

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1069

S.P. 337

In Senate, March 11, 2021

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

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Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.  
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator CLAXTON of Androscoggin.

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

2 **Sec. 1. 22 MRSA §2175**, as amended by PL 2013, c. 533, §21 to 23, is repealed.

3 **Sec. 2. 22 MRSA c. 562, headnote** is amended to read:

4 **CHAPTER 562**

5 **EATING ESTABLISHMENTS, LODGING PLACES, CAMPGROUNDS,**  
6 **RECREATIONAL AND SPORTING CAMPS, YOUTH CAMPS AND EATING**  
7 **ESTABLISHMENTS, PUBLIC POOLS AND PUBLIC SPAS**

8 **Sec. 3. 22 MRSA §2491, sub-§1**, as amended by PL 2011, c. 193, Pt. A, §1, is  
9 further amended to read:

10 **1. Campground.** "Campground" means, in addition to the generally accepted  
11 definitions, camping areas, recreational vehicle parks, seashore resorts, lakeshore places,  
12 picnic and lunch grounds or other premises where tents, recreational vehicles, rental cabins  
13 and cottages are permitted on 5 or more sites for compensation ~~either directly or indirectly~~  
14 or indirect compensation. "Campground" includes, but is not limited to, sites intended for  
15 recreational purposes rather than permanent residency. "Campground" does not include  
16 parking lots or areas where camping is not authorized.

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

19 **7-F. Lodging place.** "Lodging place" means a ~~building or fixed~~ structure, or any part  
20 of a ~~building or~~ structure, used, maintained, or advertised ~~or held out to the public~~ as a place  
21 where sleeping accommodations are furnished ~~to the public for business purposes that~~  
22 offers stays that are temporary in nature and consist of fewer than 183 days in the aggregate  
23 per year. "Lodging place" includes, accommodations in the entertainment, hospitality,  
24 recreation and tourism industries, including, but is not limited to, hotels, motels, bed and  
25 breakfasts and, inns ~~where the owner or managing entity maintains the lodging facilities~~  
26 ~~and the structures are located in the same general physical location.~~ "Lodging place"  
27 includes a property and properties under common management at the same location where  
28 4 or more rooms, cottages or condominium units are ~~rented to the public available~~.  
29 "Lodging place" does not include vacation rentals, youth camps, dormitories of charitable,  
30 educational or philanthropic institutions, fraternity or sorority houses affiliated with  
31 educational institutions, permanent residences, ~~rooming houses, tenancies at will~~ or rental  
32 properties with tenant and landlord relationships as described under Title 14, chapters 709  
33 to 710-D, nursing facilities as defined in section 1812-A, assisted living programs as  
34 defined in section 7852, subsection 4 or residential care facilities as defined in section 7852,  
35 subsection 14.

36 **Sec. 5. 22 MRSA §2491, sub-§7-G** is enacted to read:

37 **7-G. Indirect compensation.** "Indirect compensation" means nonmonetary  
38 consideration provided to a consumer or patron.

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

1           **10-C. Permanent residence.** “Permanent residence” means the primary location  
2 where a person lives 183 days or more in a year in the aggregate, as determined in  
3 accordance with department rule.

4           **Sec. 7. 22 MRSA §2491, sub-§11,** as repealed and replaced by PL 2011, c. 193,  
5 Pt. A, §9, is amended to read:

6           **11. Recreational camp or sporting camp.** "Recreational camp" or "sporting camp"  
7 means a building or group of buildings devoted primarily to the offering of ~~primitive eating~~  
8 and lodging facilities to guests only, with 4 or more rooms or cottages for rent, for a fee to  
9 persons ~~who want primitive seeking~~ recreation, including snowmobiling, hunting, fishing  
10 and similar ~~camp~~ activities, not including ~~summer sports~~ programs overseen by employees  
11 or volunteers of municipalities and educational institutions when the activities generally  
12 take place at municipal or institutional properties and buildings.

13           **Sec. 8. 22 MRSA §2491, sub-§16,** as amended by PL 2011, c. 193, Pt. A, §13, is  
14 further amended to read:

15           **16. Youth camp.** "Youth camp" means a combination of program and facilities  
16 established for the primary purpose of providing an outdoor group living experience for  
17 children with social, recreational, spiritual and educational objectives and operated and  
18 used for 5 or more consecutive days during one or more seasons of the year. "Youth camp"  
19 includes day camps, residential camps and trip and travel camps. "Youth camp" does not  
20 include ~~summer sports~~ programs overseen by employees or volunteers of municipalities  
21 and educational institutions when the activities generally take place at municipal or  
22 institutional properties and buildings.

23           **Sec. 9. 22 MRSA §2492, sub-§1,** as amended by PL 2017, c. 322, §4, is further  
24 amended to read:

25           **1. License required.** A person, corporation, firm or copartnership may not conduct,  
26 control, manage or operate the following establishments for compensation, ~~directly~~ or  
27 ~~indirectly,~~ indirect compensation without a license issued by the department:

- 28           A. An eating establishment;
- 29           C. A lodging place;
- 30           D. A recreational camp or sporting camp;
- 31           E. A campground;
- 32           F. A youth camp;
- 33           G. A public pool; or
- 34           H. A public spa.

35 Licenses issued must be displayed in a place readily visible to customers or other persons  
36 using a licensed establishment.

37           **Sec. 10. 22 MRSA §2492, sub-§3,** as amended by PL 2011, c. 193, Pt. A, §15, is  
38 further amended to read:

39           **3. Campground; presumption.** If a campground consists of 5 or more tents or  
40 recreational vehicles on a commercial lot, regardless of fees charged, it is presumed that  
41 the owner or renter of the lot is receiving compensation for the use of a campground. The

1 owner or renter may rebut the presumption if the owner or renter presents a preponderance  
2 of evidence to the contrary.

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

5 Each application for, or for renewal of, a license to operate an eating establishment,  
6 lodging place, recreational camp, youth camp, public pool, public spa or campground  
7 within the meaning of this chapter must be accompanied by a fee, appropriate to the size  
8 of the establishment, place, camp, pool, spa or area of the licensee, determined by the  
9 department and not to exceed the fees listed below. All fees collected by the department  
10 must be deposited into a special revenue account established for this purpose. No such fee  
11 may be refunded. No license may be assignable or transferable. The fees may not exceed:

12 **Sec. 12. 22 MRSA §2494, sub-§2**, as amended by PL 2011, c. 193, Pt. B, §2, is  
13 further amended to read:

14 **2. Sixty One hundred dollars.** Sixty One hundred dollars for each inspection for any  
15 an establishment that is located in a municipality that requires local inspections of  
16 establishments to cover the costs of standardizing inspection practices; administrative  
17 licensing and maintaining a centralized database; ongoing training, investigation,  
18 compliance and technical assistance; and legal interpretation and advice; and

19 **Sec. 13. 22 MRSA §2495**, as amended by PL 2017, c. 322, §6, is further amended  
20 to read:

21 **§2495. Issuance of licenses**

22 The department shall, within 30 days following receipt of a complete application, issue  
23 an annual license to operate any eating establishment, lodging place, recreational camp,  
24 youth camp ~~or~~, campground, public pool or public spa that is found to comply with this  
25 chapter and the rules adopted by the department.

26 When any ~~initial~~ applicant is found, based upon an inspection by the department or by  
27 municipal inspection made according to section 2499, not in compliance with the  
28 requirements of this chapter or departmental ~~regulations~~ rules adopted and approved  
29 pursuant to section 2496 or 2499, subsection 1, the department may refuse issuance of the  
30 ~~initial~~ license, ~~but~~ and shall issue a conditional license, except when conditions are found  
31 that present a serious danger to the health and safety of the public. ~~A conditional license~~  
32 ~~may not exceed 90 days.~~ The department may issue only one conditional license per  
33 applicant, which is valid for up to one year. Failure by the conditional licensee to meet the  
34 conditions specified by the department permits the department to void the conditional  
35 license.

36 The conditional license ~~shall be~~ is void when the department has delivered in hand or  
37 by certified mail a written notice to the conditional licensee or, if the licensee cannot be  
38 reached for service in hand or by certified mail, has left notice thereof at the facility.

39 A conditional licensee may apply for an annual license if the conditional license is  
40 voided or expires. A conditional licensee must meet all conditions before applying for an  
41 annual license.

42 The department may redistribute expiration dates for new and renewed licenses to  
43 provide for comparable distribution of licenses on a quarterly basis throughout the year and

1 shall prorate the fees for licenses with a term less or more than one year. The prescribed  
2 fee ~~shall~~ must accompany the application for a new license; or the renewal of a license.

3 Licenses ~~shall~~ must be renewed ~~upon application therefor~~ annually and upon payment  
4 of the prescribed fee, including late fees, additional inspection fees and fines if assessed,  
5 and subject to compliance with ~~regulations~~ rules of the department and with this chapter.  
6 The department shall provide licensees with notice of the need for renewal and necessary  
7 forms no less than 30 days prior to the expiration of the license.

8 The issuance of the license provided for in this chapter does not provide exemption  
9 from other state or local laws, ordinances or ~~regulations~~ rules, notwithstanding any other  
10 provision of law.

11 Licenses erroneously issued by the department are void and ~~shall~~ must be returned to  
12 the department on demand in a notice delivered by hand or by certified mail to the licensee.  
13 For cause, the department may revoke or suspend any license pursuant to section 2500.

14 **Sec. 14. 22 MRSA §2498, sub-§1, ¶C**, as amended by PL 2017, c. 322, §7, is  
15 further amended to read:

16 C. ~~Any~~ The department may impose penalties up to \$5,000 on any person, corporation,  
17 firm or copartnership that operates any eating establishment, lodging place,  
18 recreational camp, youth camp, public pool or public spa or campground without first  
19 obtaining a license as required by this chapter must be punished, upon adjudication of  
20 unlicensed operation, by a fine of not less than \$25 nor more than \$200, and upon a  
21 2nd or subsequent adjudication of unlicensed operation must be punished by a fine of  
22 not less than \$200 nor more than \$500 an active, valid license, as determined by the  
23 department. Each day any such person, corporation, firm or copartnership operates  
24 without ~~obtaining a~~ an active, valid license constitutes a separate offense.

25 **Sec. 15. 22 MRSA §2499, sub-§6**, as amended by PL 2011, c. 193, Pt. A, §17, is  
26 further amended to read:

27 **6. License fee.** When a license is issued to an establishment, as described in section  
28 2492, subsection 1, located in a municipality to which authority to conduct inspection has  
29 been delegated by the department as specified in this section, the requirement for payment  
30 of a license fee by the establishment to the department as set forth in section 2494 must be  
31 waived. However, the licensee is required to pay the department a sum not to exceed \$100  
32 to support the costs of mailing and handling cover the costs of standardizing inspection  
33 practices; administrative licensing and maintaining a centralized database; ongoing  
34 training, investigation, compliance and technical assistance; and legal interpretation and  
35 advice.

36 **Sec. 16. 22 MRSA §2503** is enacted to read:

37 **§2503. Articles detained, embargoed and condemned**

38 Whenever a duly designated officer or employee of the department finds or has reason  
39 to believe that an establishment licensed under this chapter prepares or sells any food that  
40 is adulterated pursuant to section 2156 or misbranded pursuant to section 2157, an order  
41 detaining or embargoing that food may be issued to any person or persons with possession  
42 or control thereof and the officer or employee may affix or require the person to whom the  
43 order is directed to affix to such article a tag or other appropriate marking giving notice

1 that such article is or is suspected of being adulterated or misbranded and has been detained  
2 or embargoed and warning all persons not to remove or dispose of such article by sale or  
3 otherwise until permission for removal or disposal is given by such officer or employee or  
4 the court. It is unlawful for any person to remove or dispose of such detained or embargoed  
5 article by sale or otherwise without such permission. Orders relating to detention and  
6 embargo issued pursuant to this chapter may not be considered licensing or an adjudicatory  
7 proceeding, as those terms are defined under Title 5, chapter 375.

8 When any such officer or employee finds an article detained or embargoed under this  
9 section to be adulterated or misbranded, the officer or employee may petition the District  
10 Court or Superior Court in whose jurisdiction the article is detained or embargoed for a  
11 libel for condemnation of such article if the licensee is unwilling to dispose of the article.  
12 When such officer or employee has found that an article so detained or embargoed is not  
13 adulterated or misbranded, the officer or employee shall remove the tag or other marking.

14 If the court finds that a detained or embargoed article is adulterated or misbranded,  
15 such article must, after entry of the decree, be destroyed at the expense of the claimant  
16 thereof, under the supervision of such officer or employee, and all court costs and fees and  
17 storage and other proper expenses must be taxed against the claimant of such article or the  
18 claimant's agent. When the adulteration or misbranding can be corrected by proper labeling  
19 or processing of the article, the court, after entry of the decree and after such costs, fees and  
20 expenses have been paid and a good and sufficient bond, conditioned that such article will  
21 be so labeled or processed, has been executed, may by order direct that such article be  
22 delivered to the claimant thereof for such labeling or processing under the supervision of  
23 an officer or employee of the department. The expense of such supervision must be paid  
24 by the claimant. Such bond must be returned to the claimant of the article on representation  
25 to the court by the commissioner that the article is no longer in violation of this chapter and  
26 that the expenses of such supervision have been paid. For purposes of this paragraph,  
27 proper labeling may include displaying required information by law, on a menu board, on  
28 a sign or in an open manner at the location where the article is for sale and served.

29 Whenever the commissioner or an officer or employee of the department finds in any  
30 room, building, vehicle of transportation or other structure of an establishment licensed  
31 under this chapter any meat, seafood, poultry, vegetable, fruit or other perishable articles  
32 that are unsound or contain any filthy, decomposed or putrid substance or that may be  
33 poisonous or deleterious to health or otherwise unsafe, the same being declared to be a  
34 nuisance, the commissioner or the officer or employee shall forthwith destroy the same or  
35 in any other manner render the same unsalable as human food.

36 The department is authorized to enact rules pursuant to this chapter to ensure  
37 compliance with this chapter and to protect public health.

38 **Sec. 17. 32 MRSA §1222, sub-§1-A** is enacted to read:

39 **1-A. License renewal.** A license under this chapter may be renewed annually upon  
40 payment of the prescribed fee, including late fees, additional inspection fees and fines if  
41 assessed and subject to compliance with rules of the department and this chapter. The  
42 department shall provide licensees with notice of the need for renewal and necessary forms  
43 no less than 30 days prior to the expiration of a license.

44 **Sec. 18. 32 MRSA §1222, sub-§1-B** is enacted to read:

1           **1-B. Conditional license.** When an applicant for an initial license or a renewal license  
2 is found, based upon an inspection by the department, not in compliance with this chapter  
3 or rules adopted pursuant to section 1242, the department may refuse issuance of the initial  
4 or renewal license, but shall issue a conditional license, except when conditions are found  
5 that present a serious danger to the health and safety of the public. Failure by the conditional  
6 licensee to meet the conditions specified by the department permits the department to void  
7 the conditional license. The applicant may reapply for an annual license if the conditional  
8 license is voided or expires; however, the department may not reissue another conditional  
9 license. All conditions must be met in order for an applicant to reapply for and be issued  
10 an annual license.

11           **Sec. 19. 32 MRSA §1231-A**, as amended by PL 2013, c. 264, §9, is further amended  
12 to read:

13           **§1231-A. Licensure requirements**

14           **1. Licensure requirements.** Except as provided in section ~~1233~~ 1233-A, the  
15 department shall issue a license to any person under this chapter who:

- 16           A. Is at least 17 years of age;
- 17           B. Has a high school diploma or its equivalent; and
- 18           C. Passes an inspection under section 1243 within 60 days before the license is issued.

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

21           **3. Reciprocity.** Except as provided in section ~~1233~~ 1233-A and notwithstanding the  
22 requirements of subsection 1, the department shall issue a license to any applicant under  
23 this chapter who provides the department with evidence that the applicant has 3 years of  
24 experience as an electrologist in another state. That proof must consist of notarized copies  
25 of the license or registration issued by the state where the applicant last practiced  
26 electrology.

27           **Sec. 20. 32 MRSA §1233**, as amended by PL 2013, c. 264, §§11 and 12, is repealed.

28           **Sec. 21. 32 MRSA §1233-A** is enacted to read:

29           **§1233-A. Grounds for refusal, suspension or revocation**

30           The department may revoke, suspend or refuse to issue or renew a license under this  
31 chapter or place a licensee on probation if:

32           **1. Conviction of crime.** The applicant or licensee has been convicted of a crime  
33 related to the practice of electrology;

34           **2. Deception or misrepresentation.** The applicant or licensee has engaged in any  
35 deception or misrepresentation to the department or the public in applying for a license or  
36 license renewal under this chapter or in the advertising or practice of electrology;

37           **3. Negligence; incompetence; endangering the public.** The applicant or licensee  
38 has demonstrated negligence or incompetence or has endangered the public in the practice  
39 of electrology; or

40           **4. Violation of rule.** The applicant or licensee has violated a rule adopted by the  
41 department under this chapter.



1           **Sec. 22. 32 MRSA §1243**, as amended by PL 2009, c. 589, §10, is further amended  
2 to read:

3           **§1243. Inspections Right of entry, inspection and determination of compliance**

4           The department and any duly designated officer or employee of the department have  
5 the right, without an administrative inspection warrant, to enter upon and into the premises  
6 of any establishment licensed, or a place where a licensed electrologist practices, pursuant  
7 to this chapter at any reasonable time in order to determine the state of compliance with  
8 this chapter and any rules adopted by the department under this chapter. The right of entry  
9 and inspection extends to any premises that the department has reason to believe is being  
10 operated or maintained without a license or a place where a licensed electrologist practices,  
11 but no such entry and inspection of any premises or place may be made without the  
12 permission of the owner or person in charge unless a search warrant is obtained authorizing  
13 entry and inspection. Determination of compliance with this chapter and any rules adopted  
14 under this chapter must be made at least once every 2 years by inspection or other method  
15 as determined by the department.

16           Upon any person's request and payment of a fee not to exceed \$150, the department  
17 shall inspect that person's training, place of practice and equipment for compliance with  
18 this chapter and the rules adopted by the department under this chapter. All fees collected  
19 by the department must be deposited in a special revenue account dedicated to a health  
20 inspection program.

21           **1. Additional inspection fees.** When an additional inspection is required to determine  
22 an applicant's eligibility for licensure under this chapter, the department is authorized to  
23 charge, in addition to the usual fees imposed pursuant to this chapter for one license, which  
24 includes one licensure inspection and one follow-up inspection, an additional fee not to  
25 exceed \$200 to cover the costs of each additional inspection or visit. The department may  
26 impose on the applicant a penalty for the applicant's failure to pay an additional inspection  
27 fee within 30 days of the billing date.

28           **Sec. 23. 32 MRSA §4201** is repealed and the following enacted in its place:

29           **§4201. Definitions**

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

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

33           **2. Tattoo.** "Tattoo" means to insert pigment under the skin of a human being by  
34 pricking with a needle or otherwise so as to produce an indelible mark or figure visible  
35 through the skin.

36           **Sec. 24. 32 MRSA §4204, sub-§3** is enacted to read:

37           **3. Grounds for refusal, suspension or revocation.** The department may revoke,  
38 suspend or refuse to issue or renew a license under this chapter or place a licensee on  
39 probation if:

40           A. The applicant or licensee has been convicted of a crime related to the practice of  
41 tattooing;

1           B. The applicant or licensee has engaged in any deception or misrepresentation to the  
2           department or the public in applying for a license or license renewal under this chapter  
3           or in the advertising or practice of tattooing;

4           C. The applicant or licensee has demonstrated negligence or incompetence or has  
5           endangered the public in the practice of tattooing; or

6           D. The applicant or licensee has violated a rule adopted by the department under this  
7           chapter.

8           **Sec. 25. 32 MRSA §4205** is enacted to read:

9           **§4205. Right of entry, inspection and determination of compliance**

10           The department and any duly designated officer or employee of the department have  
11           the right, without an administrative inspection warrant, to enter upon and into the premises  
12           of any establishment licensed, or a place where a person licensed under this chapter  
13           practices, pursuant to this chapter at any reasonable time in order to determine the state of  
14           compliance with this chapter and any rules adopted by the department under this chapter.  
15           The right of entry and inspection extends to any premises that the department has reason to  
16           believe is being operated or maintained without a license or a place where a person licensed  
17           under this chapter practices, but no such entry and inspection of any premises or place may  
18           be made without the permission of the owner or person in charge unless a search warrant  
19           is obtained authorizing entry and inspection. Determination of compliance with this  
20           chapter and any rules adopted under this chapter must be made at least once every 2 years  
21           by inspection or other method as determined by the department.

22           **Sec. 26. 32 MRSA §4252, sub-§1** is enacted to read:

23           **1. Additional inspection fees.** When an additional inspection is required to determine  
24           an applicant's eligibility for licensure under this chapter, the department is authorized to  
25           charge, in addition to the usual fees under this section for one license, which includes one  
26           licensure inspection and one follow-up inspection, an additional fee not to exceed \$200 to  
27           cover the costs of each additional inspection or visit. The department may impose on the  
28           applicant a penalty for the applicant's failure to pay an additional inspection fee within 30  
29           days of the billing date.

30           **Sec. 27. 32 MRSA §4301, sub-§1** is enacted to read:

31           **1. License renewal.** A license under this chapter may be renewed annually upon  
32           payment of the prescribed fee, including late fees, additional inspection fees and fines if  
33           assessed and subject to compliance with rules of the department and this chapter. The  
34           department shall provide licensees with notice of the need for renewal and necessary forms  
35           no less than 30 days prior to the expiration of a license.

36           **Sec. 28. 32 MRSA §4301, sub-§2** is enacted to read:

37           **2. Conditional license.** When an applicant for initial licensure or license renewal is  
38           found, based upon an inspection by the department, not in compliance with this chapter or  
39           rules adopted pursuant to section 4251, the department may refuse issuance of the initial or  
40           renewal license, but shall issue a conditional license, except when conditions are found that  
41           present a serious danger to the health and safety of the public. Failure by the conditional  
42           licensee to meet the conditions specified by the department permits the department to void  
43           the conditional license. The applicant may reapply for an annual license if the conditional

1 license is voided or expires; however, the department may not reissue another conditional  
2 license. All conditions must be met in order for an applicant to reapply for and be issued  
3 an annual license.

4 **Sec. 29. 32 MRSA §4311, sub-§2**, as enacted by PL 1997, c. 383, §1, is amended  
5 to read:

6 **2. Micropigmentation.** "Micropigmentation" means placing nontoxic dyes or  
7 pigments into or under the ~~subcutaneous portion of the skin so as to form indelible marks~~  
8 for cosmetic or medical purposes. "Micropigmentation" does not include tattooing.

9 **Sec. 30. 32 MRSA §4312, sub-§2-A** is enacted to read:

10 **2-A. License renewal.** A license under this chapter may be renewed biennially upon  
11 payment of the prescribed fee, including late fees, additional inspection fees and fines if  
12 assessed and subject to compliance with rules of the department and this chapter. The  
13 department shall provide licensees with notice of the need for renewal and necessary forms  
14 no less than 30 days prior to the expiration of a license.

15 **Sec. 31. 32 MRSA §4312, sub-§2-B** is enacted to read:

16 **2-B. Conditional license.** When an applicant for initial licensure or license renewal  
17 is found, based upon an inspection by the department, not in compliance with this chapter  
18 or rules adopted pursuant to section 4313, the department may refuse issuance of the initial  
19 or renewal license, but shall issue a conditional license, except when conditions are found  
20 that present a serious danger to the health and safety of the public. Failure by the conditional  
21 licensee to meet the conditions specified by the department permits the department to void  
22 the conditional license. The applicant may reapply for a biennial license if the conditional  
23 license is voided or expires; however, the department may not reissue another conditional  
24 license. All conditions must be met in order for an applicant to reapply for and be issued a  
25 biennial license.

26 **Sec. 32. 32 MRSA §4314, sub-§1** is enacted to read:

27 **1. Additional inspection fees.** When an additional inspection is required to determine  
28 an applicant's eligibility for licensure under this chapter, the department is authorized to  
29 charge, in addition to the usual fees under this section for one license, which includes one  
30 licensure inspection and one follow-up inspection, an additional fee not to exceed \$200 to  
31 cover the costs of each additional inspection or visit. The department may impose on the  
32 applicant a penalty for the applicant's failure to pay an additional inspection fee within 30  
33 days of the billing date.

34 **Sec. 33. 32 MRSA §4316**, as enacted by PL 1997, c. 383, §1, is amended to read:

35 **§4316. ~~Revocation;~~ Grounds for refusal, suspension; or refusal to issue revocation**

36 The department may revoke, suspend or refuse to issue or renew a license ~~or renewal~~  
37 under this chapter or place a licensee on probation if:

38 **1. Conviction.** The ~~person~~ applicant or licensee has been convicted of a crime related  
39 to the practice of micropigmentation;

40 **2. Deception or misrepresentation.** Has The applicant or licensee has engaged in  
41 any deception or misrepresentation to the department or the public in applying for a license  
42 or license renewal under this chapter or in the advertising or practice of micropigmentation;

1           **3. Incompetence Negligence; incompetence; endangering the public.** Has The  
2 applicant or licensee has demonstrated negligence, incompetence or danger to the public in  
3 the practice of micropigmentation; or

4           **4. Violation of rules.** Has The applicant or licensee has violated any of the rules  
5 adopted by the department under this chapter.

6           **Sec. 34. 32 MRSA §4319** is enacted to read:

7           **§4319. Right of entry, inspection and determination of compliance**

8           The department and any duly designated officer or employee of the department have  
9 the right, without an administrative inspection warrant, to enter upon and into the premises  
10 of any establishment licensed, or a place where a person licensed under this chapter  
11 practices, pursuant to this chapter at any reasonable time in order to determine the state of  
12 compliance with this chapter and any rules adopted by the department under this chapter.  
13 The right of entry and inspection extends to any premises that the department has reason to  
14 believe is being operated or maintained without a license or a place where a person licensed  
15 under this chapter practices, but no such entry and inspection of any premises or place may  
16 be made without the permission of the owner or person in charge unless a search warrant  
17 is obtained authorizing entry and inspection. Determination of compliance with this  
18 chapter and any rules adopted under this chapter must be made at least once every 2 years  
19 by inspection or other method as determined by the department.

20           **Sec. 35. 32 MRSA §4324, sub-§1** is enacted to read:

21           **1. License renewal.** A license under this chapter may be renewed annually upon  
22 payment of the prescribed fee, including late fees, additional inspection fees and fines if  
23 assessed and subject to compliance with rules of the department and this chapter. The  
24 department shall provide licensees with notice of the need for renewal and necessary forms  
25 no less than 30 days prior to the expiration of a license.

26           **Sec. 36. 32 MRSA §4324, sub-§2** is enacted to read:

27           **2. Conditional license.** When an applicant for initial licensure or license renewal is  
28 found, based upon an inspection by the department, not in compliance with this chapter or  
29 rules adopted pursuant to section 4326, the department may refuse issuance of the initial or  
30 renewal license, but shall issue a conditional license, except when conditions are found that  
31 present a serious danger to the health and safety of the public. Failure by the conditional  
32 licensee to meet the conditions specified by the department permits the department to void  
33 the conditional license. The applicant may reapply for an annual license if the conditional  
34 license is voided or expires; however, the department may not reissue another conditional  
35 license. All conditions must be met in order for an applicant to reapply for and be issued  
36 an annual license.

37           **Sec. 37. 32 MRSA §4324, sub-§3** is enacted to read:

38           **3. Additional inspection fees.** When an additional inspection is required to determine  
39 an applicant's eligibility for licensure, the department is authorized to charge, in addition  
40 to the usual fees under section 4325 for one license, one licensure inspection and one  
41 follow-up inspection, an additional fee not to exceed \$200 to cover the costs of each  
42 additional inspection or visit. The department may impose on the applicant a penalty

1 assessment for the applicant's failure to pay an additional inspection fee within 30 days of  
2 the billing date.

3 **Sec. 38. 32 MRSA §4327, sub-§3** is enacted to read:

4 **3. Grounds for refusal, suspension or revocation.** The department may revoke,  
5 suspend or refuse to issue or renew a license under this chapter or place a licensee on  
6 probation if:

7 A. The applicant or licensee has been convicted of a crime related to the practice of  
8 body piercing;

9 B. The applicant or licensee has engaged in any deception or misrepresentation to the  
10 department or the public in applying for a license or license renewal under this chapter  
11 or in the advertising or practice of body piercing;

12 C. The applicant or licensee has demonstrated negligence or incompetence or has  
13 endangered the public in the practice of body piercing; or

14 D. The applicant or licensee has violated a rule adopted by the department under this  
15 chapter.

16 **Sec. 39. 32 MRSA §4330** is enacted to read:

17 **§4330. Right of entry, inspection and determination of compliance**

18 The department and any duly designated officer or employee of the department have  
19 the right, without an administrative inspection warrant, to enter upon and into the premises  
20 of any establishment licensed, or a place where a person licensed under this chapter  
21 practices, pursuant to this chapter at any reasonable time in order to determine the state of  
22 compliance with this chapter and any rules adopted by the department under this chapter.  
23 The right of entry and inspection extends to any premises that the department has reason to  
24 believe is being operated or maintained without a license or a place where a person licensed  
25 under this chapter practices, but no such entry and inspection of any premises or place may  
26 be made without the permission of the owner or person in charge unless a search warrant  
27 is obtained authorizing entry and inspection. Determination of compliance with this  
28 chapter and any rules adopted under this chapter must be made at least once every 2 years  
29 by inspection or other method as determined by the department.

## 30 SUMMARY

31 This bill:

32 1. Corrects a conflict regarding municipal fees in the Maine Revised Statutes, Title 22,  
33 sections 2494 and 2499;

34 2. Makes changes to require a complete application to operate any eating  
35 establishment, lodging place, recreational camp, youth camp, campground, public pool or  
36 public spa, to remove the 90-day conditional license period and replace it with a conditional  
37 license period of up to one year and to limit issuance of a conditional license to only one  
38 per applicant;

39 3. Updates the laws governing eating establishments, lodging places, recreational  
40 camps, youth camps, campgrounds, public pools and public spas to detain or embargo food  
41 found to be adulterated or misbranded;

1           4. Repeals the law establishing the Maine Wild Mushroom Harvesting Certification  
2 Program;

3           5. Clarifies the chapter headnote of Title 22, chapter 562, including public pools,  
4 public spas, lodging places and sporting camps, and adds or clarifies definitions for "youth  
5 camp," "indirect compensation," "recreational camp," "sporting camp," "lodging place"  
6 and "permanent residence" under that chapter; and

7           6. Updates laws regulating electrologists and tattoo artists, persons licensed to practice  
8 micropigmentation and persons licensed to practice body piercing to require payment of all  
9 license fees, including late fees and additional inspection fees, allow issuance of  
10 conditional licenses, provide penalties for violations and add provisions regarding right of  
11 entry and inspection frequency consistent with other license types and updates and clarifies  
12 the definition of "micropigmentation."