

MAINE STATE LEGISLATURE

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R.O.S.

L.D. 1254

Date: 5/19/9

(Filing No. H-328)

STATE AND LOCAL GOVERNMENT

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 873, L.D. 1254, Bill, "An Act To Repeal Inactive Boards and Commissions"

Amend the bill by inserting after the enacting clause the following: 'PART A'

Amend the bill by striking out all of sections 1 to 11, 15, 17, 18, 20 to 23, 26 to 29, 32 and 34 to 36.

Amend the bill by inserting after section 36 the following:

Sec. 37. 5 MRSA §12006, sub-§2, as amended by PL 2007, c. 395, §23, is further amended to read:

2. Legislative repeal of inactive boards. The Secretary of State shall submit suggested legislation to the joint standing committee of the Legislature having jurisdiction over state government matters on or before January ~~15th~~ 30th in the first regular session of each biennium to repeal those boards that have not reported on their activities to the Secretary of State under this section or section 12005-A during either of the prior 2 calendar years or have been inactive during the preceding 24 months. The joint standing committee of the Legislature having jurisdiction over state government matters may submit legislation to the first regular session of each biennium to repeal those boards.

Sec. 38. 5 MRSA §12006, sub-§3, ¶C, as enacted by PL 2003, c. 643, §6, is amended to read:

C. State Poet Laureate Advisory Selection Committee, as established in section 12004-I, subsection 5-A; and

Sec. 39. 5 MRSA §12006, sub-§3, ¶D, as enacted by PL 2003, c. 643, §6, is amended to read:

D. Board of Emergency Municipal Finance, as established in Title 30-A, section 6101;

Sec. 40. 5 MRSA §12006, sub-§3, ¶E is enacted to read:

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- 1 E. State Compensation Commission, as established in Title 3, section 2-B;
2 **Sec. 41. 5 MRSA §12006, sub-§3, ¶F** is enacted to read:
3 F. Maine-Canadian Legislative Advisory Commission, as established in Title 3,
4 section 227;
5 **Sec. 42. 5 MRSA §12006, sub-§3, ¶G** is enacted to read:
6 G. New England and Eastern Canada Legislative Commission, as established in Title
7 3, section 231;
8 **Sec. 43. 5 MRSA §12006, sub-§3, ¶H** is enacted to read:
9 H. State House and Capitol Park Commission, as established in Title 3, section
10 901-A; and
11 **Sec. 44. 5 MRSA §12006, sub-§3, ¶I** is enacted to read:
12 I. Maine Agricultural Bargaining Board, as established in Title 13, section 1956.'
13 Amend the bill by striking out all of sections 37 to 40, 42 to 44 and 47.
14 Amend the bill by striking out all of section 48 and inserting the following:
15 '**Sec. 48. 10 MRSA §8001, sub-§38**, as amended by PL 2007, c. 369, Pt. B, §§2
16 to 6 and affected by Pt. C, §5 and amended by c. 402, Pt. C, §1, is further amended to
17 read:
18 **38. Office of Licensing and Registration.** Office of Licensing and Registration.
19 The Office of Licensing and Registration is composed of the following:
20 A. Board of Accountancy;
21 D. Maine State Board for Licensure of Architects, Landscape Architects and
22 Interior Designers;
23 E. Maine Athletic Commission;
24 F. Board of Licensing of Auctioneers;
25 ~~G. Board of Barbering and Cosmetology;~~
26 H. Board of Chiropractic Licensure;
27 H-1. Board of Complementary Health Care Providers;
28 I. Board of Driver Education;
29 J. Board of Counseling Professionals Licensure;
30 K. Board of Licensing of Dietetic Practice;
31 L. Electricians' Examining Board;
32 M. Board of Licensure of Foresters;
33 N. State Board of Funeral Service;
34 O. State Board of Certification for Geologists and Soil Scientists;

- 1 Q. Board of Licensure for Professional Land Surveyors;
2 R. Manufactured Housing Board;
3 S. Nursing Home Administrators Licensing Board;
4 T. Board of Occupational Therapy Practice;
5 U. Oil and Solid Fuel Board;
6 V. Maine Board of Pharmacy;
7 W. Board of Examiners in Physical Therapy;
8 Y. Plumbers' Examining Board;
9 Z. Board of Licensure of Podiatric Medicine;
10 AA. State Board of Examiners of Psychologists;
11 BB. Radiologic Technology Board of Examiners;
12 CC. Board of Real Estate Appraisers;
13 DD. Board of Respiratory Care Practitioners;
14 EE. State Board of Social Worker Licensure;
15 GG. State Board of Alcohol and Drug Counselors;
16 HH. State Board of Veterinary Medicine;
17 II. Propane and Natural Gas Board;
18 JJ. Real Estate Commission;
19 KK. Board of Boiler Rules;
20 LL. Board of Elevator and Tramway Safety; and
21 MM. Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and
22 Fitting.

23 The Office of Licensing and Registration also administers the following regulatory
24 functions: licensure of athletic trainers; licensure of massage therapists; licensure of
25 interpreters for the deaf and hard-of-hearing; licensure of persons pursuant to the
26 Charitable Solicitations Act; and licensure of transient sellers, including door-to-door
27 home repair transient sellers; and licensure of persons pursuant to the Barbering and
28 Cosmetology Licensure Act.

29 Amend the bill by striking out all of sections 55, 56 and 57.

30 Amend the bill in section 58 by striking out all of subsection 2 (page 9, lines 4 to 12
31 in L.D.) and inserting the following:

32 **2. Exemptions.** Educational programs related to the real estate professions that are
33 subject to approval under Title 32, chapter 59, commercial driver education schools
34 subject to approval by the Secretary of State under Title 29-A, chapter 11, subchapter III
35 3, schools of barbering and schools of cosmetology subject to approval by the ~~Board of~~
36 ~~Barbering and Cosmetology~~ Director of the Office of Licensing and Registration under

1 Title 32, chapter 126, educational programs offered by any Maine nonprofit corporation,
2 any educational programs offered by any professional or trade association primarily for
3 the benefit of its own members and any educational institution authorized by the laws of
4 this State to grant a degree are exempt from the requirements of this chapter.'

5 Amend the bill by striking out all of sections 61 to 69, 72, 73, 75 and 77.

6 Amend the bill by inserting at the end before the summary the following:

7 **PART B**

8 **Sec. B-1. 32 MRSA §14202, sub-§2,** as enacted by PL 1991, c. 397, §6, is
9 repealed.

10 **Sec. B-2. 32 MRSA §14202, sub-§3-A,** as enacted by PL 1995, c. 80, §1, is
11 amended to read:

12 **3-A. Demonstrator.** "Demonstrator" means a person who is licensed to practice
13 cosmetology, barbering, aesthetics or manicuring and engages in performing
14 demonstrations outside establishments licensed by the ~~board~~ director in the use of
15 machines, articles or techniques pertaining to practices licensed under this chapter. The
16 term "demonstrator" does not include one who performs demonstrations solely for
17 persons currently licensed to practice cosmetology, barbering, aesthetics or manicuring
18 under this chapter or under the licensing provision of any other state.

19 **Sec. B-3. 32 MRSA §14202, sub-§4-A** is enacted to read:

20 **4-A. Director.** "Director" means the Director of the Office of Licensing and
21 Registration within the department.

22 **Sec. B-4. 32 MRSA §14202, sub-§11,** as amended by PL 1997, c. 210, §14, is
23 further amended to read:

24 **11. Student.** "Student" means any person duly enrolled in a school licensed by the
25 ~~board~~ director and engaged in learning and acquiring a knowledge of the practice of:

- 26 A. Cosmetology;
- 27 B. Barbering;
- 28 C. Aesthetics; or
- 29 D. Manicuring.

30 **Sec. B-5. 32 MRSA §14202, sub-§13,** as amended by PL 2007, c. 402, Pt. HH,
31 §2, is further amended to read:

32 **13. Trainee.** "Trainee" means any person who, under the direct supervision of a
33 person licensed under this chapter in the same category as the training performed and in
34 accordance with ~~board~~ rules adopted by the director, is engaged in learning and acquiring
35 a knowledge of the practice of:

- 36 A. Cosmetology;
- 37 B. Barbering;

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- C. Aesthetics; or
- D. Manicuring.

Sec. B-6. 32 MRSA §14203, sub-§2, as amended by PL 2009, c. 48, §§1 to 3, is further amended to read:

2. Exceptions. The practice of cosmetology, barbering, aesthetics or manicuring may be carried on only by persons duly licensed to practice in this State and only in an establishment licensed by the ~~board~~ director, except as provided in this subsection. Duly licensed persons may practice their respective practices:

- A. On patients in hospitals or nursing homes;
- B. On residents of summer camps;
- C. On inmates or residents of institutions of the Department of Health and Human Services;
- D. On invalids or handicapped persons in those persons' places of residence;
- E. On residents of nursing homes;
- F. On hotel or motel occupants in their hotel or motel rooms;
- G. On persons in their residences;
- H. On persons in their private businesses;
- I. On human remains in licensed funeral establishments; and
- J. On persons at special events with a special event services permit. Services rendered pursuant to this paragraph must be rendered for compensation. A person may not perform special event services without first obtaining a special event services permit from the ~~board~~ director. The services provided pursuant to the special event services permit must comply with any applicable public health and safety requirements, the requirements of this chapter and all federal, state and local laws.

Sec. B-7. 32 MRSA §14204, 2nd ¶, as amended by PL 2007, c. 402, Pt. HH, §4, is repealed.

Sec. B-8. 32 MRSA §14211-A, as amended by PL 2007, c. 402, Pt. HH, §7, is repealed.

Sec. B-9. 32 MRSA §14212, as amended by PL 2007, c. 402, Pt. HH, §8, is repealed.

Sec. B-10. 32 MRSA §14212-A is enacted to read:

§14212-A. Director's powers and duties

1. Duties. The director shall administer, coordinate and enforce this chapter. The director may appoint an advisory committee to assist the director on any matter that may arise under this chapter, as needed.

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1 2. Rule-making authority. The director shall establish guidelines and adopt rules
2 necessary for the proper administration and enforcement of this chapter. Rules adopted
3 pursuant to this section are routine technical rules as defined by Title 5, chapter 375,
4 subchapter 2-A. The rules must address, but are not limited to, the following:

5 A. Requirements for the licensure of aestheticians, barbers, cosmetologists,
6 manicurists, demonstrators, instructors, students and trainees;

7 B. Requirements for licensing, operating and inspecting schools. At a minimum, the
8 rules must include standards relating to educational programs, instructor
9 qualifications, school operation, academic and student records and record keeping,
10 health, safety and sanitation, physical facilities of the school and off-site classrooms,
11 payment of refunds, notices and information to be provided to students and credit for
12 education obtained in subjects that are considered substantially equivalent to applied
13 courses offered and consistent with this chapter;

14 C. Requirements for licensing and operation of physical facilities and inspection of
15 establishments and booths consistent with this chapter; and

16 D. The establishment of sanitation, health and safe practice standards, including but
17 not limited to blood spill procedures and proper use of tools, implements, equipment
18 and electrical and nonelectrical machines and devices used in connection with the
19 practices authorized under this chapter.

20 3. Inspections. The director or a designee of the director may enter licensed
21 premises to conduct random inspections for compliance with this chapter and rules
22 adopted pursuant to this chapter.

23 4. Diseases. The director may require the physical examination of any person
24 offering service to members of the public who is suspected of having any communicable
25 disease. A person who has a communicable disease may not give service to members of
26 the public, including service within licensed establishments or schools licensed by the
27 director. Failure to submit to such an examination is grounds for suspension or
28 revocation of the person's registration, certification, permit or license.

29 **Sec. B-11. 32 MRSA §14224, sub-§2,** as amended by PL 2007, c. 402, Pt. HH,
30 §10, is further amended to read:

31 **2. Operation of shop; license required.** A person, firm or corporation may not
32 provide services in, operate or cause to be operated a shop where cosmetology, barbering,
33 manicuring or aesthetics is practiced unless that shop has been duly licensed by the board
34 director. A license issued pursuant to this subsection authorizes the operation of the
35 establishment only at the location for which the license is issued. Operation of the
36 establishment at any other location is unlawful unless a license for the new location has
37 been obtained in compliance with this chapter and applicable board rules.

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

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

4 ~~Shop licenses must be renewed biennially unless otherwise provided by the~~
5 ~~commissioner. The renewal fee is set under section 14238.~~

6 The exceptions listed in section 14203, subsection 3 do not permit the practice of
7 cosmetology, barbering, manicuring or aesthetics in food establishments or food
8 preparation areas.

9 **Sec. B-12. 32 MRSA §14224, sub-§2-B**, as enacted by PL 1997, c. 622, §2, is
10 amended to read:

11 **2-B. Change of ownership; change of location.** The owner of a new shop is
12 required to apply to the board director for licensure of that shop. The owner of a licensed
13 shop that undergoes a change in location is required to reapply to the board director for
14 licensure. The owner or owners of a licensed shop that undergoes a change in ownership
15 shall notify the board director within 7 days of the change. If a shop has more than one
16 owner and the change in ownership results from the death or divorce of one of the
17 owners, the notice must be provided to the board director as set forth in subsection 2-C.
18 Whenever there is a change of ownership, the shop license is valid for 30 days from the
19 transaction date to allow the new owner to comply with this section.

20 **Sec. B-13. 32 MRSA §14224, sub-§2-C**, as enacted by PL 1997, c. 622, §2, is
21 amended to read:

22 **2-C. Ownership changes resulting from death or divorce of an owner.** If a
23 licensed shop has more than one owner and ownership changes as a result of the death or
24 divorce of one of the owners, the board director shall reissue the license for the remaining
25 license period as long as a remaining owner is named on the existing license and the
26 board director is notified within 30 days of the divorce decree or the date of death. A shop
27 license is valid for 60 days following the death of the person in whose name the shop is
28 licensed.

29 **Sec. B-14. 32 MRSA §14224, sub-§3**, as amended by PL 2007, c. 402, Pt. HH,
30 §10, is further amended to read:

31 **3. Trainee.** A trainee cosmetologist, barber, manicurist or aesthetician licensed
32 pursuant to section 14232 may not independently conduct a practice but may, as a trainee,
33 do any or all acts constituting the practice under the immediate personal supervision of a
34 person duly licensed and approved by the board director in a licensed shop.

35 **Sec. B-15. 32 MRSA §14224, sub-§4**, as amended by PL 2007, c. 402, Pt. HH,
36 §10, is further amended to read:

37 **4. Student license required.** A student enrolled in the study of cosmetology,
38 barbering, manicuring or aesthetics must be licensed with the board director pursuant to
39 section 14233.

40 **Sec. B-16. 32 MRSA §14225, first ¶**, as amended by PL 2007, c. 402, Pt. HH,
41 §11, is further amended to read:

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1 The ~~board~~ director may, subject to section ~~14112~~ 14212-A, subsection 2, adopt rules
2 authorizing the issuance of special mobile shop licenses, including requirements for
3 mobile shops, locations for these shops and any other rules that the ~~board~~ director
4 considers necessary. The fee for a special mobile shop license is set under section 14238.

5 **Sec. B-17. 32 MRSA §14226, sub-§3**, as amended by PL 1997, c. 210, §24, is
6 further amended to read:

7 **3. Training.** Has satisfactorily completed a course of instruction in cosmetology of
8 1,500 hours in not less than 9 months in a school licensed by the ~~board~~ director or has
9 experience in the practice of cosmetology as a trainee of 2,500 hours distributed over a
10 period of at least 18 months; and

11 **Sec. B-18. 32 MRSA §14226, sub-§4**, as amended by PL 2007, c. 402, Pt. HH,
12 §12, is further amended to read:

13 **4. Examination.** Has satisfactorily passed an approved examination ~~approved by~~
14 ~~the board in subjects the board considers necessary to determine the fitness of the~~
15 ~~applicant to practice. The board may establish the passing score for all examinations.~~

16 B. Within 90 days of notification of passing an examination, the applicant must pay
17 the fee as set under section 14238 to receive a first license.

18 **Sec. B-19. 32 MRSA §14226, 2nd ¶**, as amended by PL 1997, c. 210, §27, is
19 further amended to read:

20 Any person licensed as a barber pursuant to this chapter and who has satisfactorily
21 completed a course of instruction in cosmetology of at least 500 hours in a school
22 licensed by the ~~board~~ director or has experience in the practice of cosmetology as a
23 trainee of at least 900 hours is eligible for examination.

24 **Sec. B-20. 32 MRSA §14227, sub-§3**, as amended by PL 1997, c. 210, §28, is
25 further amended to read:

26 **3. Training.** Has satisfactorily completed a course of instruction in barbering of
27 1,500 hours in not less than 9 months in a school licensed by the ~~board~~ director or has
28 experience in the practice of barbering as a trainee of 2,500 hours distributed over a
29 period of at least 18 months; and

30 **Sec. B-21. 32 MRSA §14227, sub-§4**, as amended by PL 2007, c. 402, Pt. HH,
31 §13, is further amended to read:

32 **4. Examination.** Has satisfactorily passed an approved examination ~~approved by~~
33 ~~the board in subjects the board considers necessary to determine the fitness of the~~
34 ~~applicant to practice. The board may establish the passing score for all examinations.~~

35 B. Within 90 days of notification of passing an examination, the applicant must pay
36 the fee as set under section 14238 to receive a first license.

37 **Sec. B-22. 32 MRSA §14227, 2nd ¶**, as amended by PL 1997, c. 210, §31, is
38 further amended to read:

39 Any person licensed as a cosmetologist pursuant to this chapter and who has
40 satisfactorily completed a course of instruction in barbering of at least 500 hours in a

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1 school licensed by the ~~board~~ director or has experience in the practice of barbering as a
2 trainee of at least 900 hours is eligible for examination.

3 **Sec. B-23. 32 MRSA §14228, sub-§3**, as amended by PL 2001, c. 260, Pt. G, §1,
4 is further amended to read:

5 **3. Training.** Has satisfactorily completed a course of instruction in aesthetics of 600
6 hours in not less than 3 months in a school licensed by the ~~board~~ director or has
7 experience in the practice of aesthetics as a trainee of up to 1,000 hours distributed over a
8 period of at least 6 months. ~~The board shall establish by rule the specific number of~~
9 ~~hours of course work required up to a maximum of 600 hours~~ must be specified by rule.
10 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
11 chapter 375, subchapter ~~H-A~~ 2-A; and

12 **Sec. B-24. 32 MRSA §14228, sub-§4**, as amended by PL 2007, c. 402, Pt. HH,
13 §14, is further amended to read:

14 **4. Examination.** Has satisfactorily passed an approved examination ~~approved by~~
15 ~~the board in subjects the board considers necessary to determine the fitness of the~~
16 ~~applicant to practice. The board may establish the passing score for all examinations.~~

17 B. Within 90 days of notification of passing an examination, the applicant must pay
18 the fee as set under section 14238 to receive a first license.

19 **Sec. B-25. 32 MRSA §14229, sub-§3**, as amended by PL 1997, c. 210, §35, is
20 further amended to read:

21 **3. Training.** Has satisfactorily completed a course of instruction in manicuring of
22 200 hours in not less than 5 weeks in a school licensed by the ~~board~~ director or has
23 experience in the practice of manicuring as a trainee of 400 hours distributed over a
24 period of at least 10 weeks; and

25 **Sec. B-26. 32 MRSA §14229, sub-§4**, as amended by PL 2007, c. 402, Pt. HH,
26 §15, is further amended to read:

27 **4. Examination.** Has satisfactorily passed an approved examination ~~approved by~~
28 ~~the board in subjects the board considers necessary to determine the fitness of the~~
29 ~~applicant to practice. The board may establish the passing score for all examinations.~~

30 B. Within 90 days of notification of passing an examination, the applicant must pay
31 the fee as set under section 14238 to receive a first license.

32 **Sec. B-27. 32 MRSA §14229-A**, as enacted by PL 2007, c. 402, Pt. HH, §16, is
33 amended to read:

34 **§14229-A. First license; reexamination**

35 Within 90 days of notification of passing an examination, the applicant must pay a
36 fee as set under section 14238 to receive a first license. The first license is valid until the
37 next renewal period. The ~~board~~ director has the authority to waive the 90-day time period
38 for extenuating circumstances. If not successful, the applicant may take subsequent
39 examinations held within a period of one year from the date of the applicant's first
40 examination. An applicant who fails to pass an examination within one year from the

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

3 **Sec. B-28. 32 MRSA §14230**, as amended by PL 2007, c. 402, Pt. HH, §17, is
4 further amended to read:

5 **§14230. Temporary permit**

6 If an applicant to practice cosmetology, barbering, manicuring or aesthetics qualifies
7 for examination, the ~~board~~ director may issue to that applicant a permit to practice under
8 the direct supervision of a qualified supervisor, as determined by ~~board~~ rules, within a
9 licensed shop. The applicant must pay the fee as set under section 14238. A permit
10 expires 6 months from the date of issuance and is not renewable. The applicant is not
11 considered a trainee.

12 **Sec. B-29. 32 MRSA §14231**, as amended by PL 2007, c. 402, Pt. HH, §18, is
13 further amended to read:

14 **§14231. Endorsement**

15 The ~~board~~ director may waive the examination and grant a license to any applicant
16 who presents proof of being authorized to practice by another state or other jurisdiction of
17 the United States or another country that maintains professional standards considered by
18 the ~~board~~ director to be equivalent to or higher than those set forth in this chapter, as long
19 as no cause exists for denial of a license under section 14236-A. Such an applicant must
20 pay the fee as provided in section 14238.

21 **Sec. B-30. 32 MRSA §14232**, as amended by PL 2007, c. 402, Pt. HH, §19, is
22 further amended to read:

23 **§14232. Trainees**

24 **1. License.** Each trainee must submit an application for licensure to the ~~board~~
25 director. The application must be accompanied by a fee as set under section 14238. The
26 license for each type of training expires as indicated below.

- 27 A. A cosmetology trainee license expires 18 months from date of issuance.
- 28 B. A barber trainee license expires 18 months from date of issuance.
- 29 C. A manicurist trainee license expires 6 months from date of issuance.
- 30 D. An aesthetician trainee license expires 12 months from date of issuance.

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

- 33 A. The employer's name, shop name and address;
- 34 B. The date that the training will begin;
- 35 C. The type of training, such as cosmetology, barbering, manicuring or aesthetics;
- 36 D. Evidence of age;
- 37 E. Evidence of satisfactory completion of the 10th grade or its equivalent; and

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1 F. The name of the licensee who will directly supervise the trainee in compliance
2 with section 14224, subsection 3.

3 Trainees who change their place of employment must notify the ~~board~~, director within 10
4 days of the change and must file a new trainee application.

5 **3. Courses of instruction.** A trainee may take courses of instruction in a licensed
6 school without having to register as a student as provided in this chapter. Hours or time
7 accumulated in a school may be applied to the training program in accordance with rules
8 adopted ~~by the board~~ pursuant to this chapter.

9 **4. Renewal; display; examination.** The ~~board~~ director shall furnish a trainee
10 license to each trainee. A trainee license is renewable upon payment of the fee as set
11 under section 14238. The license must be displayed as provided for licenses in section
12 14224. The term "trainee" must appear in conspicuous print on the license. To be licensed
13 as a cosmetologist, barber, aesthetician or manicurist, a trainee, upon completion of the
14 required training in accordance with this chapter, must pass an approved examination
15 ~~approved by the board~~.

16 **Sec. B-31. 32 MRSA §14233**, as amended by PL 2007, c. 402, Pt. HH, §20, is
17 further amended to read:

18 **§14233. Licensed students**

19 Schools licensed by the ~~board~~ director shall license students in accordance with rules
20 adopted by the ~~board~~ director and upon payment of the fee as set under section 14238.

21 To be eligible for licensure, the student must be at least 16 years of age and have
22 satisfactorily completed the 10th grade or its equivalent. Evidence of the student's
23 eligibility and enrollment in the school must be provided on a form provided by the ~~board~~
24 director.

25 All training or services rendered to a member of the public by a student must be
26 under the direct supervision of a duly licensed instructor in a licensed school or as
27 otherwise proved by rule.

28 **Sec. B-32. 32 MRSA §14234**, as amended by PL 2007, c. 402, Pt. HH, §21, is
29 further amended to read:

30 **§14234. Demonstrators**

31 A person may not perform demonstrations unless licensed by the ~~board~~ director and
32 upon payment of the fee as set under section 14238. The ~~board~~ director shall adopt rules
33 that describe the articles, machines or techniques that may be demonstrated outside the
34 licensed establishment. All demonstrations must be performed in a safe and sanitary
35 manner for the protection of the public. Licenses must be renewed biennially or at such
36 other times as the commissioner may designate. A license is not required for persons
37 who perform demonstrations in a licensed establishment or solely to licensed persons.

38 **Sec. B-33. 32 MRSA §14235**, as amended by PL 2007, c. 402, Pt. HH, §22, is
39 further amended to read:

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§14235. Licenses; renewal

Licenses must renew their licenses on or before July 1st biennially by filing an application and paying the renewal fee as set under section 14238. The expiration dates for licenses issued under this chapter may be established by the commissioner.

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

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

Sec. B-34. 32 MRSA §14235-A is enacted to read:

§14235-A. Licenses; initial

An applicant for initial licensure must submit an application together with the fee set under section 14238 and meet the requirements set forth under this chapter.

Sec. B-35. 32 MRSA §14236-A, as enacted by PL 2007, c. 402, Pt. HH, §24, is amended to read:

§14236-A. Denial or refusal to renew license; disciplinary action

1. Disciplinary action. In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board director may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

- A. Addiction, as confirmed by professional diagnosis, to the use of alcohol or other drugs that has resulted or may result in the licensee's being unable to perform duties or being unable to perform those duties in a manner that would not endanger the health or safety of the public to be served;
- B. A professional diagnosis of mental incompetence;
- C. Engaging in false, misleading or deceptive advertising;
- D. Employing a person to practice cosmetology, barbering, manicuring or aesthetics who does not hold a valid license, unless that person is a trainee within the meaning of this chapter; or
- E. Any negligence or misconduct in any of the practices licensed under this chapter.

1 ~~2. Reinstatement.~~ The board may reissue a license to any person whose license has
2 been revoked if 5 or more members of the board vote in favor of that reissuance.

3 **Sec. B-36. 32 MRSA §14245, sub-§1**, as amended by PL 2007, c. 402, Pt. HH,
4 §27, is further amended to read:

5 **1. Requirement of license.** Any person, partnership, association or corporation
6 located either within or outside the State must obtain a license as specified under section
7 14246 from the board before:

- 8 A. Operating, maintaining or instructing at a school within the State; or
9 B. Collecting any tuition, fee or other charge for education, instruction or other
10 services provided or to be provided by a school.

11 **Sec. B-37. 32 MRSA §14246, sub-§1**, as amended by PL 2007, c. 402, Pt. HH,
12 §28, is further amended to read:

13 **1. Application requirements; licensing; bonding and revocation of license.** The
14 application for a license required by this subchapter must be accompanied by an
15 application fee as set under section 14238 and a surety bond. For applicants that
16 participate in state or federal financial aid programs, except the Federal Direct Student
17 Loan Program under the federal Higher Education Act of 1965, 20 United States Code,
18 Section 1087a et seq., the bond must be in favor of the Finance Authority of Maine. For
19 all other applicants, the bond must be in favor of the board director. The amount of the
20 bond for a new applicant is \$20,000. For renewal applicants, the amount of the bond
21 must be equal to the greater of 10% of the applicant's gross receipts from tuition in the 12
22 months prior to the application for renewal or \$20,000.

23 A. A license is valid for a period of 12 months from the date of issuance or as
24 otherwise determined by the commissioner.

25 B. The bond must be continuous and must provide indemnification to any student
26 suffering loss as a result of any fraud, misrepresentation, violation of this subchapter
27 or rules adopted under this subchapter or breach of contract. The bond must provide
28 for written notification by the surety to the board director in the event of cancellation.
29 Cancellation of the bond by the surety, or payment under the bond by the surety to
30 the board director or the Finance Authority of Maine, results in the revocation of the
31 license. The bond must also specifically provide that proceeds are available to pay
32 tuition refunds to students or to student loan lenders on behalf of students eligible for
33 those refunds pursuant to the policies of the school or state or federal law, rule or
34 regulation.

35 C. If one or more students notify the board director or the Finance Authority of
36 Maine of a claim the student has against the school for fraud, misrepresentation,
37 breach of contract or refund due, or that the school has violated the provisions of this
38 subchapter or applicable rules, or if any such event is discovered by the board
39 director or the Finance Authority of Maine from other sources and the holder of the
40 bond has reason to believe the claim is valid, the holder may make a claim against the
41 bond on behalf of the student or students affected, or on behalf of the board director.
42 The board director and the Finance Authority of Maine have the concurrent right at
43 any time to review the school's operations and all its records to determine if the

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1 school is in compliance with this subchapter and rules adopted under this subchapter,
2 or to determine if any claim of a student against the school is valid.

3 **Sec. B-38. 32 MRSA §14246, sub-§2**, as amended by PL 2007, c. 402, Pt. HH,
4 §29, is further amended to read:

5 **2. License fee; renewal fee; renewal requirements.** A fee as set under section
6 14238 is charged for the initial license and for the annual renewal of a license. Each
7 submission for a license renewal must include the school's most recent financial audit
8 conducted by a certified public accountant unaffiliated with the school. When a school
9 does not participate in federal or state financial aid programs, internally prepared
10 financial statements signed by the applicant are acceptable. Every renewal application
11 must include a bond in the required amount. The ~~board~~ director shall provide copies of
12 the audit or financial statements and, in cases in which the bond is not in favor of the
13 ~~board~~ director, the original bond to the Finance Authority of Maine and may provide
14 financial information regarding the school to other state agencies with an interest in the
15 operation of the school. When a school applies for renewal of a license the school must
16 certify that:

17 A. The school has included information in all school brochures and handbooks
18 provided to students, and has posted information in a location in the school
19 frequented by students advising students of their rights to receive refunds and where
20 to direct any complaints the students have concerning their education; and

21 B. The school is in compliance with all applicable federal and state laws and
22 regulations.

23 **Sec. B-39. 32 MRSA §14247**, as amended by PL 2007, c. 402, Pt. HH, §30, is
24 repealed.

25 **Sec. B-40. 32 MRSA §14248**, as enacted by PL 1997, c. 266, §18, is amended to
26 read:

27 **§14248. On-site evaluations**

28 The ~~board~~ director shall conduct biennial on-site evaluations of schools to ensure
29 compliance with this subchapter and applicable rules. The expense of the on-site
30 evaluation must be borne by the school examined. ~~This expense includes only the~~
31 ~~reasonable, necessary and proper hotel and travel expenses of the board member~~
32 ~~evaluators and staff and board member per diem. A school evaluated pursuant to this~~
33 ~~section must promptly pay to the board the expenses of the evaluation upon presentation~~
34 ~~of a reasonably detailed written statement of the expenses.~~

35 **Sec. B-41. 32 MRSA §14249**, as amended by PL 2007, c. 402, Pt. HH, §31, is
36 further amended to read:

37 **§14249. Complaints**

38 The ~~board~~ director may investigate complaints involving a school including any
39 allegation of noncompliance with or violation of this subchapter and applicable rules.
40 The ~~board~~ director shall promptly notify the Finance Authority of Maine of any
41 complaints involving student financial assistance. After a hearing in conformance with

1 Title 5, chapter 375, subchapter 4, the board director may amend or modify any license
2 and may suspend or refuse to renew a license as provided in Title 5, section 10004.

3 ~~A board member may not participate in any on-site evaluation, complaint, hearing or~~
4 ~~license-related action that involves a school with which the board member has or has had~~
5 ~~a direct relationship as a student, instructor, administrator or director or in which the~~
6 ~~board member has a direct pecuniary interest.~~

7 **Sec. B-42. 32 MRSA §14250**, as repealed and replaced by PL 2007, c. 402, Pt.
8 HH, §32, is amended to read:

9 **§14250. Denial or refusal to renew school license; disciplinary action**

10 The board director may deny a school license, refuse to renew a school license or
11 impose the disciplinary sanctions authorized by Title 10, section 8003, ~~subsecton~~
12 subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection
13 5-A, paragraph A.

14 **Sec. B-43. Transition provisions.** The following provisions govern the
15 elimination of the Board of Barbering and Cosmetology and the transfer of its authority to
16 enforce this Act to the Department of Professional and Financial Regulation.

17 **1. Successor.** The Director of the Office of Licensing and Registration within the
18 Department of Professional and Financial Regulation is the successor in every way to the
19 powers, duties and functions of the Board of Barbering and Cosmetology.

20 **2. Rules.** The rules adopted the Board of Barbering and Cosmetology remain in
21 effect until the director adopts rules pursuant to this Act.

22 **3. Licenses.** All licenses issued by the Board of Barbering and Cosmetology remain
23 valid and are subject to license renewal requirements.

24 **4. Board membership.** Terms of members of the Board of Barbering and
25 Cosmetology expire on the effective date of this Act.

26 **Sec. B-44. Maine Revised Statutes headnote amended; revision clause.** In
27 the Maine Revised Statutes, Title 32, chapter 126, subchapter 2 in the subchapter
28 headnote, the words "board of barbering and cosmetology" are amended to read
29 "director's powers and duties" and the Revisor of Statutes shall implement this revision
30 when updating, publishing or republishing the statutes.

31 **Sec. B-45. Appropriations and allocations.** The following appropriations and
32 allocations are made.

33 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**
34 **Licensing and Enforcement 0352**

35 Initiative: Deallocates funds as a result of the Board of Barbering and Cosmetology being
36 repealed.

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1	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
2	Personal Services	(\$1,890)	(\$1,890)
3	All Other	(\$5,322)	(\$5,322)
4			
5	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>(\$7,212)</u>	<u>(\$7,212)</u>
6			

7 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
8 section number to read consecutively.

9 **SUMMARY**

10 This amendment removes a number of boards and commissions from the list to be
11 repealed in the bill. Those boards and commissions are:

- 12 1. Citizens' Code of Conduct Working Group;
- 13 2. Maine HIV Advisory Committee;
- 14 3. Publicly Supported Private Secondary School Advisory Council;
- 15 4. Tobacco Prevention and Control Advisory Council;
- 16 5. Oil Spill Advisory Committee;
- 17 6. River Flow Advisory Commission;
- 18 7. Advisory Board of the Maine Learning Technology Fund;
- 19 8. Education Commission of the States;
- 20 9. Maine Agricultural Bargaining Board;
- 21 10. Maine Biomedical Research Board;
- 22 11. Maine-Canadian Legislative Advisory Commission;
- 23 12. New England and Eastern Canada Legislative Commission;
- 24 13. State Compensation Commission; and
- 25 14. State House and Capitol Park Commission.

26 The amendment changes the date that the Secretary of State submits the suggested
27 legislation to repeal inactive boards and commissions to January 30th from January 15th.
28 It also prohibits the Secretary of State from including in that legislation the State
29 Compensation Commission, Maine-Canadian Legislative Advisory Commission, New
30 England and Eastern Canada Legislative Commission, State House and Capitol Park
31 Commission and Maine Agricultural Bargaining Board and from requiring annual reports
32 when inactive. These boards and commissions are only active periodically for specific
33 purposes. The section in the bill repealing the Technology Center Coordinating Board is
34 deleted as the board was eliminated by Public Law 2009, chapter 90, section 1.

35 The amendment also inserts a new Part B, which establishes the barbering and
36 cosmetology licensing program as a regulatory function within the Department of
37 Professional and Financial Regulation, Office of Licensing and Registration because the
38 Board of Barbering and Cosmetology is repealed in the bill. It places responsibility for,

COMMITTEE AMENDMENT "A" to H.P. 873, L.D. 1254

1 and authority over, the licensing and enforcement program of the Board of Barbering and
2 Cosmetology under the oversight and management of the Director of the Office of
3 Licensing and Registration.

FISCAL NOTE REQUIRED

(See attached)



124th MAINE LEGISLATURE

LD 1254

LR 1953(02)

An Act To Repeal Inactive Boards and Commissions

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: State and Local Government

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Appropriations/Allocations				
Other Special Revenue Funds	(\$7,212)	(\$7,212)	(\$7,212)	(\$7,212)

Fiscal Detail and Notes

This bill includes Other Special Revenue Funds deallocations of \$7,212 per year beginning in fiscal year 2009-10 to the Licensing and Regulation program within the Department of Professional and Financial Regulation as a result of the structure, powers and duties of the Board of Barbering and Cosmetology being repealed and instead becoming a regulatory function within the Office of Licensing and Registration.