

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1586

H.P. 1031

House of Representatives, April 11, 2023

**An Act to Enable Occupational License Portability and Prohibit Use
of Good Character Qualifications in Occupational Licensing**

Reference to the Committee on Health Coverage, Insurance and Financial Services
suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative SMITH of Palermo.
Cosponsored by Senator MOORE of Washington and
Representatives: BABIN of Fort Fairfield, CRAY of Palmyra, DAVIS of East Machias,
GUERRETTE of Caribou, LAVIGNE of Berwick, STROUT of Harrington.

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

2 **Sec. 1. 32 MRSA §59-D** is enacted to read:

3 **§59-D. Good character**

4 A licensing entity may not use "good character" as a means of evaluating applicants
5 for licensure.

6 **Sec. 2. 32 MRSA §12228, sub-§2**, as repealed and replaced by PL 2007, c. 695,
7 Pt. A, §37, is repealed.

8 **Sec. 3. 32 MRSA c. 149** is enacted to read:

9 **CHAPTER 149**

10 **OCCUPATIONAL LICENSE PORTABILITY**

11 **§18701. Definitions**

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

14 **1. Board.** "Board" means a government agency, board, department or other
15 governmental entity in this State or another state that regulates a lawful occupation and
16 issues an occupational license or government certification to a person.

17 **2. Government certification.** "Government certification" means a voluntary,
18 government-granted and nontransferable recognition to a person who meets personal
19 qualifications and standards related to a lawful occupation that allows the person to use
20 "government certified" or "state certified" as a title. "Government certification" does not
21 include an occupational license or other credentials that are prerequisites to performing a
22 lawful occupation.

23 **3. Lawful occupation.** "Lawful occupation" means a course of conduct, pursuit or
24 profession that includes the sale of goods or services that are not themselves unlawful to
25 sell, regardless of whether the person selling them is subject to an occupational license or
26 government certification.

27 **4. Occupational license.** "Occupational license" means a nontransferable legal
28 authorization that is required for a person to perform a lawful occupation and that is based
29 on the person's meeting the qualifications established or administered by a board.

30 **5. Other state or another state.** "Other state" or "another state" means any United
31 States territory or state in the United States other than this State.

32 **6. Private certification.** "Private certification" means a voluntary program in which a
33 private certification organization grants nontransferable recognition to a person who meets
34 personal qualifications and standards relevant to performing an occupation as determined
35 by the private certification organization and that permits the person to use a designated title
36 of "certified" by the private certification organization.

1 **7. Scope of practice.** "Scope of practice" means the procedures, actions, processes and
2 work that a person may perform under an occupational license or government certification
3 issued in this State.

4 **§18702. Occupational license and government certification**

5 Notwithstanding any provision of law to the contrary, a board in this State shall issue
6 an occupational license or government certification to a person who applies for an
7 occupational license or government certification issued by that board, if the person, as
8 determined by that board, meets all of the requirements of section 18706 and:

9 **1. Valid license or certification.** The person holds a current and valid occupational
10 license or government certification issued by a board in another state for a lawful
11 occupation with a similar scope of practice to the lawful practice governed by the
12 occupational license or government certification for which the person has applied;

13 **2. Term.** The person has held the occupational license or government certification
14 issued in the other state for at least one year;

15 **3. Requirements.** The issuing board in the other state required the person to pass an
16 examination or to meet education, training or experience standards that are substantially
17 similar to those required for the occupational license or government certification for which
18 the person has applied;

19 **4. Good standing.** The person is in good standing with the issuing board in the other
20 state;

21 **5. No disqualifications.** The person does not have a criminal record that disqualifies
22 the person from holding the occupational license or government certification for which the
23 person has applied;

24 **6. Not revoked.** A board in another state has not revoked the person's occupational
25 license or government certification because of negligence or intentional misconduct related
26 to the person's work in the lawful occupation in that state;

27 **7. Not surrendered.** The person has not surrendered an occupational license or
28 government certification because of negligence or intentional misconduct related to the
29 person's work in the lawful occupation in another state;

30 **8. No complaints.** The person does not have a complaint, allegation or investigation
31 pending before a board in another state that relates to unprofessional conduct or an alleged
32 crime. If the person has a complaint, allegation or investigation pending, the board to which
33 the person has applied may not issue or deny an occupational license or government
34 certification to the person until the complaint, allegation or investigation is resolved or the
35 person otherwise meets the criteria for an occupational license or government certification
36 in this State to the satisfaction of the board; and

37 **9. Payment of fees.** The person pays all applicable fees for the occupational license
38 or government certification for which the person has applied.

39 **§18703. Government certification**

40 If a board in another state has issued a person a government certification that is
41 equivalent to an occupational license in this State, a board in this State shall issue an

1 occupational license to the person who holds that government certification and applies for
2 an occupational license if the person otherwise satisfies the requirements of section 18702.

3 **§18704. Work experience**

4 Notwithstanding any provision of law to the contrary, a board in this State shall issue
5 an occupational license or government certification to a person who applies for an
6 occupational license or government certification issued by that board based on the person's
7 work experience in another state if the person, as determined by that board, meets all of the
8 requirements of section 18706 and:

9 **1. No license or certification requirement.** The person worked in a state that does
10 not require an occupational license or government certification to regulate the person's
11 lawful occupation;

12 **2. Time in work.** The person worked for at least 3 years in the lawful occupation in
13 the other state; and

14 **3. Other requirements.** The person satisfies the requirements of section 18702,
15 subsections 5 to 9.

16 **§18705. Private certification**

17 Notwithstanding any provision of law to the contrary, a board in this State shall issue
18 an occupational license or government certification to a person who applies for an
19 occupational license or government certification issued by that board based on the person's
20 private certification and work experience in another state if the person, as determined by
21 that board, meets all of the requirements of section 18706 and:

22 **1. No license or certification requirement.** The person holds a private certification
23 and worked in a state that does not require an occupational license or government
24 certification in the lawful occupation governed by an occupational license or government
25 certification in this State;

26 **2. Time in work.** The person worked for at least 2 years in the lawful occupation in
27 the other state;

28 **3. Current and valid private certification.** The person holds a current and valid
29 private certification in the lawful occupation;

30 **4. Good standing.** The person is in good standing with the private organization that
31 issued the certification; and

32 **5. Other requirements.** The person satisfies the requirements of section 18702,
33 subsections 5 to 9.

34 **§18706. State law examination**

35 A board in this State may require a person who applies under this chapter for an
36 occupational license or government certification issued by that board to pass an
37 examination that is specific to relevant laws of this State that regulate the lawful occupation
38 if the occupational license or government certification in this State that the person has
39 applied for requires a person to pass such an examination in order to receive the
40 occupational license or government certification.

41 **§18707. Decision**

1 A board in this State that receives a complete application under this chapter for an
2 occupational license or government certification shall provide the person with a written
3 decision regarding the application within 60 days after receiving the application.

4 **§18708. Appeal**

5 A person who has applied under this chapter for an occupational license or government
6 certification and been denied by a board may appeal the board's decision by filing a petition
7 for review in Superior Court in accordance with Title 5, chapter 375, subchapter 7 within
8 30 days after receipt of the board's written decision.

9 **§18709. State laws and jurisdiction**

10 A person who obtains an occupational license or government certification under this
11 chapter is subject to the laws regulating the lawful occupation in this State, including
12 continuing education requirements and the jurisdiction of the issuing board in this State.

13 **§18710. Exception**

14 This chapter does not apply to an occupation regulated by the Supreme Judicial Court.

15 **§18711. Limitations**

16 **1. Within the State.** An occupational license or government certification issued under
17 this chapter is valid only in this State and does not make the person who is issued the
18 occupational license or government certification eligible to work in another state under an
19 interstate compact or reciprocity agreement unless otherwise provided by law.

20 **2. Compacts.** Nothing in this chapter prevents the State from entering into a licensing
21 compact or reciprocity agreement with another state, foreign province or foreign country.

22 **3. Foreign credentials.** Nothing in this chapter prevents the State from recognizing
23 occupational credentials issued by a private certification organization, foreign province,
24 foreign country, international organization or other entity.

25 **4. Private certification.** Nothing in this chapter requires a private certification
26 organization to grant or deny private certification to any person.

27 **§18712. Cost**

28 A board receiving an application for an occupational license or government
29 certification under this chapter may charge a fee to the person who applies to recoup its
30 costs not to exceed \$100 for each application.

31 **§18713. Preemption**

32 A county or municipality in this State may not regulate the issuance of occupational
33 licenses or government certifications under this chapter.

34 **SUMMARY**

35 This bill prohibits licensing entities from using good character to evaluate applicants
36 for licensure and makes a conforming change. The bill creates a framework for the various
37 government agencies, boards, departments and other governmental entities that regulate
38 and issue occupational licenses within the State to offer a path to certification or licensure
39 in the State to persons who hold occupational credentials from other states in order to allow

1 those persons to more quickly qualify to work within their occupations or professions in
2 the State.