

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1768

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H.P. 1255

House of Representatives, May 23, 2019

### **An Act To Amend the Barbering and Cosmetology Licensing Laws**

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Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Innovation, Development, Economic Advancement and Business suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative DAUGHTRY of Brunswick.

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

2 **Sec. 1. 32 MRSA §14202, sub-§3-A**, as amended by PL 2011, c. 286, Pt. M, §1,  
3 is repealed.

4 **Sec. 2. 32 MRSA §14202, sub-§5**, as enacted by PL 1991, c. 397, §6, is amended  
5 to read:

6 **5. Establishment.** "Establishment" ~~or "shop"~~ means a beauty shop or salon,  
7 cosmetology shop or salon, barber shop or salon or hair styling shop or salon, or any  
8 premises, structure, building or part of a building where any activity licensed under this  
9 chapter is practiced.

10 **Sec. 3. 32 MRSA §14202, sub-§5-A**, as enacted by PL 2011, c. 286, Pt. M, §2, is  
11 repealed.

12 **Sec. 4. 32 MRSA §14202, sub-§6**, as enacted by PL 1991, c. 397, §6, is amended  
13 to read:

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

17 **Sec. 5. 32 MRSA §14202, sub-§8**, as enacted by PL 1991, c. 397, §6, is repealed.

18 **Sec. 6. 32 MRSA §14202, sub-§8-A** is enacted to read:

19 **8-A. Practice of barber hair styling.** "Practice of barber hair styling" means any  
20 one or any combination of the following practices, when done for hire or compensation,  
21 upon the head of the human body for cosmetic purposes and not for the treatment of  
22 disease or physical or mental ailments:

23 A. Shaving, trimming or cutting the beard or mustache or removing superfluous hair;

24 B. Massaging of the scalp, face and neck and giving a facial and scalp treatment with  
25 creams, lotions, oils and other cosmetic preparations, either by hand or mechanical  
26 appliances, but such appliances may not be galvanic or faradic;

27 C. Shampooing or applying hair tonics and conditioners;

28 D. Cutting, arranging and styling the human hair; or

29 E. Cutting, fitting or styling hairpieces or wigs.

30 **Sec. 7. 32 MRSA §14202, sub-§9, ¶D**, as enacted by PL 1991, c. 397, §6, is  
31 amended to read:

32 D. Arranging, dressing, curling, waving, cleansing, cutting, trimming, removing,  
33 which includes shaving, singeing, bleaching, coloring, relaxing or similarly treating  
34 the hair of any person;

1           **Sec. 8. 32 MRSA §14202, sub-§10-A**, as amended by PL 2011, c. 286, Pt. M,  
2 §4, is further amended to read:

3           **10-A. School.** "School" means a school or education institution where a program of  
4 study in cosmetology, ~~barbering, limited barbering~~ barber hair styling, aesthetics or nail  
5 technology or the instruction of cosmetology, ~~barbering, limited barbering~~ barber hair  
6 styling, aesthetics or nail technology is offered or taught.

7           **Sec. 9. 32 MRSA §14202, sub-§11, ¶B**, as amended by PL 2011, c. 286, Pt. M,  
8 §5, is repealed and the following enacted in its place:

9           B. Barber hair styling;

10           **Sec. 10. 32 MRSA §14202, sub-§13, ¶B**, as amended by PL 2011, c. 286, Pt. M,  
11 §6, is repealed and the following enacted in its place:

12           B. Barber hair styling;

13           **Sec. 11. 32 MRSA §14203, sub-§1-A** is enacted to read:

14           **1-A. Activities exempted.** A license under this chapter is not required for the  
15 following activities:

16           A. Hair braiding services;

17           B. Threading services for removal of unwanted facial hair;

18           C. Selling makeup, oils and cosmetics and application of those products during the  
19 process of selling those products by persons employed by a retail store; and

20           D. Tanning services by means of airbrushing or spray tanning.

21           **Sec. 12. 32 MRSA §14203, sub-§2**, as amended by PL 2011, c. 286, Pt. M, §7, is  
22 further amended to read:

23           **2. Exceptions.** The practice of cosmetology, ~~barbering, limited barbering~~ barber  
24 hair styling, aesthetics or nail technology may be ~~carried on~~ performed only by persons  
25 duly licensed to practice in this State and only in an establishment licensed by the  
26 director, except as provided in this subsection. Duly licensed persons may practice their  
27 respective practices:

28           A. On patients in hospitals or nursing homes;

29           B. On residents of youth camps;

30           C. On inmates or residents of institutions of the Department of Health and Human  
31 Services or the Department of Corrections;

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

33           E. On residents of nursing homes;

34           F. On hotel or motel occupants in their hotel or motel rooms;

35           G. On persons in their residences;

- 1 H. On persons in their private businesses;
- 2 I. On human remains in licensed funeral establishments; and
- 3 J. On persons at special events with a special event services permit. Services  
4 rendered pursuant to this paragraph must be rendered for compensation. A person  
5 may not perform special event services without first obtaining a special event  
6 services permit from the director. The services provided pursuant to the special event  
7 services permit must comply with any applicable public health and safety  
8 requirements, the requirements of this chapter and all federal, state and local laws.

9 **Sec. 13. 32 MRSA §14203, sub-§3**, as enacted by PL 2015, c. 132, §1, is  
10 repealed.

11 **Sec. 14. 32 MRSA §14204, first ¶**, as amended by PL 2011, c. 286, Pt. M, §8, is  
12 further amended to read:

13 A person may not instruct in any of the branches of aesthetics, ~~barbering, limited~~  
14 ~~barbering~~ barber hair styling, cosmetology or nail technology unless that person holds a  
15 valid license to practice and is authorized to instruct in each respective practice issued  
16 under this chapter, except that when specifically authorized by law, physicians may  
17 instruct without holding a license to practice in a branch of aesthetics, ~~barbering, limited~~  
18 ~~barbering~~ barber hair styling, cosmetology or nail technology.

19 **Sec. 15. 32 MRSA §14205, sub-§1**, as amended by PL 2011, c. 286, Pt. M, §9, is  
20 further amended to read:

21 **1. Penalties.** A person is subject to the provisions of section 14236-A and Title 10,  
22 section 8003, subsection 5-A if that person:

23 A. Practices ~~barbering, limited barbering~~ barber hair styling, cosmetology, nail  
24 technology or aesthetics in this State without having obtained a license as provided  
25 by this chapter;

26 B. Employs a person to practice ~~barbering, limited barbering~~ barber hair styling,  
27 cosmetology, nail technology or aesthetics who does not have a license; or

28 C. Falsely professes to be qualified to practice or instruct ~~barbering, limited~~  
29 ~~barbering~~ barber hair styling, cosmetology, nail technology or aesthetics under this  
30 chapter.

31 **Sec. 16. 32 MRSA §14212-A, sub-§2, ¶A**, as amended by PL 2011, c. 286, Pt.  
32 M, §10, is further amended to read:

33 A. Requirements for the licensure of aestheticians, ~~barbers, limited barbers~~ barber  
34 hair stylists, cosmetologists, nail technicians, ~~demonstrators~~, instructors and trainees;

35 **Sec. 17. 32 MRSA §14212-A, sub-§2, ¶C**, as enacted by PL 2009, c. 369, Pt. B,  
36 §10, is amended to read:

37 C. Requirements for licensing and operation of physical facilities and inspection of  
38 establishments ~~and booths~~ consistent with this chapter; and

1           **Sec. 18. 32 MRSA §14224, sub-§1**, as amended by PL 2011, c. 286, Pt. M, §11,  
2 is further amended to read:

3           **1. Practice; license required.** A person may not practice cosmetology, ~~barbering,~~  
4 ~~limited barbering~~ barber hair styling, nail technology or aesthetics or act as a trainee in  
5 this State unless that person has first obtained a license as provided in this chapter.

6           **Sec. 19. 32 MRSA §14224, sub-§2**, as amended by PL 2011, c. 286, Pt. M, §12,  
7 is repealed and the following enacted in its place:

8           **2. Level 1 establishment license and level 2 establishment license; operation;**  
9 **license required.** A person, firm, corporation or other legal entity may not provide  
10 services in, operate or cause to be operated a level 1 establishment or a level 2  
11 establishment where cosmetology, barber hair styling, nail technology or aesthetics is  
12 practiced unless that establishment has been licensed by the director. A level 1  
13 establishment license or a level 2 establishment license issued pursuant to this subsection  
14 authorizes the operation of an establishment only at the location for which the license is  
15 issued. Operation of a level 1 establishment or level 2 establishment at any other location  
16 is unlawful unless a license for the new location has been obtained in compliance with  
17 this chapter and applicable rules.

18           A. A level 1 establishment licensee is a person who owns an establishment, who may  
19 hold a license to practice under this chapter and who may employ one or more  
20 individuals licensed to practice in one or a combination of the practices licensed  
21 under this chapter. A level 1 establishment owner may lease space or a chair or  
22 station within or on its premises to a level 2 establishment owner.

23           B. A level 2 establishment licensee is a person who holds a license to practice under  
24 this chapter and who leases space or a chair or station, pursuant to a written  
25 agreement or contract, within or on the premises of a licensed level 1 establishment  
26 and who provides services separate and apart from the level 1 establishment licensee.  
27 A level 2 establishment licensee is not an employee of the level 1 establishment  
28 licensee from whom the level 2 establishment licensee leases space or a chair or  
29 station and is subject to licensure, fees and compliance with laws and rules in the  
30 same manner as the level 1 establishment licensee. A person who is required to work  
31 under the supervision of a person licensed to practice under this chapter such as a  
32 holder of a temporary license issued pursuant to section 14230 or a trainee licensed  
33 pursuant to section 14232 is not eligible for a level 2 establishment license.

34           The director shall furnish to each licensed cosmetologist, barber hair stylist, nail  
35 technician or aesthetician a license certifying that the holder of that license is entitled to  
36 practice in this State. The licensee shall post the license in a conspicuous place where it  
37 may be readily seen and read by all persons served. The reproduction, altering or defacing  
38 of any license is prohibited.

39           The exceptions listed in section 14203, subsection 2 do not permit the practice of  
40 cosmetology, barber hair styling, nail technology or aesthetics in food establishments or  
41 food preparation areas.

1           **Sec. 20. 32 MRSA §14224, sub-§2-B**, as amended by PL 2009, c. 369, Pt. B,  
2 §12, is further amended to read:

3           **2-B. Change of ownership.** The owner of a new shop establishment is required to  
4 apply to the director for licensure of that shop establishment. ~~The owner of a licensed~~  
5 ~~shop that undergoes a change in location is required to reapply to the director for~~  
6 ~~licensure.~~ The owner or owners of a licensed shop establishment that undergoes a change  
7 in ownership shall notify the director within ~~7~~ 10 calendar days of the change. If a ~~shop~~  
8 an establishment has more than one owner and the change in ownership results from the  
9 death or divorce of one of the owners, the notice must be provided to the director as set  
10 forth in subsection 2-C. Whenever there is a change of ownership, the shop  
11 establishment license is valid for 30 calendar days from the transaction date to allow the  
12 new owner to comply with this section.

13           **Sec. 21. 32 MRSA §14224, sub-§2-C**, as amended by PL 2009, c. 369, Pt. B,  
14 §13, is further amended to read:

15           **2-C. Ownership changes resulting from death or divorce of an owner.** If a  
16 licensed shop establishment has more than one owner and ownership changes as a result  
17 of the death or divorce of one of the owners, the director shall reissue the license for the  
18 remaining license period as long as a remaining owner is named on the existing license  
19 and the director is notified within 30 calendar days of the divorce decree or the date of  
20 death. ~~A shop~~ An establishment license is valid for 60 calendar days following the death  
21 of the person in whose name the shop establishment is licensed.

22           **Sec. 22. 32 MRSA §14224, sub-§2-D**, as enacted by PL 1997, c. 622, §2, is  
23 repealed.

24           **Sec. 23. 32 MRSA §14224, sub-§2-E** is enacted to read:

25           **2-E. Change of establishment location.** The owner of a licensed establishment that  
26 undergoes a change in location shall notify the director, in a format as prescribed by the  
27 director, within 10 calendar days of the change in location. The director shall issue a  
28 license for the new location. The owner is not required to submit a new application and  
29 fee. The new location is subject to all requirements for the operation of an establishment  
30 and may be subject to inspection.

31           **Sec. 24. 32 MRSA §14224, sub-§3**, as amended by PL 2011, c. 286, Pt. M, §13,  
32 is further amended to read:

33           **3. Trainee.** A trainee cosmetologist, ~~barber, limited~~ barber hair stylist, nail  
34 technician or aesthetician licensed pursuant to section 14232 may not independently  
35 conduct a practice but may, as a trainee, do any or all acts constituting the practice under  
36 the immediate personal supervision of a person ~~duly~~ licensed and approved by the  
37 director in a licensed shop establishment.

38           **Sec. 25. 32 MRSA §14224, sub-§4**, as amended by PL 2011, c. 286, Pt. M, §14,  
39 is further amended to read:

1           **4. Student.** A student studying the practice of cosmetology, ~~barbering, limited~~  
2 ~~barbering~~ barber hair styling, nail technology, aesthetics or instructing must be enrolled in  
3 a school licensed by the director pursuant to section 14233.

4           **Sec. 26. 32 MRSA §14225**, as amended by PL 2011, c. 286, Pt. M, §15, is further  
5 amended to read:

6           **§14225. Special mobile establishment license**

7           The director may, subject to section 14212-A, subsection 2, adopt rules authorizing  
8 the issuance of special mobile ~~shop~~ establishment licenses, including requirements for  
9 mobile ~~shops~~ establishments, locations for these ~~shops~~ establishments and any other rules  
10 that the director considers necessary. The fee for a special mobile ~~shop~~ establishment  
11 license is set under section 14238.

12           A special mobile ~~shop~~ establishment license issued pursuant to this section must set  
13 out on the license the area in which that mobile ~~shop~~ establishment is authorized to  
14 operate and any other special requirements or restrictions to which that license is subject.  
15 A separate license must be obtained for each municipality in which a mobile ~~shop~~  
16 establishment operates.

17           **Sec. 27. 32 MRSA §14226, sub-§§1 and 2**, as enacted by PL 1991, c. 397, §6,  
18 are repealed.

19           **Sec. 28. 32 MRSA §14227**, as amended by PL 2011, c. 286, Pt. M, §§18 and 19,  
20 is repealed.

21           **Sec. 29. 32 MRSA §14227-A**, as enacted by PL 2011, c. 286, Pt. M, §20, is  
22 amended to read:

23           **§14227-A. Qualifications; barber hair styling**

24           A person is eligible to obtain a license under this chapter for the practice of ~~limited~~  
25 ~~barbering~~ barber hair styling if that person:

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

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

29           **3. Training.** Has satisfactorily completed a course of instruction in the practice of  
30 ~~limited barbering~~ barber hair styling of 800 hours in not less than 5 months in a school  
31 licensed by the director or has experience in the practice of ~~limited barbering~~ barber hair  
32 styling as a trainee of 1,600 hours distributed over a period of at least 10 months; and

33           **4. Examination.** Has passed an approved examination.

34           **Sec. 30. 32 MRSA §14228, sub-§§1 and 2**, as enacted by PL 1991, c. 397, §6,  
35 are repealed.



1           **Sec. 31. 32 MRSA §14229, sub-§§1 and 2**, as enacted by PL 1991, c. 397, §6,  
2 are repealed.

3           **Sec. 32. 32 MRSA §14229-A**, as amended by PL 2011, c. 286, Pt. M, §23, is  
4 further amended to read:

5           **§14229-A. Initial license; reexamination**

6           Within one year of notification of passing an examination, the applicant must pay a  
7 fee as set under section 14238 to receive a ~~first~~ an initial license; otherwise, the applicant  
8 must retake the full examination to apply for initial licensure. The ~~first~~ initial license is  
9 valid until the next renewal period. The director has the authority to waive the one-year  
10 time period for extenuating circumstances.

11           **Sec. 33. 32 MRSA §14230**, as amended by PL 2011, c. 286, Pt. M, §24, is further  
12 amended to read:

13           **§14230. Temporary license**

14           If an applicant to practice cosmetology, ~~barbering, limited barbering~~ barber hair  
15 styling, nail technology or aesthetics qualifies for examination, the director may issue ~~to~~  
16 ~~that applicant~~ a temporary license to practice under the direct supervision of a qualified  
17 supervisor, as determined by rules, within a licensed ~~shop~~ establishment. The applicant  
18 must pay the fee as set under section 14238. A temporary license expires 6 months from  
19 the date of issuance and is not renewable. The applicant is not considered a trainee.

20           **Sec. 34. 32 MRSA §14231, first ¶**, as amended by PL 2011, c. 286, Pt. M, §25,  
21 is further amended to read:

22           The director may ~~waive the examination and grant~~ issue a license to any applicant  
23 who presents proof of being licensed to practice by another state or other jurisdiction of  
24 the United States ~~or~~ as long as no cause exists for denial of a license under section  
25 14236-A. The director may grant a license to any applicant who presents proof of being  
26 licensed in another country that maintains professional standards considered by the  
27 director to be equivalent to or higher than those set forth in this chapter, as long as no  
28 cause exists for denial of a license under section 14236-A. Such an applicant must pay the  
29 fee as provided in section 14238.

30           **Sec. 35. 32 MRSA §14232, sub-§2**, as amended by PL 2011, c. 286, Pt. M, §26,  
31 is further amended to read:

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

34           A. The employer's name, ~~shop~~ establishment name and address;

35           B. The date that the training will begin;

36           C. The type of training, such as cosmetology, ~~barbering, limited barbering~~ barber  
37 hair styling, nail technology or aesthetics;

- 1 D. Evidence of age; and
- 2 ~~E. Evidence of satisfactory completion of the 10th grade or its equivalent; and~~
- 3 F. The name of the licensee who will directly supervise the trainee in compliance
- 4 with section 14224, subsection 3.

5 Trainees who change their place of employment ~~must, employer or qualified supervisor~~  
6 shall, as prescribed, notify the director within 10 calendar days of the change ~~and must~~  
7 file a new. The trainee is not required to submit a new application and fee.

8 **Sec. 36. 32 MRSA §14232, sub-§3-A** is enacted to read:

9 **3-A. Qualified supervisor; trainees per establishment.** A level 1 establishment  
10 licensee may have no more than 5 trainees at one time. A level 2 establishment licensee  
11 may have no more than one trainee at one time. A qualified supervisor may not supervise  
12 more than 2 trainees at one time.

13 **Sec. 37. 32 MRSA §14232, sub-§4,** as amended by PL 2011, c. 286, Pt. M, §26,  
14 is further amended to read:

15 **4. Renewal; display; examination.** ~~The director shall furnish a trainee license to~~  
16 ~~each trainee.~~ A trainee license is renewable upon payment of the fee as set under section  
17 14238. The license must be displayed as provided for licenses in section 14224. The  
18 term "trainee" must appear in conspicuous print on the license. To be licensed as a  
19 cosmetologist, ~~barber, limited barber~~ hair stylist, aesthetician or nail technician, a trainee,  
20 upon completion of the required training in accordance with this chapter, must pass an  
21 approved examination.

22 **Sec. 38. 32 MRSA §14233, 2nd ¶,** as amended by PL 2011, c. 286, Pt. M, §27, is  
23 further amended to read:

24 To be eligible for enrollment, the student must be at least 16 years of age ~~and have~~  
25 ~~satisfactorily completed the 10th grade or its equivalent.~~ Schools may accept a student  
26 who is 15 years of age at the time of enrollment if the student attains 16 years of age  
27 during the course of the study enrollment period. Evidence of the student's eligibility and  
28 enrollment in the school must be maintained by the school and presented to the director  
29 or a designee of the director as required by rule and upon request.

30 **Sec. 39. 32 MRSA §14234,** as amended by PL 2009, c. 369, Pt. B, §32, is  
31 repealed.

32 **Sec. 40. 32 MRSA §14235, first ¶,** as amended by PL 2011, c. 286, Pt. M, §28,  
33 is further amended to read:

34 Licensees must renew their licenses ~~annually~~ by filing an application and paying the  
35 renewal fee as set under section 14238. The expiration dates for licenses issued under  
36 this chapter may be established by the commissioner.

37 **Sec. 41. 32 MRSA §14236-A, sub-§1,** as amended by PL 2011, c. 286, Pt. M,  
38 §29, is further amended to read:

1           **1. Disciplinary action.** In addition to the grounds enumerated in Title 10, section  
2 8003, subsection 5-A, paragraph A, the director or the director's designee may deny a  
3 license, refuse to renew a license under this chapter or impose the disciplinary sanctions  
4 authorized by Title 10, section 8003, subsection 5-A for:

5           A. Addiction, as confirmed by professional diagnosis, to the use of alcohol or other  
6 drugs that has resulted or may result in the licensee's being unable to perform duties  
7 or being unable to perform those duties in a manner that would not endanger the  
8 health or safety of the public to be served;

9           B. A professional diagnosis of mental incompetence;

10          C. Engaging in false, misleading or deceptive advertising;

11          D. Employing a person to practice cosmetology, ~~barbering, limited barbering~~ barber  
12 hair styling, nail technology or aesthetics who does not hold a valid license, unless  
13 that person is a trainee within the meaning of this chapter; or

14          E. Any negligence or misconduct in any of the practices licensed under this chapter.

15          **Sec. 42. 32 MRSA §14246, sub-§4** is enacted to read:

16           **4. Exemption.** A career and technical education center pursuant to Title 20-A,  
17 chapter 313 that does not assess or collect tuition for a course of study offered is exempt  
18 from the surety bond or financial audit filing requirement under this section.

19          **Sec. 43. 32 MRSA §14248**, as amended by PL 2009, c. 369, Pt. B, §40, is further  
20 amended to read:

21          **§14248. On-site evaluations**

22           The director ~~shall~~ may conduct biennial on-site evaluations of schools to ensure  
23 compliance with this subchapter and applicable rules. The expense of the on-site  
24 evaluation must be borne by the school examined.

25          **Sec. 44. 32 MRSA §14250**, as amended by PL 2009, c. 369, Pt. B, §42, is  
26 repealed.

27          **Sec. 45. Transition provision.** Notwithstanding any provision to the contrary in  
28 the Maine Revised Statutes, Title 32, chapter 126:

29           **1. Barber licensees.** The Department of Professional and Financial Regulation shall  
30 provide each person holding an active barber license on the effective date of this Act the  
31 option of being issued a barber hair stylist license to perform haircutting services that do  
32 not involve chemical services or, if the licensee intends to perform chemical services, a  
33 cosmetologist license;

34           **2. Limited barber licensees.** The Department of Professional and Financial  
35 Regulation shall issue each person holding an active limited barber license on the  
36 effective date of this Act a barber hair stylist license;



1           It clarifies reporting requirements for trainees for a change in employer or qualified  
2 supervisor and also clarifies the number of trainees per establishment that may be trained  
3 at one time.

4           It authorizes the Director of the Office of Professional and Occupational Regulation  
5 to issue a license to a person who holds a valid license in another jurisdiction of the  
6 United States.

7           Current law requires that a student enrolling in a course of study be at least 16 years  
8 of age. The bill adjusts the minimum school enrollment age to 15 years of age with the  
9 stipulation that the student turns 16 years of age at some point during the student's course  
10 of study.

11           It exempts career and technical education centers that do not collect student tuition  
12 for a course of study from surety bond and financial audit requirements.