

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1628

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S.P. 645

In Senate, April 12, 2023

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**An Act to Reform the Occupational Licensing Regime by Including  
Portability and Removing Good Character Requirements**

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Reference to the Committee on Innovation, Development, Economic Advancement and Business 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 BRAKEY of Androscoggin.  
Cosponsored by Representative MORRIS of Turner and  
Representatives: CLUCHEY of Bowdoinham, HYMES of Waldo, WHITE of Guilford.

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-§1-A**, as enacted by PL 2009, c. 242, §6, is amended  
7 to read:

8 **1-A. Qualifications for licensure.** A person who meets the ~~good character~~, education,  
9 examination and experience requirements of this section is eligible to apply for licensure  
10 as a certified public accountant pursuant to section 12230.

11 **Sec. 3. 32 MRSA §12228, sub-§2**, as repealed and replaced by PL 2007, c. 695,  
12 Pt. A, §37, is repealed.

13 **Sec. 4. 32 MRSA c. 149** is enacted to read:

14 **CHAPTER 149**

15 **OCCUPATIONAL LICENSE PORTABILITY**

16 **§18701. Definitions**

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

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

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

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

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

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

37 **6. Private certification.** "Private certification" means a voluntary program in which a  
38 private certification organization grants nontransferable recognition to a person who meets

1 personal qualifications and standards relevant to performing an occupation as determined  
2 by the private certification organization and that permits the person to use a designated title  
3 of "certified" by the private certification organization.

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

7 **§18702. Occupational license and government certification**

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

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

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

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

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

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

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

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

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

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

42 **§18703. Government certification**

1           If a board in another state has issued a person a government certification that is  
2 equivalent to an occupational license in this State, a board in this State shall issue an  
3 occupational license to the person who holds that government certification and applies for  
4 an occupational license if the person otherwise satisfies the requirements of section 18702.

5           **§18704. Work experience**

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

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

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

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

18           **§18705. Private certification**

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

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

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

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

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

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

36           **§18706. State law examination**

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

1 **§18707. Decision**

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

5 **§18708. Appeal**

6 A person who has applied under this chapter for an occupational license or government  
7 certification and been denied by a board may appeal the board's decision by filing a petition  
8 for review in Superior Court in accordance with Title 5, chapter 375, subchapter 7 within  
9 30 days after receipt of the board's written decision.

10 **§18709. State laws and jurisdiction**

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

14 **§18710. Exception**

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

16 **§18711. Limitations**

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

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

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

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

28 **§18712. Cost**

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

32 **§18713. Preemption**

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

35 **SUMMARY**

36 This bill prohibits licensing entities from using good character to evaluate applicants  
37 for licensure and makes a conforming change. The bill creates a framework for the various  
38 government agencies, boards, departments and other governmental entities that regulate  
39 and issue occupational licenses within the State to offer a path to certification or licensure  
40 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.