

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE

FIRST SPECIAL SESSION
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Chapters 583-588

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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED
and
FIRST SPECIAL SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
1983

CHAPTER 553

S.P. 541 - L.D. 1580

AN ACT Affecting the Organization of the Department of Business Regulation.

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

Sec. 1. 5 MRSA §282, sub-§6 is enacted to read:

6. Supervise. To supervise and direct the administration of the State Claims Board.

Sec. 2. 5 MRSA §1510-A, sub-§4, as enacted by PL 1977, c. 624, §2, is repealed and the following enacted in its place:

4. Appeal from State Claims Board decision. Any party aggrieved by an award of the State Claims Board may appeal therefrom to the Superior Court within 30 days after the date of the receipt of the notice of the award. The appeal shall be taken by filing a complaint setting forth, as in other civil matters, substantially the facts upon which the case shall be tried. Service shall be made on the opposing party and the State Claims Board by sending a true copy of the complaint by registered or certified mail within the time limit set out in this subsection. The complaint shall be filed in the Superior Court for the county where one or more of the parties reside or have their principal place of business or where the activity or property which is the subject of the proceeding is located. The court's determination shall be de novo and without a jury or, if all parties agree, by a referee or referees.

Sec. 3. 8 MRSA §144, as enacted by PL 1983, c. 413, §2, is repealed and the following enacted in its place:

§144. Disposal of fees; expenses

All fees and taxes collected under this chapter and under chapter 6 shall be paid forthwith by the commission to the Treasurer of State with a detailed statement thereof and shall constitute a fund to be known as the Athletic Commission Fund. This fund shall be kept as a separate account by the Treasurer of State and he shall pay therefrom all costs and expenditures of the commission, including, but not limited to, the compensation of the commission, reasonable expenses of the commissioners incurred in the performance of their duties, administrative

expenses and other costs incurred in carrying out the duties of the commission. Any moneys remaining in the Athletic Commission Fund at the end of the fiscal year shall be carried forward to the credit of that fund for the succeeding year.

The Commissioner of Business Regulation shall employ, subject to the Personnel Law, the personnel that he deems necessary to discharge the duties of the commission, and shall, with the advice of the commission, outline their duties and fix their compensation, subject to the Personnel Law.

Sec. 4. 8 MRSA §146, as enacted by PL 1983, c. 413, §2, is amended to read:

§146. Jurisdiction

1. Boxing. The commission shall have the sole direction, control and jurisdiction over all boxing contests and exhibitions, except that it shall have no jurisdiction over any amateur intercollegiate, interscholastic or intramural boxing contest or exhibition conducted under the direct auspices of a school, college or university.

No boxing contests or exhibitions, except as provided in this chapter, may be held or conducted within this State unless the contest or exhibition is properly licensed by the commission and conducted in accordance with this chapter and the rules adopted pursuant to this chapter, nor shall any closed circuit television showing of a boxing contest or exhibition be conducted, except under a license issued by the commission.

2. Wrestling. The commission shall have the sole direction, control and jurisdiction over all professional wrestling matches, shows or exhibitions.

No professional wrestling match, show or exhibition may be held or conducted within this State unless the match, show or exhibition is licensed by the commission and conducted in accordance with this chapter and the rules adopted pursuant to this chapter, nor may any closed circuit television showing of a professional wrestling match, show or exhibition be conducted, except under a license issued by the commission.

Sec. 5. 8 MRSA §148, sub-§§1 to 3, as enacted by PL 1983, c. 413, §2, are amended to read:

1. Persons to whom licenses may be issued. The commission may issue, in its discretion, a license for a term of one year from date of issuance to any

person, club, association or corporation, who or which is properly qualified, to promote and conduct boxing contests and exhibitions in accordance with this chapter and the rules adopted pursuant to this chapter. All persons engaged in such boxing contests and exhibitions as boxers, seconds, managers, timekeepers, knockdown timekeepers, referees, judges and physicians shall be licensed by the commission in a like manner. A closed circuit boxing license may be issued by the commission to any person who is properly qualified therefor, which will entitle him to engage in the showing of boxing contests or exhibitions by closed circuit television.

2. Application for license. Each applicant for a promoter's license or a closed circuit boxing or wrestling license shall specify the location for which the license is desired, and each promoter's license, when issued, shall be limited to that specified location. No license issued under this section, other than a promoter's license or a closed circuit event license, may be limited to a specified location.

3. Fee for license. The commission may, in its discretion, fix the fee for each promoter's license at a figure between ~~\$10 and \$100~~ \$25 and \$50 for a license to promote amateur events and a figure between \$50 and \$100 for a license to promote professional events, depending upon the probable income of the licensee to be derived from the conducting of the boxing contests and exhibitions. The fee for a license for closed circuit events shall be \$50. The commission may, ~~in its discretion by rule,~~ fix the fees for all other licenses issued under this section at a figure between \$5 and ~~\$15~~ \$25. When application by a fraternal, charitable or patriotic organization for a license to promote and conduct amateur boxing contests or exhibitions is made to the commission, it may grant the license without the requirement of the payment of a license fee.

Sec. 6. 8 MRSA §149, as enacted by PL 1983, c. 413, §2, is amended to read:

§149. Wrestling licenses

The commission may, ~~in its discretion~~ and in accordance with this chapter and the rules adopted pursuant to this chapter, issue a license for a term of one year, to any person, club, association or corporation who or which is properly qualified, to conduct professional wrestling matches, shows or exhibitions. The commission may, in its discretion, fix the fee for the license at a figure between ~~\$10~~ \$50 and \$100, depending upon the probable income of the licensee to

be derived from the conducting of professional wrestling matches, shows or exhibitions. A closed circuit wrestling license may be issued by the commission for a term of one year to any person who is properly qualified therefor which will entitle him to engage in the showing of professional wrestling matches, shows or exhibitions by closed circuit television. The fee for a closed circuit wrestling license shall be \$50, and the license may be suspended or revoked by the Administrative Court for any violation of this chapter or the rules of the commission.

All persons engaging in professional wrestling matches, shows or exhibitions as wrestlers shall be licensed by the commission in a like manner. ~~The fee for a license is \$5.~~ The commission may by rule establish a fee for the licenses in an amount not to exceed \$25 per year. Upon the application for a license as enumerated, the chairman of the commission shall in his discretion temporarily issue or refuse to issue the license. The commission shall consider the matter at its regular meeting and rule upon the issuance or denial of the license.

Sec. 7. 8 MRSA §150, first ¶, as enacted by PL 1983, c. 413, §2, is amended to read:

No foreign copromoter, meaning a promoter who has no place of business within the State, may directly or indirectly participate in the promotion of or receive any remuneration from or render any services in connection with any boxing contest or exhibition, or any professional wrestling match, show or exhibition held within the State, unless he first has been granted a permit by the commission. No promoter may be associated with any foreign copromoter in promoting any boxing contest or exhibition, unless the foreign copromoter has first secured a permit. ~~That permit shall expire one year from date of issue and the fee shall be fixed by the commission at a figure between \$10 and \$100, depending upon the probable income of the applicant for a permit to be derived from the conducting of the boxing or wrestling event.~~ Permits for foreign copromoters shall be issued in the same manner as provided in section 148, subsection 2, and section 149, for licenses to promote amateur or professional boxing or wrestling, and the fees for these permits shall be the same as those established by the commission for these licenses.

Sec. 8. 8 MRSA §152, first 2 ¶¶, as enacted by PL 1983, c. 413, §2, are amended to read:

The promoter or promoters of all boxing contests or exhibitions and all professional wrestling matches, shows or exhibitions held under this chapter

shall pay to the Treasurer of State, for credit to the ~~General Fund~~ Athletic Commission Fund, a tax of 3% ~~5%~~ of the gross receipts from the contest or exhibition. This section shall apply to all boxing contests or exhibitions which are shown over closed circuit television.

On the day on which the contest or exhibition is held, the promoter or promoters shall either tender the tax to the commissioner in attendance, or provide a surety bond acceptable to the commission in the amount of \$5,000 payable to the Treasurer of State and conditioned for payment of the tax and any penalties imposed under this section. This tax shall have been paid to the Treasurer of State within 15 days of the date on which the contest or exhibition is held, in the event a bond is provided. Upon failure to pay the tax to the Treasurer of State, the promoter or promoters shall be liable to pay a penalty of 25% of the amount of the tax due, which penalty and the tax due shall be recovered by a civil action upon the bond brought in the name of the commission, and the penalty and the tax due shall be paid to the Treasurer of State to be credited to the ~~General Fund~~ Athletic Commission Fund.

Sec. 9. 9-A MRSA §6-103, as amended by PL 1981, c. 501, §26, is further amended to read:

§6-103. Administration

There is created and established the Bureau of Consumer Credit Protection within the Department of Business Regulation. The Superintendent of Consumer Credit Protection is the head of the Bureau of Consumer Credit Protection. As used in this Act, "administrator" means the Superintendent of ~~the Bureau of~~ Consumer Credit Protection. He shall be appointed by the Governor and subject to review by the joint standing committee ~~on~~ of the Legislature having jurisdiction over business legislation and to confirmation by the Legislature. He shall be appointed for a term of 5 years or until a successor is appointed and qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. He may be removed from office for cause by impeachment or by the Governor on the address of both branches of the Legislature and Title 5, section 711, paragraph B, shall not apply. No person ~~shall~~ may be eligible for ~~said~~ that office unless he shall have been a resident of the State ~~of Maine~~ for at least 2 years. During his term of office, the administrator shall engage in no other business or profession. The administrator's salary shall be paid from the General Fund.

Sec. 10. 9-B MRSA §211, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Salary. The superintendent shall receive a salary commensurate with his responsibilities in accordance with Title 5, which salary shall be paid from the General Fund, and shall receive all actual travel expenses incurred in the performance of official duties.

Sec. 11. 10 MRSA §8001, as amended by PL 1981, c. 703, Pt. A, §2, is further amended to read:

§8001. Department; agencies within department

There is created and established the Department of Business, Occupational and Professional Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, commercial sports, and grantors of consumer credit, and to license professional and occupational trades and to award just compensation in land condemnations and in certain other claims against the State and regulate professions and occupations. The department shall be composed of the following bureaus, boards and commissions:

Banking, Bureau of;

Consumer Credit Protection, Bureau of;

Insurance, Bureau of;

Athletic Commission, Maine;

Real Estate Commission;

Running Horse Racing Commission, State;

Arborist Examining Board;

Auctioneers Advisory Board;

Claims Board, State;

Commercial Driver Education, Board of;

Electricians' Examining Board;

Foresters, State Board of Registration for Professional;

Funeral Service, State Board of;

Geologists and Soil Scientists, State Board of Certification for;

Hearing Aid Dealers and Fitters, Board of;
Manufactured Housing Board;
Oil and Solid Fuel Board;
Physical Therapy, Board of Examiners in;
Plumbers' ~~Examining~~ Examining Board;
Psychologists, State Board of Examiners of;
Social Worker Registration, State Board of;
Speech Pathology and Audiology, Board of Examiners on; and
Substance Abuse Counselors, Board of Registration of.

Sec. 12. 10 MRSA §8002, first ¶, as amended by PL 1977, c. 78, §37, is further amended to read:

The administrative head of the department shall be the commissioner ~~of Business Regulation~~, who shall be appointed by the Governor, subject to review by the joint standing committee ~~on~~ of the Legislature having jurisdiction over business legislation and to confirmation by the Legislature, and who shall serve during the pleasure of the Governor. As chief administrative officer of the department, the commissioner shall have the following duties and authority to:

Sec. 13. 10 MRSA §8003, as amended by PL 1977, c. 273, §§1 and 2, is repealed and the following enacted in its place:

§8003. Departmental organization; duties

1. Division of Administrative Services. There is created a Division of Administrative Services, which shall constitute a division within the department, to provide assistance to the commissioner and to the agencies within the department in personnel matters, budgeting and financial matters, purchasing, and clerical and support services, and to perform such other duties as the commissioner may designate. The commissioner may employ a Director of Administrative Services and such clerical and technical assistants as are necessary to discharge the duties of the division, and shall outline their duties and fix their compensation, subject to the Personnel Law.

2. Division of Licensing and Enforcement. There is created a Division of Licensing and Enforcement, which shall constitute a division within the depart-

ment, to provide assistance to the commissioner and to the agencies within the department in complaint investigation, disciplinary actions and enforcement, and in licensing examinations, and to perform such other duties as the commissioner may designate. The commissioner may employ a Director of Licensing and Enforcement and such clerical and technical assistants as are necessary to discharge the duties of the division, and shall outline their duties and fix their compensation, subject to the Personnel Law.

A. Within the Division of Licensing and Enforcement there shall be a computer services section. It shall be the responsibility of the computer services section to process and issue original and renewal licenses for the department and for those bureaus, boards and commissions within the department as the commissioner may direct. The licenses shall be processed and issued only upon authorization of the appropriate bureau, board or commission, or upon the authorization of the commissioner in the case of those licenses granted directly by the department. The computer services section shall maintain a central register containing the name and address of each person or firm licensed by profession, occupation or industry and such other information as the commissioner may direct for administration, information or planning purposes. The commissioner, with the advice of the respective bureaus, boards and commissions, may determine the type and form of licenses issued by all agencies within the department. The computer services section shall perform such other administrative services for the agencies within the department as the commissioner may direct.

3. License defined. For purposes of this section, the term "license" is used to mean a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry.

4. Licensing periods; renewal dates. In order that licenses may be processed and issued in a reasonably uniform manner over a fiscal year, the commissioner may establish expiration or renewal dates for all licenses authorized to be issued by bureaus, boards and commissions within the department, notwithstanding any other provisions of law. If an expiration or renewal date established by the commissioner has the effect of shortening the term of a license currently in effect, the bureau, board or commission, or the department in the case of a license which it issues directly, shall credit the fee

paid, on a prorated basis, for the unexpired term of the current license toward the renewal fee of the renewal license. If a license is not renewed on the new expiration or renewal date established by the commissioner, the license shall remain in effect through its original term, unless suspended or revoked sooner under laws or regulations of the respective bureau, board or commission. Should a licensee seek to renew his license at the end of the original term, the law or regulations established by the respective bureau, board or commission for late renewals or reregistrations shall apply. For the purpose of implementing and administering biennial licensing, the commissioner may permit bureaus, boards and commissions within the department to issue licenses and establish renewal fees for less than a 2-year term. Nothing in this section may change the term or fee for one-time licenses, except as specifically provided for.

5. Authority of bureaus, boards or commissions. Nothing in this section may be construed to diminish or deprive any bureau, board or commission within the department of its statutory duty and sole authority to regulate its profession, occupation or industry.

6. Funding. The commissioner may assess each bureau, board or commission served by the Division of Administrative Services or by the Division of Licensing and Enforcement its reasonable share of an amount sufficient to cover the cost of operating the divisions.

Sec. 14. 10 MRSA §9003, sub-§10 is enacted to read:

10. Manufactured Housing Fund. All fees collected under this chapter shall be paid by the board to the Treasurer of State with a detailed statement thereof and shall constitute a fund to be known as the "Manufactured Housing Fund." The fund shall be kept as a separate account by the Treasurer of State, who shall pay therefrom all costs and expenditures incurred by the board in carrying out its responsibilities under this chapter. Any moneys remaining in the Manufactured Housing Fund at the end of the fiscal year shall be carried forward to the credit of that fund for the succeeding year.

Sec. 15. 10 MRSA §9021, sub-§2, as repealed and replaced by PL 1981, c. 152, §13, is amended to read:

2. License fees. The board may establish and collect the following fees. All fees collected shall be paid to the Treasurer of State for deposit in the General Fund Manufactured Housing Fund.

A. The license fee for manufacturers of manufactured housing who deliver or sell manufactured housing may not exceed ~~\$100~~ \$200.

B. The license fee for dealers who are engaged in the retail selling, offering for sale, brokering, or distribution of any manufactured homes may not exceed ~~\$100~~ \$200.

C. The license fee for mechanics who service or install manufactured housing, as defined in section 9002, subsection 7, paragraphs A and C, may not exceed ~~\$100~~ \$200.

D. The additional license fee for dealers or mechanics who have more than one business location may not exceed \$10 per additional location.

Sec. 16. 10 MRSA §9045, as enacted by PL 1981, c. 152, §14, is amended to read:

§9045. Fees

The board may establish and collect the following fees, to be paid into the Manufactured Housing Fund and used for carrying out this chapter:

1. Fee for new units. A fee not exceeding \$25 \$100 for each new unit which is installed in this State; ~~and All unit fees shall be paid to the Treasurer of State for deposit in the General Fund.~~

2. Fee for inspection. A fee not exceeding \$15 per hour for inspection and approval of manufactured housing to be paid by the party requesting the services or for the investigation and notification process of a valid complaint to be paid by the party responsible for noncompliance. ~~The inspection fees collected shall be paid to the Treasurer of State to be used for carrying out this chapter. Any balance of these inspection fees shall not lapse, but shall be carried forward as a continuing account to be expended for the purpose of this chapter.~~

Sec. 17. 10 MRSA c. 951, sub-c. VI is enacted to read:

SUBCHAPTER VI

MOBILE HOME PARKS

§9081. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Mobile home. "Mobile home" means a structure, transportable in one or more sections which is 8 body feet or more in width and is 32 body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

2. Mobile home park. "Mobile home park" means a parcel or adjoining parcel of land, under single ownership, which has been planned and improved for the placement of 2 or more mobile homes per parcel, but shall not include a construction camp.

3. Sanitarian. "Sanitarian" means a person whose education and experience in the biological and sanitary sciences qualify him to engage in the promotion and protection of the public health. He applies technical knowledge to solve problems of a sanitary nature and develops methods and carries out procedures for the control of those factors of man's environment which affect his health, safety and well-being.

§9082. License required

No person, corporation, firm or copartnership may conduct, control, manage or operate, for compensation, directly or indirectly, any mobile home park, unless licensed by the board. Licenses issued shall be displayed in a place readily visible to customers or other persons using a licensed establishment.

Any person, corporation, firm or copartnership desiring a license shall submit satisfactory evidence of its ability to comply with the minimum standards of this subchapter and all regulations adopted thereunder.

§9083. Fees

Each application for a license or for renewal of a license to operate a mobile home park within the meaning of this subchapter shall be accompanied by a fee, appropriate to the size of the park, determined by the board in an amount not to exceed \$100. All fees collected by the board shall be deposited in the Manufactured Housing Fund. No such fees may be refunded. No license may be assignable or transferable.

All such fees are for the license and the initial licensure inspection and one follow-up inspection. When additional inspections are required to determine

an applicant's eligibility for licensure, the board may through its regulations charge an additional \$10 fee to cover the costs of each additional inspection or visit. Failure to pay the charges within 90 days of the billing date shall constitute grounds for revocation of that license, unless an extension for a period not to exceed 90 days is granted in writing by the board.

§9084. Issuance of licenses

The board shall, within 30 days following receipt of application, issue an annual license to operate any mobile home park which is found to comply with this subchapter and the rules adopted by the board.

When any applicant is found, based upon an inspection by the board or by municipal inspection made according to section 9088, not in compliance with the requirements of this subchapter or rules adopted and approved pursuant to section 9085 or section 9088, subsection 1, the board may refuse issuance of the initial license, but shall issue a conditional license, except when conditions are found which present a serious danger to the health and safety of the public. A conditional license shall not exceed 90 days. Failure by the conditional licensee to meet the conditions specified shall permit the board to void the conditional license.

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

Upon the written request of the board, the Department of Human Services, Division of Health Engineering shall provide such technical services as may be required by the board to assist with inspections and licensing of new mobile home parks. The department may assess the mobile home park owner a reasonable fee for these services.

All mobile home park licenses shall expire annually on a date established by the commissioner. Licenses may be renewed upon application therefor and upon payment of the prescribed fee, subject to compliance with regulations of the board and with this subchapter. The board shall provide licensees with notice of the renewal date and necessary forms no less than 30 days prior to the expiration of the license.

The issuance of the license provided for in this

subchapter does not provide exemption from other state or local laws, ordinances or regulations, notwithstanding any other provision of law.

Licenses erroneously issued by the board are void and shall be returned to the board on demand as stated in a notice delivered by hand or by certified mail to the licensee. For cause, the board may revoke or suspend any license pursuant to section 9089.

§9085. Rules

The board may make and enforce all necessary rules for the administration of this subchapter, and may repeal or amend such rules from time to time as may be in the public interest, insofar as that action is not in conflict with any of the provisions of this subchapter. All rules of the Department of Human Services governing mobile home parks in effect on the effective date of this subchapter shall remain in effect for a period not to exceed one year, unless sooner amended or repealed by the board.

§9086. Right of entry and inspection

The board and any duly designated officer or employee thereof may enter upon the premises of any mobile home park licensed pursuant to this subchapter at any reasonable time in order to determine the state of compliance with this subchapter and any rules in force pursuant thereto. The right of entry and inspection shall extend to any premises which the board has reason to believe are being operated or maintained without a license, but no such entry or inspection of any premises may be made without the permission of the owner or person in charge thereof or, after hearing, upon order of the court.

§9087. Penalties

Any person, corporation, firm or copartnership who shall operate any mobile home park without first obtaining a license as required by this subchapter is guilty of a Class E crime. Each day any such person, corporation, firm or copartnership operates without obtaining a license constitutes a separate offense.

In the event of any violation of this subchapter or any rule adopted under this subchapter the Attorney General may seek to enjoin further violation thereof, in addition to any other remedy.

§9088. Municipal inspections

Notwithstanding any other provisions of this sub-

chapter, the board may issue a license to mobile home parks, as defined in section 9081, on the basis of an inspection performed by an inspector who works for and is compensated by the municipality in which the establishment is located, but only if the following conditions have been met.

1. Adopted rules; code of standards. The municipality involved has adopted a set of rules, ordinances or other code of standards for the establishments which has been approved by the board and which is consistent with the rules used by the board for the issuance of the licenses in effect at the time of inspection.

2. Qualified to make inspections. No municipally employed sanitarians may make inspections under the provisions of this subchapter, unless certified as qualified by the Commissioner of Human Services.

3. Inspection to ascertain intent. The board may from time to time inspect the municipally inspected establishment to ascertain that the intent of these statutes is being followed.

4. Inspection reports. The municipalities shall furnish the board copies of its inspection reports relating to the inspections on a monthly basis.

5. Charge. Municipalities may not charge the board for performing those inspections.

6. License fee. When a license is issued on the basis of a municipal inspection, as specified in this section, the requirement for payment of a license fee to the board, as set forth in section 9083, shall be waived. The licensee shall be required to pay the board a sum not to exceed \$10 to support the costs of mailing and handling.

7. Licenses. Licenses issued under this section shall be displayed, renewed and in every other way treated the same as licenses issued under this subchapter on the basis of inspection by the board.

8. Certification. Certification of municipally employed sanitarians shall be in accordance with standards set by the Commissioner of Human Services and shall be for a period of 3 years.

§9089. Suspension, revocation; appeals

The board may revoke or suspend a license pursuant to Title 5, section 10004. In addition, the board may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to

renew a license upon a finding that the licensee has violated any provision of this subchapter or any rule of the board.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for a hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reason therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 18. 22 MRSA §2491, sub-§§9 and 10, as enacted by PL 1975, c. 496, §3, are repealed.

Sec. 19. 22 MRSA §2492, first ¶, as enacted by PL 1975, c. 496, §3, is amended to read:

No person, corporation, firm or copartnership ~~shall~~ may conduct, control, manage or operate, for compensation, directly or indirectly, any eating establishment, eating and lodging place, lodging place, recreational camp, or camping area ~~or mobile home park~~, unless the same shall be licensed by the department. Licenses issued must be displayed in a place readily visible to customers or other persons using a licensed establishment.

Sec. 20. 22 MRSA §2494, first ¶, as amended by PL 1981, c. 703, Pt. A, §§17 and 18, is further amended to read:

Each application for, or for renewal of, a license to operate an eating establishment, eating and lodging place, lodging place, recreational camp or camping area ~~or mobile home park~~, within the meaning of this chapter shall be accompanied by a fee, appropriate to the size of the establishment, place, camp or area ~~or park~~ of the licensee, determined by the department and not to exceed \$40. All fees collected by the department shall be deposited in the General Fund. No such fee ~~shall~~ may be refunded. No license ~~shall~~ may be assignable or transferable.

Sec. 21. 22 MRSA §2495, first ¶, as repealed and replaced by PL 1981, c. 203, §1, is amended to read:

The department shall, within 30 days following receipt of application, issue an annual license to operate any eating establishment, eating and lodging place, lodging place, recreational camp, or camping area or mobile home park which is found to comply with this chapter and the regulations adopted by the department.

Sec. 22. 22 MRSA §2498, as enacted by PL 1975, c. 496, §3, is amended to read:

§2498. Penalties

Any person, corporation, firm or copartnership who shall operate any eating establishment, eating and lodging place, lodging place, recreational camp, or camping area or mobile home park without first obtaining a license as required by this chapter shall, upon conviction thereof, be punished by a fine of not less than \$10 nor more than \$100, and upon 2nd or subsequent conviction, shall be punished by a fine of not less than \$100. Each day any such person, corporation, firm or copartnership operates without obtaining a license shall constitute a separate offense. In the event of any violation of this section or any rule or regulation hereunder, the Attorney General may seek to enjoin further violation thereof, in addition to any other remedy.

Sec. 23. 23 MRSA §152, 5th ¶, as amended by PL 1979, c. 487, §1, is further amended to read:

The board shall maintain an office in Kennebec County. The Commissioner of the Department of Business Regulation Finance and Administration shall appoint, subject to the Personnel Law, a clerk of the board to keep its records and to perform such other duties as the board shall prescribe. The clerk shall have authority to certify to all official acts of the board, administer oaths, issue subpoenas, and issue all processes, notices, orders or other documents necessary to the performance of the duties of the board.

Sec. 24. 23 MRSA §152, 6th ¶, as repealed and replaced by PL 1973, c. 585, §5, is amended to read:

The Commissioner of the Department of Business Regulation Finance and Administration shall appoint and fix the compensation of a reporter to the board, and shall review and approve all charges made by such reporter for transcripts of the record of hearings before the board. The Commissioner of the Department of Business Regulation Finance and Administration may appoint, subject to the Personnel Law, such clerical assistants for the board as he may deem necessary.

Sec. 25. 24-A MRSA §203, as amended by PL 1973, c. 585, §12, is further amended to read:

§203. Compensation

The State shall pay to the superintendent from the General Fund an annual salary in amount as provided by law as full compensation for all duties required of him as superintendent.

Sec. 26. 32 MRSA §1151, first paragraph, as repealed and replaced by PL 1983, c. 413, §34, is amended to read:

The Electricians' Examining Board, as established and in this chapter called the "board," shall consist of 6 members appointed by the Governor, called the "appointive members," and an ~~executive secretary~~, who ~~shall be the Commissioner of Business Regulation or a representative appointed by the commissioner with the approval of at least 4 of the appointive members.~~

Sec. 27. 32 MRSA §1154, as repealed and replaced by PL 1973, c. 363, is amended to read:

§1154. Disposal of fees

All fees received by the board shall be paid by the ~~executive secretary~~ to the Treasurer of State to be used for carrying out this chapter. Any balance of ~~said these~~ fees shall not lapse, but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 28. 32 MRSA §1202, sub-§3, as repealed and replaced by PL 1973, c. 363, is amended to read:

3. Certificate. All persons licensed by the board shall receive a certificate thereof under the seal of the board and with the signature of the ~~executive secretary~~, which shall state the facts and which must be publicly displayed at the principal place of business of ~~said the~~ electrician or, if no such place of business, must be carried on the person and displayed at any time upon request, as long as ~~said that~~ person continues in the business as defined.

Sec. 29. 32 MRSA §1203, first ¶, as amended by PL 1981, c. 577, §11, is further amended to read:

The following applicants for license shall present to the ~~executive secretary~~ of the board a written application for examination and license, containing such information as the board may require, accompanied by the required fee of \$50 for a master

electrician's license, \$20 for a journeyman's license and \$30 for a limited electrician's license. Examinations shall be in whole or in part in writing, shall be conducted by the board and shall be of a thorough and practical character commensurate with the responsibilities of the prospective license holder. They shall include such provisions of the National Electrical Code as the board may deem appropriate.

Sec. 30. 32 MRSA §1451, as repealed and replaced by PL 1983, c. 413, §57, is amended to read:

§1451. Board; powers and duties

The State Board of Funeral Service, and in this chapter called the "board," shall consist of 8 7 members, ~~one of whom shall be the commissioner, who shall be the secretary of the board,~~ 6 of whom shall be persons licensed for the practice of funeral service for 10 consecutive years or who have had 10 consecutive years' experience as an embalmer or funeral director in this State immediately preceding their appointment, and one of whom shall be a representative of the public. Members, ~~other than the commissioner,~~ shall be appointed by the Governor for a term of 4 years, except that no more than 2 members' terms may expire in any one calendar year and appointments for terms of less than 4 years may be made in order to comply with this limitation. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 4 years from the date of the expiration, regardless of the date of his appointment. Any vacancy in the board shall be filled by appointment of a person, qualified as was the board member being replaced, to hold office during the unexpired term. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 4-year term shall be deemed a full term. A board member may be removed by the Governor for cause.

The board may adopt rules consistent with law governing the care, preparation, transportation, cremation, burial or disposition of dead human bodies, and governing funeral service, including licensing and registration of resident trainees. These rules shall not become effective, unless adopted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

The board shall meet at least once a year to conduct its business and elect its officers. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board mem-

bers. Five members of the board shall constitute a quorum for all purposes.

The members of the board shall each receive \$20 a day and expenses while engaged in the business of the board. The secretary shall receive actual expenses while engaged in the business of the board.

The secretary of the board shall be the treasurer and shall receive all fees, charges and assessments payable to the board, and account for and pay over the fees, charges and assessments according to law.

The secretary of the board shall keep a record of all proceedings, issue all notices, certificates of registration and licenses, attest all such papers and orders as the board shall direct, and cause inspections to be made at least once every 3 years of all establishments or places of business of any person engaged in the profession of funeral service in the State and perform such other duties as shall be designated by the board. The inspection shall be for the purpose of determining that these establishments and places are maintained in a clean and sanitary manner and that suitable equipment for their proper conduct is maintained and that the laws and the regulations of the board and of the Department of Human Services relating to the conduct of these establishments are observed. The board may employ one or more inspectors to carry out the duties of inspection imposed by this section, and the inspection may be made by members of the board upon authorization by the board, and may otherwise enter into contracts to carry out its responsibilities under this chapter.

The board may enter into reciprocal agreements with corresponding boards of other states for the purpose of allowing the practitioners of funeral services to perform their licensed functions in this or other states under such terms and conditions as the boards may prescribe.

Sec. 31. 32 MRSA §1452, as amended by PL 1981, c. 703, Pt. A, §46, is further amended to read:

§1452. Records and reports

The board shall keep a record containing the names and residences of all persons licensed and a record of all moneys received and disbursed by the board, and the records, or duplicates thereof, shall always be open to inspection in the office of the ~~commissioner~~ board during regular office hours. The board shall report to the department, on or before the first day of May in each year, a full and complete account of all of its official acts during the

year, together with a statement of its receipts and disbursements and such comment as may be deemed proper.

Sec. 32. 32 MRSA §1454, as amended by PL 1967, c. 253, §4, is further amended to read:

§1454. Lists for transportation companies

In the month of January of each year, the ~~seecre-~~
~~tary of~~ the board shall supply each licensee, and the various transportation companies within the State, with a list of all holding licenses, then in force, giving the names of such persons, their business addresses and the numbers of their licenses.

Sec. 33. 32 MRSA §1503, as amended by PL 1981, c. 703, Pt. A, §48, is further amended to read:

§1503. Blanks and forms of procedure; lists of licensees and examinations

The ~~commissiener~~ board may adopt such blanks and forms of procedure as ~~he it~~ may deem necessary to carry out this chapter and shall keep on file a list of all persons licensed in the practice of funeral service and a record of examinations, together with the examination papers, all of which shall be open to public inspection.

Sec. 34. 32 MRSA §1504, 2nd ¶, as repealed and replaced by PL 1983, c. 413, §63, is amended to read:

All licenses and certificates of registration which have been issued by the board shall expire on December 31st, annually. Any person holding a license or registration under this law may have the license renewed by making and filing with the ~~seecre-~~
~~tary of~~ the board an application therefor within 30 days preceding the expiration of his license or certificate of registration, upon blanks prescribed by the board and upon payment of the established renewal fee. The board shall establish the initial and renewal fees, which shall not exceed \$40 for an embalmer's license, funeral director's license and funeral home registration. The license for the practitioner of funeral services shall not exceed \$50 and the fee for a resident trainee shall not exceed \$10. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be be subject to all requirements governing new applicants under this chapter,

except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 35. 32 MRSA §1505 is amended to read:

§1505. Notice to holders of expiring licenses

The ~~secretary of~~ the board shall, at least 40 days prior to the expiration of any license, mail to the holder of any license about to expire a notice advising him or her to that effect, and enclosing a blank application for renewal thereof. The ~~secretary of said~~ board shall mail a notice to each holder of a license that has not been renewed, advising him or her of the expiration of his or her license and of the penalty for embalming, caring for or preparing for burial, transportation or cremation of dead human bodies without holding a license, and the conditions and terms upon which his or her license may be revived and renewed. All notices required to be mailed by this section shall be directed to the last known post-office address of the person to whom the notice is addressed.

Sec. 36. 32 MRSA §2351, first ¶, as amended by PL 1983, c. 413, §117, is further amended to read:

An Oil and Solid Fuel Board, as established and in this chapter called the "board," shall consist of an ~~executive secretary, who shall be ex officio,~~ the Commissioner of Business Regulation or a representative appointed by the commission, ~~with the approval of a majority of the board,~~ the Commissioner of Public Safety or a representative and 5 other members, called in this chapter the "appointive members," who shall be appointed by the Governor.

Sec. 37. 32 MRSA §2351, last ¶, as repealed and replaced by PL 1973, c. 384, is repealed.

Sec. 38. 32 MRSA §2403, first ¶, as amended by PL 1983, cc. 204, §8 and 413, §124, is further amended to read:

Applicants for a master or journeyman's oil burner technician or master solid fuel burner technician license shall present to the ~~executive secretary of~~ the board a written application for examination, containing such information as the board may require accompanied by the prescribed fee. Examinations shall be in whole or in part in writing, shall be conducted by the board and shall be of a thorough and practical character commensurate with the responsibilities of the type of license applied for.

Sec. 39. 32 MRSA §3401, as repealed and replaced by PL 1983, c. 413, §141, is amended to read:

§3401. Membership; vacancies; removal; compensation

A Plumbers' Examining Board, as established, shall consist of ~~an executive officer who shall be the Commissioner of Business Regulation, or his designee,~~ and 3 other members, called the appointive members, who shall be appointed by the Governor. One of the appointive members shall be a representative of the public, one shall be a master plumber as defined in section 3301, and one shall be a journeyman plumber as defined in section 3301, and who has been engaged in the business of plumbing for at least 2 years. Members shall be appointed for terms of 2 years, with no person being eligible to serve more than 4 full consecutive terms, provided that for this purpose only a period actually served which exceeds $1/2$ of the 2-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's terms shall be 2 years from the date of the expiration, regardless of the date of his appointment. Any vacancy in the board caused by death, resignation or removal of any member shall be filled by the appointment of a person qualified, to hold office during the unexpired term of the member whose place is thus filled. Any member of the board may be removed from office for cause, by the Governor. The members of the board shall each be allowed the sum of \$35 per day and their necessary traveling expenses for actual attendance upon any examination of candidates for license and for any necessary hearings. The board may examine and license plumbers.

Sec. 40. 32 MRSA §3403, as repealed and replaced by PL 1983, c. 413, §142, is amended to read:

§3403. Meeting; chairman; quorum

The board shall meet at least once a year to conduct its business and to elect a chairman and a secretary. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members. ~~Three~~ Two members of the board shall constitute a quorum for all purposes. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its function.

Sec. 41. 32 MRSA §3404, last ¶, as repealed and replaced by PL 1983, c. 413, §144, is amended to read:

The board, for reasons it may deem sufficient,

may reissue a license to any person whose license has been revoked, providing 3 2 or more members of the board vote in favor of the reissuance.

Sec. 42. 32 MRSA §3405 is amended to read:

§3405. Disposal of fees

All fees received by the board shall be paid by ~~the executive officer thereof~~ into the State Treasury of the State and may be used for carrying out this chapter.

Sec. 43. 32 MRSA §3501, sub-§4, as enacted by PL 1977, c. 469, §15, is amended to read:

4. Certificate. All persons licensed by the board shall receive a certificate thereof under the seal of the board and with the signature of the ~~executive officer~~, which shall state the facts and which must be publicly displayed at the principal place of business of the plumber or, if no such place of business, shall be carried on the person and displayed at any time upon request, as long as that person continues in the business as defined.

Sec. 44. 32 MRSA §3501, sub-§5, as repealed and replaced by PL 1977, c. 696, §245, is amended to read:

5. Examinations. The following applicants for license shall present to the ~~executive officer of the~~ board a written application for examination and license, containing such information as the board may require, accompanied by the required fee of \$15 for a master plumber's examination, \$10 for a journeyman plumber's examination and \$15 for a limited plumber's examination. Examinations shall be in whole or in part in writing, shall be conducted by the board and shall be of a thorough and practical character commensurate with the responsibilities of the prospective license holder.

Applications for a first examination shall be received by the board at least 15 days prior to a scheduled meeting of the board.

The passing grade on any examination shall be not less than 70%. A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. Any candidate for registration having an average grade of less than 50% may not apply for reexamination for one year.

When the unexpired term of license of an applicant is

or will be more than one year at the time of licensure, the board may require the applicant to pay an additional fee not to exceed 1/2 the biennial license fee.

Sec. 45. Transition clause. Any balance of funds collected under the Revised Statutes, Title 22, section 2494, for the licensing of mobile home parks on the effective date of this Act, shall be transferred to the Manufactured Housing Fund for the purpose of carrying out the provisions of section 23 of this Act.

Sec. 46. Revision clause. Wherever in the Revised Statutes the words "Department of Business Regulation" appear or reference is made to that name, they shall be amended to read and mean "Department of Business, Occupational and Professional Regulation."

Sec. 47. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1983-84 1984-85

BUSINESS REGULATION,
DEPARTMENT OF

Administration

Position-Attorney	(1)	(1)
Personal Services	\$23,000	\$24,000
All Other	3,000	3,500

Banking, Bureau of

Position-Superintendent	(1)	(1)
Personal Services	47,000	48,000

Consumer Credit Protection,
Bureau of

Position-Superintendent	(1)	(1)
Personal Services	44,000	45,000

Maine Athletic Commission

Positions	(-5 1/2)
Personal Services	(15,375)
All Other	(6,450)

Manufactured Housing Board

Positions	(-1)
Personal Services	(31,001)
All Other	(2,950)

	<u>1983-84</u>	<u>1984-85</u>
Total positions	(3)	(-3 1/2)
Total	\$117,000	\$64,724

There will be a loss of undedicated revenues to the General Fund of \$24,000 in fiscal year 1983-84 and \$16,600 in fiscal year 1984-85.

Effective September 23, 1983.

CHAPTER 554

S.P. 563 - L.D. 1637

AN ACT to Provide Workers' Compensation Coverage to Emergency Medical Services' Persons.

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

39 MRSA §2, sub-§5, ¶A, as amended by PL 1981, c. 283, §2, is further amended to read:

A. "Employee" shall include officials of the State, counties, cities, towns, water districts and all other quasi-public corporations of a similar character, every duly elected or appointed executive officer of a private corporation, other than a charitable, religious, educational or other nonprofit corporation, and every person in the service of another under any contract of hire, express or implied, oral or written, except:

(1) Persons engaged in maritime employment, or in interstate or foreign commerce, who are within the exclusive jurisdiction of admiralty law or the laws of the United States; and persons operating as sternmen as defined in Title 36, section 5102, subsection 8-A;

(2) Any person whose employment is not in the usual course of the business, profession, trade or occupation of his employer. Firefighters and policemen shall be deemed