42 expiration of a member's term, that member shall serve until a  
successor is qualified and appointed. The successor's term is 3  
44 years from the date of the expiration, regardless of the date of  
appointment. During their membership on the board, the  
46 cosmetologist and barber members must hold valid licenses and be  
actively engaged in their practices. A board member may be  
48 removed by the Governor for cause.

50 Any vacancy in the board must be filled by the appointment by the  
Governor of a person with the same qualifications as the board



2 member being replaced to hold office for the remainder of the  
3 unexpired term.

4 A person operating or employed by a school of cosmetology or  
5 school of barbering may not be appointed as a member of the  
6 board. If a member of the board, after appointment, becomes  
7 affiliated in any way with such a school, that person's  
8 membership on the board immediately terminates and the unexpired  
9 term of that member must be filled by the Governor.

10  
11 2. Meetings; chair; quorum. The board shall meet at least  
12 once a year to conduct its business. Additional meetings may be  
13 held as necessary to conduct the business of the board and may be  
14 convened at the call of the chair or a majority of the board  
15 members. All meetings of the board must be open to the public,  
16 except that the board may hold closed sessions to prepare,  
17 approve, grade or administer examinations, or to prepare or  
18 provide a response upon request of an applicant for the review of  
19 an examination. Six members of the board constitute a quorum for  
20 all purposes.

21  
22 3. Compensation. The members of the board are entitled to  
23 compensation according to the provisions of Title 5, chapter 379.

24  
25 4. Employees. The commissioner may appoint, subject to the  
26 Civil Service Law, those employees that are necessary to carry  
27 out this chapter. Any person so employed is in the department  
28 and under the administrative and supervisory direction of the  
29 commissioner.

30  
31 5. Inspections. The board or its agents or assistants  
32 shall inspect each establishment for compliance with the  
33 applicable requirements of this chapter and the applicable rules  
34 of the board adopted pursuant to this chapter. Each  
35 establishment must be inspected at least once a year for  
36 compliance with the applicable laws and rules relating to the  
37 public health and safety and the conduct and operation of  
38 establishments.

39  
40 §14212. Powers and duties

41  
42 The board has the following powers and duties, in addition  
43 to those otherwise set forth in this chapter.

44  
45 1. Board to administer, coordinate and enforce. The board  
46 shall administer, coordinate and enforce this chapter, evaluate  
47 the qualifications and supervise the examinations of applicants  
48 for licensure under this chapter and, at its discretion,  
49 investigate allegations of violations of this chapter. The board  
50 shall keep such records and minutes as necessary to the ordinary  
51 dispatch of its functions.

2 A member of the board or a department employee may enter and make  
3 reasonable examination of any licensed establishment during  
4 business hours for the purpose of ascertaining whether or not  
5 this chapter and board rules are being observed.

6 2. Rules. The board shall adopt, in accordance with the  
7 Maine Administrative Procedure Act, rules necessary to carry out  
8 the purposes of this chapter.

10 The rules must address, but are not limited to, the following:

12 A. The proper use of appliances, apparatus, and electrical  
13 and nonelectrical machines used in connection with the  
14 practice of cosmetology, barbering, manicuring and  
15 aesthetics;

16 B. Construction and safety of establishments;

18 C. Reasonable requirements, including sanitary standards,  
19 to govern the practice of cosmetology, barbering, manicuring  
20 and aesthetics within licensed establishments as well as for  
21 persons practicing outside of licensed establishments as  
22 authorized by section 14203; and

24 D. Requirements for licenses consistent with this chapter.

26 A copy of these rules must be kept posted in a conspicuous place  
27 within licensed establishments so as to be easily read by  
28 customers.

30 3. Hearings. Hearings may be conducted by the board to  
31 assist with investigations, to determine whether grounds exist  
32 for suspension, revocation or denial of a license, or as the  
33 board otherwise determines necessary to fulfill its  
34 responsibilities under this chapter.

36 The board may not refuse to renew a license for any reason other  
37 than failure to pay the required fee, unless it has afforded the  
38 licensee an opportunity for an adjudicatory hearing. The board  
39 shall hold an adjudicatory hearing at the written request of any  
40 person who is denied a license without hearing for any reason  
41 other than failure to pay a required fee, as long as the request  
42 for hearing is received by the board within 30 days of the  
43 applicant's receipt of written notice of the denial of the  
44 application, the reasons for the denial and the right to request  
45 a hearing. Hearings must be conducted in conformity with the  
46 Maine Administrative Procedure Act, to the extent applicable.  
47 The board may subpoena witnesses, records and documents in any  
48 hearing it conducts.

50 4. Diseases. A person who has a communicable disease may  
51 not give service to members of the public, including service  
52 to members of the public.

2 within licensed establishments or schools licensed by the  
3 Department of Education. The board has the right to require the  
4 physical examination of any person who is suspected of having any  
5 communicable disease. Failure to submit to such an examination  
6 is grounds for suspension or revocation of the person's  
7 registration, certification, permit or license.

8 5. Contracts. The board may enter into contracts to carry  
9 out its responsibilities under this chapter.

10 6. Reports. The board shall submit to the commissioner, no  
11 later than August 1st of each year, an annual report of its  
12 operations and financial position for the preceding fiscal year  
13 ending June 30th, together with those comments and  
14 recommendations that the board determines essential.

15 7. Budget. The board shall submit to the commissioner its  
16 budgetary requirements in the manner provided in Title 5, section  
17 1665.

18 8. Complaints. The board shall investigate or cause to be  
19 investigated all complaints made on its own motion or on written  
20 complaint filed with the board and all cases of noncompliance  
21 with or violation of this chapter or any rules adopted by the  
22 board.

23 9. Officers. The board shall elect annually from among its  
24 members a chair, vice-chair and other officers as it determines  
25 necessary. The board shall appoint a person to serve as  
26 complaint officer.

27 10. Examinations. The board shall hold at least 2 public  
28 examinations each year, at such times and places as it  
29 designates. Additional examinations may be held at the  
30 discretion of the board. Notice of an examination must be given  
31 in a daily newspaper printed and published in the county in which  
32 the examination is held.

33 §14213. Register

34 The board shall keep a register of the names and residences  
35 of all persons licensed under this chapter and a record of all  
36 money received and disbursed by it. The register of licensees  
37 must be available to the public at cost.

38 §14214. Disposition of fees

39 The fees received by the board under this chapter must be  
40 paid to the Treasurer of State and used for carrying out the  
41 purposes of this chapter.

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SUBCHAPTER III

LICENSURE

§14224. General provisions; licenses and permits

1. Practice; license required. A person may not practice cosmetology, barbering, manicuring or aesthetics in this State unless that person has first obtained a license as provided in this chapter or unless that person is acting within the scope of employment as an apprentice.

2. Operation of shop; license required. A person, firm or corporation may not provide services in, operate or cause to be operated a shop where cosmetology, barbering, manicuring or aesthetics is practiced unless that shop has been duly licensed by the board. A license issued pursuant to this subsection authorizes the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location is unlawful unless a license for the new location has been obtained in compliance with this chapter and applicable board rules. A new shop or a currently licensed shop that undergoes a change in location or ownership is required to either apply or reapply for licensure with the board. In the case of change of ownership, the shop license is valid for 30 days from the transaction date to allow the new owner to make application for licensure.

A shop that requires a special inspection, such as a new shop or a shop that changes location or ownership, may be assessed a separate inspection fee.

Shop licenses are issued on July 1st and must be renewed biennially unless otherwise provided by the commissioner. The fee is payable to the board.

A shop license is valid for 60 days following the death of the person in whose name the shop is licensed.

Booths, attached to or within a licensed shop, that are operated independently are subject to licensure, fees and applicable rules in the same manner as for independent shops. The board may establish rules for the operation of booths.

3. Apprentice. An apprentice cosmetologist, barber, manicurist or aesthetician registered pursuant to section 14232 may not independently conduct a practice but may, as an apprentice, do any or all acts constituting the practice under the immediate personal supervision of a person duly licensed and approved by the board in a licensed shop. Only one apprentice may be employed in any licensed shop at any time.

2 4. Student permit required. A student enrolled in the  
4 study of cosmetology, barbering, manicuring or aesthetics must  
6 file an application for a student permit pursuant to section  
8 14233 on a form prescribed and supplied by the board. The  
10 application must contain satisfactory evidence of the  
12 qualifications required of the applicant under this chapter and  
14 must be notarized. The applicant must submit evidence of age and  
16 satisfactory completion of the 10th grade or its equivalent. The  
18 applicant must pay a fee set by the board at the time of  
20 application. The permit expires 12 months from the date of  
22 issuance and may be renewed upon filing the appropriate  
24 application and prescribed fee. A permit may not be issued to a  
26 person who has not attained 17 years of age.

14 §14225. Special mobile shop license

16 The board may, subject to section 14112, adopt rules  
18 authorizing the issuance of special mobile shop licenses,  
20 including requirements for mobile shops, locations for these  
22 shops and any other rules that the board considers necessary.

24 A special mobile shop license issued pursuant to this  
26 section must set out on the license the area in which that mobile  
28 shop is authorized to operate and any other special requirements  
30 or restrictions to which that license is subject. A separate  
32 license must be obtained for each municipality in which a mobile  
34 shop operates.

36 A mobile shop may not be licensed to operate in any  
38 municipality where a licensed shop is in operation prior to the  
40 issuance of the special mobile shop license, or in any  
42 municipality adjacent to a municipality where a licensed shop is  
44 in operation prior to the issuance of the special mobile shop  
46 license.

48 §14226. Qualifications; cosmetology

50 A person is eligible to obtain a license under this chapter  
52 for the practice of cosmetology if that person:

1. Age. Is at least 17 years of age;

2. Education. Has satisfactorily completed the 10th grade  
in a secondary school or its equivalent;

3. Training. Within the immediately preceding 3 years, has  
satisfactorily completed a course of instruction in cosmetology  
of 1,500 hours in not less than 9 months in a school licensed by  
the Commissioner of Education or has experience in the practice  
of cosmetology as an apprentice of 2,500 hours distributed over a  
period of at least 18 months; and

2 4. Examination. Has satisfactorily passed an examination  
3 in subjects the board considers necessary to determine the  
4 fitness of the applicant to practice. The board shall establish  
5 the passing score for all examinations.

6 A. Applicants for examination must submit to the board an  
7 application on a form prescribed and supplied by the board  
8 and pay an application and examination fee in an amount  
9 established by the board. The application must contain  
10 satisfactory evidence of the qualifications required of the  
11 applicant under this chapter and must be sworn by the  
12 applicant.

13 B. Within 90 days of notification of passing an  
14 examination, the applicant must pay a fee established by the  
15 board to receive a first license. The first license is  
16 valid until the next renewal period. The board has the  
17 authority to waive the 90-day time period for extenuating  
18 circumstances. If not successful, upon filing the  
19 appropriate application and fees, the applicant may take  
20 subsequent examinations held by the board within a period of  
21 one year from the date of the applicant's first  
22 examination. An applicant who fails to pass an examination  
23 within one year from the applicant's first examination may  
24 take another examination at a time and under the conditions  
25 that the board determines.

26 Any person licensed as a barber pursuant to this chapter and  
27 who has satisfactorily completed a course of instruction in  
28 cosmetology of at least 500 hours in a school licensed by the  
29 Commissioner of Education or has experience in the practice of  
30 cosmetology as an apprentice of at least 900 hours may take the  
31 examination upon submitting an appropriate application and  
32 payment of the fees prescribed in this chapter.

33 **§14227. Qualifications; barbering**

34 A person is eligible to obtain a license under this chapter  
35 for the practice of barbering if that person:

36 1. Age. Is at least 17 years of age;

37 2. Education. Has satisfactorily completed the 10th grade  
38 in a secondary school or its equivalent;

39 3. Training. Within the immediately preceding 3 years, has  
40 satisfactorily completed a course of instruction in barbering of  
41 1,500 hours in not less than 9 months in a school licensed by the  
42 Commissioner of Education or has experience in the practice of  
43 barbering as an apprentice of 2,500 hours distributed over a  
44 period of at least 18 months; and

2 4. Examination. Has satisfactorily passed an examination  
3 in subjects the board considers necessary to determine the  
4 fitness of the applicant to practice. The board shall establish  
5 the passing score for all examinations.

6 A. Applicants for examination must submit to the board an  
7 application on a form prescribed and supplied by the board  
8 and pay an application and examination fee in an amount  
9 established by the board. The application must contain  
10 satisfactory evidence of the qualifications required of the  
11 applicant under this chapter and must be sworn by the  
12 applicant.

13 B. Within 90 days of notification of passing an  
14 examination, the applicant must pay a fee established by the  
15 board to receive a first license. The first license is  
16 valid until the next renewal period. The board has the  
17 authority to waive the 90-day time period for extenuating  
18 circumstances. If not successful, the applicant, upon  
19 filing the appropriate application and fees, may take  
20 subsequent examinations held by the board within a period of  
21 one year from the date of the applicant's first  
22 examination. Any applicant who fails to pass an examination  
23 within one year from the applicant's first examination may  
24 take another examination at a time and under the conditions  
25 that the board determines.

26 Any person licensed as a cosmetologist pursuant to this  
27 chapter and who has satisfactorily completed a course of  
28 instruction in barbering of at least 500 hours in a school  
29 licensed by the Commissioner of Education or has experience in  
30 the practice of barbering as an apprentice of at least 900 hours  
31 may take the examination upon submitting an appropriate  
32 application and payment of the fees prescribed in this chapter.

33 §14228. Qualifications; aesthetics

34 A person is eligible to obtain a license under this chapter  
35 for the practice of aesthetics if that person:

36 1. Age. Is at least 17 years of age;

37 2. Education. Has satisfactorily completed the 10th grade  
38 in a secondary school or its equivalent;

39 3. Training. Within the immediately preceding 3 years, has  
40 satisfactorily completed a course of instruction in aesthetics of  
41 750 hours in not less than 5 months in a school licensed by the  
42 Commissioner of Education or has experience in the practice of  
43 aesthetics as an apprentice of 1,250 hours distributed over a  
44 period of at least 7 months; and

2       4. Examination. Has satisfactorily passed an examination  
3       in subjects the board considers necessary to determine the  
4       fitness of the applicant to practice. The board shall establish  
5       the passing score for all examinations.

6       A. Applicants for examination must submit to the board an  
7       application on a form prescribed and supplied by the board  
8       and pay an application and examination fee in an amount  
9       established by the board. The application must contain  
10       satisfactory evidence of the qualifications required of the  
11       applicant under this chapter and must be sworn by the  
12       applicant.

13       B. Within 90 days of notification of passing an  
14       examination, the applicant must pay a fee established by the  
15       board to receive a first license. The first license is  
16       valid until the next renewal period. The board has the  
17       authority to waive the 90-day time period for extenuating  
18       circumstances. If not successful, the applicant, upon  
19       filing the appropriate application and fees, may take  
20       subsequent examinations held by the board within a period of  
21       one year from the date of the applicant's first  
22       examination. Any applicant who fails to pass an examination  
23       within one year from the applicant's first examination may  
24       take another examination at a time and under the conditions  
25       that the board determines.

26  
27  
28       §14229. Qualifications; manicuring

29       A person is eligible to obtain a license under this chapter  
30       for the practice of manicuring if that person:

31  
32       1. Age. Is at least 17 years of age;

33       2. Education. Has satisfactorily completed the 10th grade  
34       in a secondary school or its equivalent;

35       3. Training. Within the immediately preceding 3 years, has  
36       satisfactorily completed a course of instruction in manicuring of  
37       200 hours in not less than 5 weeks in a school licensed by the  
38       Commissioner of Education or has experience in the practice of  
39       manicuring as an apprentice of 400 hours distributed over a  
40       period of at least 10 weeks; and

41       4. Examination. Has satisfactorily passed an examination  
42       in subjects the board considers necessary to determine the  
43       fitness of the applicant to practice. The board shall establish  
44       the passing score for all examinations.

45       A. Applicants for examination must submit to the board an  
46       application on a form prescribed and supplied by the board  
47       and pay an application and examination fee in an amount  
48       established by the board.



2 established by the board. The application must contain  
3 satisfactory evidence of the qualifications required of the  
4 applicant under this chapter and must be sworn by the  
5 applicant.

6 B. Within 90 days of notification of passing an  
7 examination, the applicant must pay a fee established by the  
8 board to receive a first license. The first license is  
9 valid until the next renewal period. The board has the  
10 authority to waive the 90-day time period for extenuating  
11 circumstances. If not successful, the applicant, upon  
12 filing the appropriate application and fees, may take  
13 subsequent examinations held by the board within a period of  
14 one year from the date of the applicant's first  
15 examination. Any applicant who fails to pass an examination  
16 within one year from the applicant's first examination may  
17 take another examination at a time and under the conditions  
18 that the board determines.

19 §14230. Temporary permit

20 If an applicant to practice cosmetology, barbering,  
21 manicuring or aesthetics qualifies for examination, the board may  
22 issue to that applicant a permit to practice under the direct  
23 supervision of a qualified supervisor, as determined by board  
24 rules, within a licensed shop. The applicant must pay a permit  
25 fee in an amount established by the board. Permits expire 5  
26 weeks from the date of the applicant's scheduled examination.  
27 Only 2 such permits may be issued to any person eligible for  
28 examination. The applicant is not considered an apprentice.  
29

30 §14231. Reciprocity with other states

31 The board may waive the examination and grant a license to  
32 any applicant who presents proof of current licensure in another  
33 state or other jurisdiction of the United States or another  
34 country that grants similar privileges to persons registered  
35 under this chapter and maintains professional standards  
36 considered by the board to be equivalent to those set forth in  
37 this chapter, as long as no cause exists for denial of a license  
38 under section 14236. Such an applicant must pay the fee as  
39 provided in section 14238.  
40

41 The board may allow an applicant to take the examination if  
42 that applicant presents proof of age, education, training or  
43 experience at least equal to that required in this chapter for  
44 the applicable license type in another state or jurisdiction of  
45 the United States or another country that maintains professional  
46 standards considered by the board to be equivalent to those set  
47 forth in this chapter, as long as no cause exists for the denial  
48 of a license under section 14236. Such an applicant must pay the  
49 fee as provided in section 14238.  
50  
51  
52

2        §14232. Apprentices

4            1. Registration. Each apprentice must submit an  
6        application for registration to the board on a form prescribed  
8        and supplied by the board. The application must be accompanied  
          by a registration fee set by the board. The registration for  
          each type of apprenticeship training expires as indicated below.

10           A. A cosmetology apprentice registration expires 18 months  
            from date of issuance.

12           B. A barber apprentice registration expires 18 months from  
14           date of issuance.

16           C. A manicurist apprentice registration expires 6 months  
18           from date of issuance.

20           D. An aesthetician apprentice registration expires 12  
            months from date of issuance.

22        The board shall furnish to each registered apprentice an  
24        apprentice registration. An apprentice registration is renewable  
          upon payment of the registration fee. The registration must be  
26        displayed as provided for licenses in section 14235. The term  
          "apprentice" must appear in conspicuous print upon the  
28        registration. To obtain a license, an apprentice, upon  
30        completion of the required training in accordance with this  
          chapter, must file application for examination at the next  
          examination held by the board.

32           2. Filing with the board. Before beginning an  
34           apprenticeship, an apprentice must file with the board:

36           A. The employer's name, shop name and address;

38           B. The date that the apprenticeship training will begin;

40           C. The type of apprenticeship training, such as  
            cosmetology, barbering, manicuring or aesthetics;

42           D. Evidence of age; and

44           E. Evidence of satisfactory completion of the 10th grade or  
46           its equivalent.

48        Apprentices who change their place of employment must notify the  
50        board, within 5 days of the change, of the name and place of  
52        business of the new employer and the date of the change.

3. Courses of instruction. An apprentice may take courses  
          of instruction in a licensed school without having to register as

2 a student as provided in this chapter. Hours or time accumulated  
3 in a school may not be combined with the required apprenticeship  
4 training hours and time.

6 **§14233. Student permit**

8 The board shall furnish to each applicant a student permit  
9 upon the student's completion and filing of an application, on a  
10 form supplied by the board, that demonstrates the student's  
11 eligibility for this permit.

12 To be eligible for a student permit, a student must be at  
13 least 16 years of age and have satisfactorily completed the 10th  
14 grade or its equivalent. The application must include evidence  
15 of the student's enrollment in a school licensed by the  
16 Commissioner of Education.

18 The student permit expires 12 months from the date of  
19 issuance.

20 All training or services rendered to a member of the public  
21 by a student must be under the direct supervision of a duly  
22 licensed instructor in a licensed school.

24 **§14234. Demonstrators**

26 A person licensed to practice cosmetology, barbering,  
27 manicuring or aesthetics may apply to the board as a  
28 demonstrator. A license limited to demonstrations only may be  
29 issued to an applicant who complies with such requirements as the  
30 board determines. Such a license is valid until the next renewal  
31 date. Licenses must be renewed biennially on or before July 1st.

34 **§14235. Licenses; renewal**

36 The board shall furnish to each licensed cosmetologist,  
37 barber, manicurist or aesthetician a license certifying that the  
38 holder of that license is entitled to practice in this State.  
39 The holder of a license shall post it in a conspicuous place  
40 where it may be readily seen and read by all persons served. The  
41 reproduction, altering or defacing of any license is prohibited.

42 Licensees must renew their licenses on or before July 1st  
43 biennially by filing an application prescribed by the board and  
44 payment of the required renewal fee as set forth in section  
45 14238. The expiration dates for licenses issued under this  
46 chapter may be established by the commissioner.

48 A license may be renewed up to 90 days after the date of its  
49 expiration upon payment of a late fee as set forth in section  
50 14238 in addition to the renewal fee. Any person who submits an  
51 application for renewal more than 90 days after the license  
52 expiration is not eligible for renewal.

2 expiration date is subject to all requirements governing new  
3 applicants under this chapter, except that the board, after  
4 giving due consideration to the protection of the public, may  
5 waive requirements. The board may assess a penalty fee for a  
6 renewal more than 90 days after a license expiration date.

7 Notwithstanding any other provision of this chapter, the  
8 board must waive examination if a renewal application is made by  
9 a person within 90 days after separation from the United States  
10 Armed Forces, under conditions other than dishonorable, if that  
11 person failed to renew a license because of active duty in the  
12 armed forces. The waiver of examination may not be granted if  
13 the person served more than 4 years in the armed forces, unless  
14 the board is presented with satisfactory evidence that the  
15 applicant was required by law to serve that period.

16 **§14236. Investigation of complaints; suspension, revocation and**  
17 **refusal to issue or renew**

18  
19 **1. Investigations.** The board shall investigate or cause to  
20 be investigated a complaint on its own motion or upon receipt of  
21 a written complaint filed with the board regarding noncompliance  
22 with board rules or violations of this chapter. Any person may  
23 register a complaint of fraud, deceit, gross negligence,  
24 incompetence or misconduct against any person licensed or  
25 required to be licensed under this chapter. These complaints  
26 must be in writing and filed with the board.

27  
28 **2. Refusal to issue or renew.** The board may refuse to  
29 issue or renew a license or take any other action pursuant to  
30 Title 10, section 8003, subsection 5 on a finding that the  
31 applicant, licensee or registrant:

32  
33 **A. Obtained a registration or a license by means of fraud,**  
34 **misrepresentation or concealment of material facts;**

35 **B. Violated any lawful order or rule adopted by the board;**

36  
37 **C. Violated any provision of this chapter;**

38  
39 **D. Was convicted of a crime in any court, other than minor**  
40 **traffic violations, if the acts for which the person was**  
41 **convicted are found by the board to have a direct bearing on**  
42 **whether the person should be entrusted to serve the public**  
43 **in a capacity that is subject to license or registration**  
44 **under this chapter, subject to the limitations of Title 5,**  
45 **chapter 341; or**

46  
47 **E. While serving customers, committed an act of gross**  
48 **negligence, incompetence or misconduct that was dangerous or**  
49 **injurious, or was potentially so, to customers.**  
50  
51  
52

2       3. Reinstatement. The board may reissue a license to any  
3       person whose license has been revoked, if 6 or more members of  
4       the board vote in favor of that reissuance.

6       §14237. Enforcement and disciplinary procedures

8       1. Disciplinary procedures. The board shall adopt by rule  
9       a procedure for initiating and processing complaints.

10       2. Grounds for discipline. The board may take any  
11       disciplinary action authorized by this chapter based upon any one  
12       or more of the grounds set forth below:

14       A. The practice of fraud or deceit in obtaining a license  
15       under this chapter or in connection with service rendered as  
16       a cosmetologist, barber, manicurist or aesthetician;

18       B. Addiction, as confirmed by professional diagnosis, to  
19       the use of alcohol or other drugs that has resulted or may  
20       result in the licensee being unable to perform duties or  
21       being unable to perform those duties in a manner that would  
22       not endanger the health or safety of the public to be served;

24       C. A professional diagnosis of mental incompetence;

26       D. Aiding or abetting a person not duly licensed in  
27       representing that person as a person licensed under this  
28       chapter;

30       E. Incompetence in the practice for which the person is  
31       licensed. A licensee is incompetent in the practice if the  
32       licensee has:

34               (1) Engaged in conduct that evidences a lack of  
35               ability or fitness to discharge the duty owed by the  
36               licensee to a client or the general public; or

38               (2) Engaged in conduct that evidences a lack of  
39               knowledge of or inability to apply principles or skills  
40               to carry out the practice for which the person is  
41               licensed;

42       F. Any negligence or misconduct in any of the practices  
43       licensed under this chapter;

46       G. Engaging in false, misleading or deceptive advertising;  
47       or

48       H. Violation of any provision of this chapter or any rule  
49       of the board.

52       §14238. Fees

2           1. Fees. Application, examination and license fees may be  
3 established by the board in amounts that are reasonable and  
4 necessary for their respective purposes. With the exception of  
5 the various application, examination, registration and permit  
6 fees collected as specified in this chapter, all fees are  
7 collected by the board on a biennial basis. The fees may not  
8 exceed the following amounts:

10           A. For a student permit, \$25;

12           B. For a temporary work permit, \$25;

14           C. For an apprentice registration, \$25;

16           D. For an original or biennial renewal of a shop license,  
17 \$100;

18           E. For an original or biennial renewal of a cosmetology  
19 license, \$100;

22           F. For an original or biennial renewal of a barber license,  
23 \$100;

24           G. For an original or biennial renewal of a manicurist  
25 license, \$100;

28           H. For an original or biennial renewal of an aesthetician  
29 license, \$100;

30           I. For an original or biennial renewal of a demonstrator  
31 license, \$100;

34           J. For an original or biennial renewal of an instructor  
35 license, \$100;

36           K. For a cosmetology, barber, manicurist, aesthetician or  
37 instructor examination, \$100;

40           L. For special shop inspections, \$40;

42           M. For a late fee, \$30; and

44           N. For a late filing penalty fee for repeat offenders, \$100.

46           2. Investigation; enforcement duties. When there is a  
47 finding of a violation of this chapter, a person licensed under  
48 this chapter may be assessed for the actual expenses incurred by  
49 the board or its agents for investigations and enforcement duties  
50 performed under this chapter.

2           **Sec. 7. Transition provision.** The following provisions apply to  
the transition required by this Act.

4           1. All liabilities and assets must be transferred from the  
State Board of Barbers and the State Board of Cosmetology to the  
6           Board of Barbering and Cosmetology and the Department of  
Professional and Financial Regulation.

8  
10           2. All rules and procedures currently in effect and  
operations pertaining to any unit that are in compliance with the  
provisions of this Act remain in effect until rescinded or  
12           amended as provided by state law.

14           3. Members of the State Board of Barbers and the State  
Board of Cosmetology who have been appointed to terms extending  
16           beyond the effective date of this Act continue to serve in their  
appointed terms of office under the Board of Barbering and  
18           Cosmetology.

20           4. All employees of the Board of Cosmetology become  
employees of the Department of Professional and Financial  
22           Regulation. The accrued fringe benefits, including vacation and  
sick leave, health and life insurance and retirement of those  
24           personnel, remain with those personnel.

26           5. Any valid license issued under the Maine Revised  
Statutes, Title 32, chapters 7 and 23 on or before the effective  
28           date of this Act remains valid and is renewable by the Board of  
Barbering and Cosmetology in the same license category upon  
30           satisfaction of all license requirements established by the board.

32           **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.  
34

### 36           **STATEMENT OF FACT**

38           This bill merges the State Board of Cosmetology and the  
State Board of Barbers to create the Board of Barbering and  
40           Cosmetology to act as one functional unit representing both  
groups to eliminate unnecessary duplication of work and  
42           expenditure of resources. Due to the similar functions of these  
boards and the professions they regulate, the merger of the 2  
44           boards would be cost-effective and administratively more  
efficient.  
46

48           This bill moves the State Board of Cosmetology under the  
Department of Professional and Financial Regulation.

50           The bill repeals the Maine Revised Statutes, Title 32,  
chapters 7 and 23 to create one board under Title 32, chapter

2 126. In addition to technical changes to integrate the 2 boards,  
some significant changes have been made as follows.

4 The bill clarifies the current terms used to identify  
6 businesses where the practices governed by Title 32, chapter 126  
are performed.

8 The bill redefines the practice of cosmetology to include  
10 services currently being rendered.

12 The membership of both boards is combined, with the barbers  
14 being increased in membership by one and the public member  
representation to 2.

16 The bill reduces from 2 to one the minimum number of  
required annual shop inspections.

18 Currently, upon a change of ownership, a shop can not  
20 operate until properly licensed. The bill provides a time period  
to enable the owners of such shops to make appropriate  
22 application to the board.

24 The bill authorizes the board to assess fees for inspections  
of shops that require special inspections.

26 The bill provides for apprenticeship training as a means of  
28 qualifying for examination and obtaining licensure.

30 The bill sets a specific expiration date for temporary work  
permits to allow persons who pass an examination sufficient time  
32 to make application for licensure and maintain employment status  
during the transition. Currently, upon notice of passing an  
34 examination, persons must cease employment in the practice until  
licensure status is in effect.

36 The bill sets a specific time by which apprentices must  
notify the board of changes of employment.

38 The bill expands the board's authority to waive requirements  
40 under Title 32, chapter 126.

42 The bill establishes disciplinary procedures and raises the  
cap for fees.