

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 1476

DATE: 2-21-02

(Filing No. H-827)

MAJORITY  
BUSINESS AND ECONOMIC DEVELOPMENT

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1107, L.D. 1476, Bill, "An Act to Require Continuing Education in the Cosmetology, Manicuring, Aesthetics and Barbering Fields"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Laws of the Board of Barbering and Cosmetology'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 32 MRSA §14202, sub-§8, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 2. 32 MRSA §14202, sub-§8-A is enacted to read:

8-A. Practice of barbering. "Practice of barbering" means any one or any combination of the following practices, when done for hire or compensation, upon the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

A. Shaving, trimming or cutting the beard or mustache, or removing superfluous hair on the upper part of the body;

B. Massaging of the scalp, face or neck or giving a facial or scalp treatment with creams, lotions, oils or other cosmetic preparations, either by hand or mechanical appliances, as long as those appliances are not galvanic or faradic;

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- 2            C. Shampooing or applying hair tonics, dressings or
- conditioners;
- 4
- D. Cutting, singeing, arranging, styling, curling or
- 6            nonchemical waving of the human hair; or
- 8            E. Cutting, fitting, coloring or styling hairpieces or wigs.

10            **Sec. 3. 32 MRSA §14211-A, sub-§1**, as amended by PL 1999, c.  
687, Pt. E, §14, is further amended to read:

12            **1. Membership.** The Board of Barbering and Cosmetology, as  
14 established by Title 5, section 12004-A, subsection 6, consists  
16 of 9 members appointed by the Governor. Two members must be  
representatives of the public; 3 2 must be licensed and  
18 practicing cosmetologists; 2 one must be a licensed and  
practicing ~~barbers~~ barber; one must be a licensed instructor  
20 having that has at least 3 years of instructing experience and no  
current affiliation with any school currently licensed in the  
22 State; and one must be the owner of a school licensed barbering  
ex-cosmetology-school by the board; one must be a licensed and  
24 practicing manicurist; and one must be a licensed and practicing  
aesthetician.

26            **Sec. 4. 32 MRSA §14212, sub-§2**, as enacted by PL 1991, c. 397,  
§6, is amended to read:

28            **2. Rules.** The board shall adopt, in accordance with the  
30 Maine Administrative Procedure Act, rules necessary to carry out  
the purposes of this chapter. Rules adopted pursuant to this  
32 section are routine technical rules as defined in Title 5,  
chapter 375, subchapter II-A.

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

- 36            A. The proper use of appliances, apparatus, and electrical
- 38            and nonelectrical machines used in connection with the
- 40            practice of cosmetology, barbering, manicuring and
- aesthetics;
- 42            B. Construction and safety of establishments;
- 44            C. Reasonable requirements, including sanitary standards,
- 46            to govern the practice of cosmetology, barbering, manicuring
- and aesthetics within licensed establishments as well as for
- 48            persons practicing outside of licensed establishments as
- authorized by section 14203; and
- 50            D. Requirements for licenses consistent with this chapter.

2 ~~A copy of these rules must~~ The board may require that some or all  
4 of the board's rules be kept posted in a conspicuous place within  
licensed establishments so as to be easily read by customers.

6 **Sec. 5. 32 MRSA §14212, sub-§11**, as enacted by PL 1997, c.  
771, §9, is amended to read:

8 **11. Inspections.** The board or its agents ~~or assistants~~  
10 shall ~~inspect each establishment~~ conduct random inspections of  
12 licensed establishments and booths as considered necessary for  
14 compliance with the applicable requirements of this subchapter  
~~chapter~~ and the applicable rules of the board adopted pursuant to  
16 this subchapter ~~chapter~~. ~~Each establishment must be inspected at~~  
~~least once a year for compliance with the applicable laws and~~  
~~rules relating to the public health and safety and the conduct~~  
~~and operation of establishments.~~

18 **Sec. 6. 32 MRSA §14224, sub-§2**, as repealed and replaced by PL  
20 1997, c. 622, §1, is amended to read:

22 **2. Operation of shop; license required.** A person, firm or  
24 corporation may not provide services in, operate or cause to be  
operated a shop where cosmetology, barbering, manicuring or  
26 aesthetics is practiced unless that shop has been duly licensed  
by the board. A license issued pursuant to this subsection  
28 authorizes the operation of the establishment only at the  
location for which the license is issued. Operation of the  
30 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.

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

38 Shop licenses are issued on July 1st and must be renewed  
biennially unless otherwise provided by the commissioner. The  
40 required fee set by the Director of the Office of Licensing and  
Registration under section 14238 is payable to the board.

42  
44 **Sec. 7. 32 MRSA §14226, sub-§4, ¶B**, as amended by PL 1997, c.  
210, §26, is further amended to read:

46 **B.** Within 90 days of notification of passing an  
48 examination, the applicant must pay a the required fee  
50 established by the board set by the Director of the Office  
of Licensing and Registration under section 14238 to receive

2 a first license. The first license is valid until the next  
renewal period. The board has the authority to waive the  
4 90-day time period for extenuating circumstances. If not  
successful, the applicant may take subsequent examinations  
6 held within a period of one year from the date of the  
applicant's first examination. An applicant who fails to  
8 pass an examination within one year from the applicant's  
first examination may take another examination at a time and  
under the conditions that the board determines.

10 **Sec. 8. 32 MRSA §14227, sub-§3**, as amended by PL 1997, c. 210,  
12 §28, is further amended to read:

14 **3. Training.** Has satisfactorily completed a course of  
instruction in barbering of ~~1,500~~ 1,000 hours in not less than 9  
16 6 months in a school licensed by the board or has experience in  
the practice of barbering as a trainee of ~~2,500~~ 2,000 hours  
18 distributed over a period of at least ~~18~~ 12 months; and

20 **Sec. 9. 32 MRSA §14227, sub-§4, ¶B**, as amended by PL 1997, c.  
210, §30, is further amended to read:

22 B. Within 90 days of notification of passing an  
24 examination, the applicant must pay a the required fee  
~~established by the board set by the Director of the Office~~  
26 of Licensing and Registration under section 14238 to receive  
a first license. The first license is valid until the next  
28 renewal period. The board has the authority to waive the  
90-day time period for extenuating circumstances. If not  
30 successful, the applicant may take subsequent examinations  
held within a period of one year from the date of the  
32 applicant's first examination. Any applicant who fails to  
pass an examination within one year from the applicant's  
34 first examination may take another examination at a time and  
under the conditions that the board determines.

36 **Sec. 10. 32 MRSA §14228, sub-§4, ¶B**, as amended by PL 1997, c.  
38 210, §34, is further amended to read:

40 B. Within 90 days of notification of passing an  
42 examination, the applicant must pay a the required fee  
~~established by the board set by the Director of the Office~~  
44 of Licensing and Registration under section 14238 to receive  
a first license. The first license is valid until the next  
46 renewal period. The board has the authority to waive the  
90-day time period for extenuating circumstances. If not  
48 successful, the applicant may take subsequent examinations  
held within a period of one year from the date of the  
applicant's first examination. Any applicant who fails to  
50 pass an examination within one year from the applicant's

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2 first examination may take another examination at a time and  
under the conditions that the board determines.

4 **Sec. 11. 32 MRSA §14229, sub-§4, ¶B,** as amended by PL 1997, c.  
210, §37, is further amended to read:

6  
8 B. Within 90 days of notification of passing an  
examination, the applicant must pay a the required fee  
established-by-the-board set by the Director of the Office  
10 of Licensing and Registration under section 14238 to receive  
a first license. The first license is valid until the next  
12 renewal period. The board has the authority to waive the  
90-day time period for extenuating circumstances. If not  
14 successful, the applicant may take subsequent examinations  
held within a period of one year from the date of the  
16 applicant's first examination. Any applicant who fails to  
pass an examination within one year from the applicant's  
18 first examination may take another examination at a time and  
under the conditions that the board determines.

20 **Sec. 12. 32 MRSA §14230,** as amended by PL 1997, c. 210, §38,  
22 is further amended to read:

24 **§14230. Temporary permit**

26 If an applicant to practice cosmetology, barbering,  
manicuring or aesthetics qualifies for examination, the board may  
28 issue to that applicant a permit to practice under the direct  
supervision of a qualified supervisor, as determined by board  
30 rules, within a licensed shop. The applicant must pay a-permit  
the required fee in-an-amount-established-by-the-board set by the  
32 Director of the Office of Licensing and Registration under  
section 14238. A permit expires 6 months from the date of  
34 issuance and is not renewable. The applicant is not considered  
a trainee.

36 **Sec. 13. 32 MRSA §14232, sub-§§1 and 2,** as amended by PL 1993,  
38 c. 630, Pt. B, §23, are further amended to read:

40 **1. Registration.** Each trainee must submit an application  
for registration to the board on a form prescribed and supplied  
42 by the board. The application must be accompanied by a  
registration the required fee set by the board Director of the  
44 Office of Licensing and Registration under section 14238. The  
registration for each type of training expires as indicated below.

46 A. A cosmetology trainee registration expires 18 months  
48 from date of issuance.

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- B. A barber trainee registration expires 18 months from date of issuance.
- C. A manicurist trainee registration expires 6 months from date of issuance.
- D. An aesthetician trainee registration expires 12 months from date of issuance.

The board shall furnish to each registered trainee a trainee registration. A trainee registration is renewable upon payment of the registration required fee set by the Director of the Office of Licensing and Registration under section 14238. The registration must be displayed as provided for licenses in section 14235. The term "trainee" must appear in conspicuous print upon the registration. To obtain a license, a trainee, upon completion of the required training in accordance with this chapter, must file application for examination at the next examination held by the board.

**2. Filing with the board.** Before beginning training, a trainee must file with the board:

- A. The employer's name, shop name and address;
- B. The date that the training will begin;
- C. The type of training, such as cosmetology, barbering, manicuring or aesthetics;
- D. Evidence of age; and
- E. Evidence of satisfactory completion of the 10th grade or its equivalent; and
- F. The name of the licensee who will directly supervise the trainee in compliance with section 14224.

Trainees who change their place of employment must notify the board, within 5 days of the change, ~~of the name and place of business of the new employer and the date of the change~~ and must file a new trainee application.

**Sec. 14. 32 MRSA §14235, 2nd and 3rd ¶¶, as enacted by PL 1991, c. 397, §6, are amended to read:**

Licensees must renew their licenses on or before July 1st biennially by filing an application prescribed by the board, completing any continuing education requirements established by the board pursuant to section 14235-A, and payment of the

2 required renewal fee as set forth--in by the Director of the  
Office of Licensing and Registration under section 14238. The  
4 expiration dates for licenses issued under this chapter may be  
established by the commissioner.

6 A license may be renewed up to 90 days after the date of its  
expiration upon payment of a late fee as--set--forth--in--section  
8 14238 in addition to the renewal fee. Any person who submits an  
application for renewal more than 90 days after the license  
10 expiration date is subject to all requirements governing new  
applicants under this chapter, except that the board, after  
12 giving due consideration to the protection of the public, may  
waive requirements. The board may assess a penalty fee for a  
14 renewal more than 90 days after a license expiration date.

16 **Sec. 15. 32 MRSA §§14235-A and 14235-B** are enacted to read:

18 **§14235-A. Continuing education**

20 **1. Requirements.** The board shall adopt continuing  
education requirements and program and course approvals by rule.  
22 Rules adopted pursuant to this subsection are routine technical  
rules as defined in Title 5, chapter 375, subchapter II-A.

24 **2. Program approval.** Each application for approval of a  
continuing education program or course must be submitted  
26 according to the guidelines prescribed by rule, together with the  
required fee set by the Director of the Office of Licensing and  
28 Registration under section 14238. The fee must be retained  
whether or not the application is approved.

32 **3. Core requirement.** The board may establish a core  
continuing education requirement for each license type.

34 **4. Exemption.** The board may exempt continuing education  
36 requirements for a licensee 65 years of age or older by rule.

38 **§14235-B. Inactive license status**

40 **1. Placement on inactive status.** Any licensee who does not  
intend to perform any of the activities described in section  
42 14202, subsections 7 to 10 and section 14204 and who wants to  
preserve the license while not engaged in any aesthetic,  
44 barbering, cosmetology, manicuring or instructing activity may  
surrender that license to the board for placement on inactive  
46 status. The board may place the license on inactive status and  
issue an inactive license only upon proper application by the  
48 licensee and payment of the required fee set by the Director of  
the Office of Licensing and Registration under section 14238.  
50 During inactive status, the licensee is required to renew the



2 inactive license biennially, but is not required to meet the  
continuing education provisions of section 14235-A.

4 2. Reinstatement to active status. A licensee who has  
surrendered that licensee's license pursuant to this section and  
6 who has remained on inactive status for 6 years or more may have  
that license reinstated to active status by submitting proper  
8 application and payment of the required fee set by the Director  
of the Office of Licensing and Registration under section 14238  
10 and by successfully passing a license examination designated by  
board rule for this purpose. A licensee who activates that  
12 licensee's license within 6 years of the initial inactive license  
may activate by successfully completing the designated  
14 examination or by completing continuing education requirements as  
determined by rule. Rules adopted pursuant to this section are  
16 routine technical rules as defined in Title 5, chapter 375,  
subchapter II-A.

18 **Sec. 16. 32 MRSA §14238, sub-§1,** as amended by PL 1999, c.  
20 386, Pt. U, §5, is repealed.

22 **Sec. 17. 32 MRSA §14238, sub-§1-A** is enacted to read:

24 1-A. Fees. The Director of the Office of Licensing and  
Registration may establish by rule fees for purposes authorized  
26 under this chapter in amounts that are reasonable and necessary  
for their respective purposes, except that the fee for any one  
28 purpose may not exceed \$100. Rules adopted pursuant to this  
section are routine technical rules as defined in Title 5,  
30 chapter 375, subchapter II-A.

32 **Sec. 18. Transition; change in board composition.**  
Notwithstanding the Maine Revised Statutes, Title 32, section  
34 14211-A, subsection 1, members of the Board of Barbering and  
Cosmetology on January 1, 2002 may remain members of that board  
36 until the completion of their terms. As board positions become  
vacant, members must be appointed in accordance with the changes  
38 to the composition of the board required by Title 32, section  
14211-A, subsection 1, as amended by this Act.

40 **Sec. 19. Transition; barber license renewals.** A barber license  
42 issued under the Maine Revised Statutes, Title 32, chapter 126  
valid on the effective date of this Act remains valid and is  
44 renewable by the Board of Barbering and Cosmetology in the same  
license category or renewed for a cosmetology license upon  
46 satisfaction of all renewal requirements established by the  
board. This section is repealed July 1, 2004.

48 **Sec. 20. Appropriations and allocations.** The following  
50 appropriations and allocations are made.

2 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

4 **Licensing and Enforcement**

6 Initiative: Allocates funds for one Planning and Research  
8 Associate I position and one Clerk IV position and related  
10 operating costs to establish and administer continuing  
education requirements for persons practicing in the fields of  
barbering and cosmetology.

12	<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
14	Positions - Legislative Count	(0.000)	(2.000)
14	Personal Services	\$0	\$79,463
16	All Other	<u>0</u>	<u>25,780</u>
16	Other Special Revenue Funds Total	\$0	\$105,243'

18 Further amend the bill by inserting at the end before the  
20 summary the following:

22 **FISCAL NOTE**

24 **2002-03**

26 **APPROPRIATIONS/ALLOCATIONS**

28 Other Funds \$105,243

30 **REVENUES**

32 Other Funds \$105,243

34 This bill includes an Other Special Revenue allocation of  
36 \$105,243 in fiscal year 2002-03 for the Office of Licensing and  
38 Registration within the Department of Professional and Financial  
40 Regulation for one Planning and Research Associate I position and  
42 one Clerk IV position and related administrative costs associated  
with establishing continuing education requirements for persons  
practicing in the field of barbering and cosmetology, including  
reviewing, approving and ensuring compliance with continuing  
education requirements and programs.

44 Instituting a fee to have courses approved, to have a  
46 license put on inactive status, or to have an inactive license  
48 restored will increase dedicated revenues to the Office of  
Licensing and Registration. The amount can not be determined at  
this time.

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2 The Office of Licensing and Registration will incur some  
minor additional costs to adopt rules associated with  
4 establishing a continuing education requirement for people who  
practice cosmetology and barbering. These costs can be absorbed  
6 within the Office of Licensing and Registration's existing  
budgeted resources.'

8  
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**SUMMARY**

14 This amendment replaces the original bill. It requires the  
Board of Barbering and Cosmetology to establish continuing  
16 education requirements for licensees of the board and establishes  
provisions for inactive license status. This amendment narrows  
18 the scope of practice for barbers, in order to enable the board  
to adopt less stringent continuing education requirements for  
barbers. This amendment also reduces the number of hours of  
20 course instruction from 1,500 hours to 1,000 hours or experience  
in practice from 2,500 hours to 2,000 to satisfy the training  
22 component of licensure for barbers. Additionally, this amendment  
removes the authority to set fees from the board and gives the  
24 authority to the Director of the Office of Licensing and  
Registration within the Department of Professional and Financial  
26 Regulation. The amendment also changes the composition of the  
Board of Barbering and Cosmetology by reducing the number of  
28 barber and cosmetologist members and by adding a manicurist and  
an aesthetician. This transition will be accomplished by  
30 attrition. The amendment also alters the inspection schedule to  
make more efficient use of staff and makes rules adopted under  
32 the chapter routine technical rules.

34 It also adds fiscal note and an allocation section to the  
bill.