

MAINE STATE LEGISLATURE

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Amendment Name: Amendment CA (H-801) (LD 2063 2020)

Date: 8/5/2020

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Date: (Filing No. H-)

HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1465, L.D. 2063, Bill, “An Act To Provide Program Solvency, Clarity, Consistency and Flexibility in Routine Public Health Licensing Activities”

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, this legislation makes changes to the licensing requirements of hotels, restaurants and campgrounds that clarify and streamline licensing requirements; and

Whereas, the changes to licensing requirements need to be in place before the beginning of the tourism season in the State; and

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

Amend the bill by striking out all of section 4 and inserting the following:

'Sec. 4. 22 MRSA §2491, sub-§7-F, as amended by PL 2013, c. 264, §4, is further amended to read:

7-F. Lodging place. "Lodging place" means a ~~building or~~ structure, or any part of a ~~building or~~ structure, used, maintained, ~~or~~ advertised ~~or held out to the public~~ as a place where sleeping accommodations are furnished ~~to the public for business purposes~~ and that offers stays that are temporary in nature and consist of fewer than 183 days in the aggregate per year. "Lodging place" includes, ~~accommodations in the entertainment, hospitality, recreation and tourism industries, including~~ but is not limited to, hotels, motels, bed and breakfasts ~~and,~~ inns ~~where the owner or managing entity maintains the lodging facilities and the structures are located in the same general physical location.~~ "Lodging place" includes a property and properties under common management and at

COMMITTEE AMENDMENT

1 ~~the same location~~ where 4 or more rooms, cottages or condominium units are ~~rented to~~
2 ~~the public~~ available. "Lodging place" does not include vacation rentals, youth camps,
3 dormitories of charitable, educational or philanthropic institutions, fraternity or sorority
4 houses affiliated with educational institutions, permanent residences, ~~rooming houses,~~
5 ~~tenancies at will or~~ rental properties with tenant and landlord relationships as described in
6 Title 14, chapters 709 to 710-D, assisted living programs as defined in section 7852,
7 subsection 4, residential care facilities as defined in section 7852, subsection 14 or
8 nursing facilities as defined in section 1812-A.'

9 Amend the bill by striking out all of section 6 and inserting the following:

10 '**Sec. 6. 22 MRSA §2491, sub-§10-C** is enacted to read:

11 **10-C. Permanent residence.** "Permanent residence" means the primary location
12 where an individual lives, in the aggregate, 183 days or more in a year, as determined in
13 accordance with department rule.'

14 Amend the bill by inserting after section 10 the following:

15 '**Sec. 11. 22 MRSA §2494, first ¶,** as amended by PL 2017, c. 322, §5, is further
16 amended to read:

17 Each application for, or for renewal of, a license to operate an eating establishment,
18 lodging place, recreational camp, youth camp ~~or~~, campground, public pool or public spa
19 within the meaning of this chapter must be accompanied by a fee, appropriate to the size
20 of the establishment, place, camp, pool, spa or area of the licensee, determined by the
21 department and not to exceed the fees listed below. All fees collected by the department
22 must be deposited into a special revenue account established for this purpose. No such
23 fee may be refunded. No license may be assignable or transferable. The fees may not
24 exceed.'

25 Amend the bill by striking out all of section 13.

26 Amend the bill by inserting after section 17 the following:

27 '**Sec. 18. 32 MRSA §1231-A,** as amended by PL 2013, c. 264, §9, is further
28 amended to read:

29 **§1231-A. Licensure requirements**

30 **1. Licensure requirements.** Except as provided in section ~~1233~~ 1234, the
31 department shall issue a license to any person under this chapter who:

32 A. Is at least 17 years of age;

33 B. Has a high school diploma or its equivalent; and

34 C. Passes an inspection under section 1243 within 60 days before the license is
35 issued.

36 **2. Exemption.** A person who has a valid electrology license from the department as
37 of January 1, 1991 is exempt from the requirements of subsection 1.

38 **3. Reciprocity.** Except as provided in section ~~1233~~ 1234 and notwithstanding the
39 requirements of subsection 1, the department shall issue a license to any applicant under

1 this chapter who provides the department with evidence that the applicant has 3 years of
2 experience as an electrologist in another state. That proof must consist of notarized
3 copies of the license or registration issued by the state where the applicant last practiced
4 electrology.

5 **4. License issuance.** The department may issue a license to a person to practice
6 electrology in accordance with this chapter. The department shall issue a license annually
7 upon a payment of a fee not to exceed \$150. The fee required by this section includes the
8 cost of an annual inspection of the electrologist's establishment by the department. A
9 license expires one year from the date of issue. All fees collected by the department
10 pursuant to this subsection must be deposited into a special revenue account dedicated to
11 a health inspection program.'

12 Amend the bill by striking out all of section 18 and inserting the following:

13 'Sec. 18. 32 MRSA §1233, as amended by PL 2013, c. 264, §§11 and 12, is
14 repealed.

15 Sec. 19. 32 MRSA §1234 is enacted to read:

16 **§1234. Revocation; suspension; refusal to issue or renew; probation**

17 The department may revoke, suspend or refuse to issue or renew a license or may
18 place a person on probation if:

19 **1. Conviction of crime.** The person has been convicted of a crime related to the
20 practice of electrology;

21 **2. Deception or misrepresentation.** The person has engaged in any deception or
22 misrepresentation to the department or the public in applying for a license under this
23 chapter or in the advertising or practice of electrology;

24 **3. Negligence, incompetence or danger.** The person has demonstrated negligence,
25 incompetence or danger to the public in the practice of electrology; or

26 **4. Rules violation.** The person has violated any of the rules adopted by the
27 department under this chapter.'

28 Amend the bill in section 19 in §1243 in the 2nd paragraph by striking out all of the
29 first sentence (page 6, lines 21 to 25 in L.D.) and inserting the following: 'The department
30 shall inspect that person's training, place of practice and equipment for compliance with
31 the rules adopted by the department under this chapter.'

32 Amend the bill by inserting after section 19 the following:

33 'Sec. 20. 32 MRSA §4201 is repealed and the following enacted in its place:

34 **§4201. Definitions**

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

37 **1. Tattoo.** "Tattoo" means to insert pigment under the skin of a human being by
38 pricking with a needle or otherwise, so as to produce an indelible mark or figure visible
39 through the skin.

1 **2. Department.** "Department" means the Department of Health and Human
2 Services.'

3 Amend the bill by striking out all of sections 22 and 23 and inserting the following:

4 '**Sec. 22. 32 MRSA §4252**, as amended by PL 2013, c. 264, §15, is repealed and
5 the following enacted in its place:

6 **§4252. Licenses**

7 **1. Issuance of licenses.** The department may issue a license to a person to practice
8 the art of tattooing. Such licenses are issued for a term of one year and may be renewed
9 annually. The fee for an initial license or a renewal license may not exceed \$250. All
10 fees collected by the department pursuant to this section must be deposited in a special
11 revenue account dedicated to a health inspection program.

12 **2. Renewal.** The department shall renew a license annually upon payment of the
13 prescribed fee, including late fees, additional inspection fees and fines if assessed, and the
14 licensee is subject to compliance with regulations of the department and this chapter. The
15 department shall provide a licensee with notice of the need for renewal and necessary
16 forms no later than 30 days prior to the expiration of the license.

17 **3. Conditional license.** When an applicant for a license or a licensee applying for
18 license renewal under this chapter is found, based upon an inspection by the department,
19 to be not in compliance with the requirements of this chapter and rules adopted under
20 section 4251, the department may refuse to issue or to renew the license and shall issue a
21 conditional license, except when conditions are found that present a serious danger to the
22 health and safety of the public. Failure by the conditional licensee to meet the conditions
23 specified by the department permits the department to void the conditional license.

24 An applicant who is issued a conditional license may reapply for a license if the
25 conditional license is voided or expires; however, the department may not issue another
26 conditional license. In order for an applicant to be issued an annual license, all conditions
27 specified by the department must be met.'

28 Amend the bill by striking out all of sections 27 and 28 and inserting the following:

29 '**Sec. 27. 32 MRSA §4325**, as amended by PL 2009, c. 589, §13, is repealed and
30 the following enacted in its place:

31 **§4325. Issuance of licenses**

32 **1. Issuance of licenses.** The department may issue a license to a person to practice
33 the art of body piercing. Licenses are issued annually by the department upon the
34 payment of a fee not to exceed \$250. The license for a person engaged in both the arts of
35 tattooing, as defined by chapter 63, and body piercing may not exceed \$300. The fee
36 required by this section includes the cost of an annual inspection of the body piercing
37 establishment by the department. Licenses expire one year from date of issue. All fees
38 collected by the department pursuant to this section must be deposited into a special
39 revenue account dedicated to a health inspection program.

40 **2. Renewal.** The department shall renew a license annually upon payment of the
41 prescribed fee, including late fees, additional inspection fees and fines if assessed, and the

1 licensee is subject to compliance with regulations of the department and this chapter. The
2 department shall provide a licensee with notice of the need for renewal and necessary
3 forms no later than 30 days prior to the expiration of the license.

4 **3. Conditional license.** When an applicant for a license or a licensee applying for
5 license renewal under this chapter is found, based upon an inspection by the department,
6 to be not in compliance with the requirements of this chapter or rules adopted under
7 section 4326, the department may refuse to issue or to renew the license and shall issue a
8 conditional license, except when conditions are found that present a serious danger to the
9 health and safety of the public. Failure by the conditional licensee to meet the conditions
10 specified by the department permits the department to void the conditional license.

11 An applicant who is issued a conditional license may reapply for a license if the
12 conditional license is voided or expires; however, the department may not issue another
13 conditional license. In order for an applicant to be issued an annual license, all conditions
14 specified by the department must be met.'

15 Amend the bill by adding before the summary the following:

16 **'Emergency clause.** In view of the emergency cited in the preamble, this
17 legislation takes effect when approved.'

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

20 SUMMARY

21 This amendment makes the following changes to the bill.

22 1. It adds an emergency preamble and emergency clause to the bill.

23 2. It changes the definition of "lodging place" as a place offering stays that consist of
24 90 or fewer consecutive days as in the bill to one offering stays of fewer than 183
25 aggregate days a year. It changes the definition of "permanent residence" used in the
26 licensing laws to mean the primary location where an individual lives for 183 days or
27 more in a year.

28 3. It clarifies that the term "lodging place" does not include assisted living programs,
29 residential care facilities or nursing facilities.

30 4. It includes public pools and public spas in the fee section of the licensing laws to
31 clarify the fee charged for licensing a public pool or public spa.

32 5. It removes the section on confidential information from the bill.

33 6. It corrects the placement of sections regarding license renewal and conditional
34 licenses within the Maine Revised Statutes, Title 32.

35 FISCAL NOTE REQUIRED

36 (See attached)



129th MAINE LEGISLATURE

LD 2063

LR 3005(02)

An Act To Provide Program Solvency, Clarity, Consistency and Flexibility in Routine Public Health Licensing Activities

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$0	\$40,000	\$40,000
Revenue				
Other Special Revenue Funds	\$0	\$0	\$40,000	\$40,000

Fiscal Detail and Notes

The Department of Health and Human Services (DHHS) will receive additional revenue due to an increase in the annual license fee from \$60 to \$100. At that time DHHS will require an additional allocation to allow expenditure of this additional revenue.