

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1258

H.P. 932

House of Representatives, March 6, 2003

An Act To Ensure Appropriate Education for Health Care Workers

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PERRY of Calais.
Cosponsored by Senator EDMONDS of Cumberland and
Representatives: DUGAY of Cherryfield, HATCH of Skowhegan, MARLEY of Portland,
Senator: PENDLETON of Cumberland.

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

4 **Sec. 1. 22 MRSA §1811-A** is enacted to read:

6 **§1811-A. Minimum requirements for health care workers**

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

10 **A. "Facility"** means any facility that is licensed under this chapter.

12 **B. "Direct health care worker"** means any person who has direct patient access and provides direct patient care.

14 **2. Requirement.** A facility shall ensure that every direct health care worker is certified as a certified nursing assistant as defined in Title 32, section 2102, subsection 8 within the first 4 months of employment as a direct health care worker.

16 **Sec. 2. 22 MRSA §1812-G, sub-§3**, as amended by PL 2001, c. 596, Pt. B, §5 and affected by §25, is further amended to read:

18 **3. Eligibility requirements for listing.** The State Board of Nursing shall adopt rules pursuant to the Maine Administrative Procedure Act defining eligibility requirements for listing on the Maine Registry of Certified Nursing Assistants, including rules regarding temporary listing of nursing assistants who have received training in another jurisdiction and provisional listing for nursing assistants who are provisionally certified under Title 32, section 2202-C. The rules must permit nursing assistants to work under the supervision of a registered professional nurse in a facility providing assisted living services as defined in chapter 1664 and must recognize work in those facilities for the purpose of qualifying for and continuing listing on the registry. Rules adopted regarding the work of nursing assistants in facilities providing assisted living services are routine technical rules as defined by Title 5, chapter 375, subchapter II-A 2-A.

22 **Sec. 3. 22 MRSA §2145, sub-§5** is enacted to read:

24 **5. Standards for direct health care workers.** The standards must require that any individual, other than a consumer-directed personal care assistant, providing direct patient health care for a home health care entity is certified as a certified nursing assistant as defined under Title 32, section 2102, subsection 8 within the first 4 months of employment.

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Sec. 4. 32 MRSA §2202-C is enacted to read:

§2202-C. Provisional certification

Any person who has successfully completed the nursing assistant training program as described in section 2102, subsection 2, paragraph D may be granted a provisional certification under rules adopted by the State Board of Nursing until a successful background check is completed or the provisional certification is revoked. The rules must define what constitutes a successful background check and what actions would constitute grounds to revoke the provisional certification. Rules adopted under this section are major substantive rules in accordance with Title 5, chapter 375, subchapter 2-A.

Sec. 5. 36 MRSA §1752, sub-§1-H is enacted to read:

1-H. Bottled soda. "Bottled soda" means any ready-to-consume, carbonated nonalcoholic drink, commonly referred to as a soda and contained in a bottle or any other closed or sealed glass, metal, paper or plastic container or any other type of container regardless of the size or shape of the container.

Sec. 6. 36 MRSA §1811, first ¶, as amended by PL 2001, c. 439, Pt. TTTT, §2 and affected by §3, is further amended to read:

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State. The rate of tax is 7% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; 7% on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; 10% on the value of bottled soda; 10% on the value of rental for a period of less than one year of an automobile; 7% on the value of prepared food; and 5% on the value of all other tangible personal property and taxable services. Value is measured by the sale price, except as otherwise provided.

Sec. 7. 36 MRSA §1811, as amended by PL 2001, c. 439, Pt. TTTT, §2 and affected by §3, is further amended by adding at the end a new paragraph to read:

One-half of the amount collected under this chapter in the sales of bottled soda must be transferred monthly by the State Controller to the Department of Education, adult education program to support training programs for nursing assistant certification under Title 32, chapter 31.

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SUMMARY

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This bill provides that any person providing direct health care, whether in a licensed health facility or as part of home health care, must be a certified nursing assistant. The bill exempts consumer-directed personal care assistants from this regulation. The bill authorizes the State Board of Nursing to provisionally certify a nursing assistant and the Maine Registry of Certified Nursing Assistants to provisionally list a person who has completed the training, but has not yet successfully completed a background check. It further directs the board to adopt major substantive rules concerning background checks and how information in a check could be used to revoke a provisional certification. Lastly, the bill increases the sales tax on bottled soda to 10%, with 1/2 of the money earmarked for the Department of Education to support certified nursing assistant training courses.