

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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PUBLIC LAWS

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Whereas, the correction of the description as provided herein will enable the board to fulfill the purpose originally intended by the chapter; and,

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

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

PL 1985, c. 627, §2 is repealed and the following enacted in its place:

Sec. 2. Allocation. The following funds are allocated from other special revenue to carry out the purposes of this Act.

	1986-87	1987-88
<u>AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF</u>		
<u>Board of Pesticide Control</u>		
Positions	(1.0)	(1.0)
Personal Services	\$ 3,700	\$11,200
All Other	7,000	27,100
Capital Expenditures	11,000	_____
Total	\$21,700	\$38,300

Provides for the allocation of received funds in calendar year 1987 to hire a seasonal, full-time Pesticide Control Technician who will be employed from April to October, 1987 and to replace a 4-wheel drive truck, as well as to restore anticipated losses of federal grant money which has supported the board's ability to monitor pesticide use.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 15, 1987.

CHAPTER 312

H.P. 1252 — L.D. 1710

AN ACT to Regulate Freshwater Fisheries in Coastal Waters.

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

Sec. 1. 12 MRSA §6001, sub-§17-A is enacted to read:

17-A. Freshwater fish. "Freshwater fish" means the following fish species, when found in coastal waters as defined in subsection 6: Brown trout; largemouth bass; smallmouth bass; black crappie; rainbow trout; brook

trout; chain pickerel; and landlocked salmon.

Sec. 2. 12 MRSA §6001, sub-§26, as enacted by PL 1977, c. 661, §5, is amended to read:

26. Marine organism. "Marine organism" means any animal, plant or other life that usually inhabits salt water coastal waters.

Sec. 3. 12 MRSA §6003 is enacted to read:

§6003. Coordination of fisheries management

The Commissioner of Marine Resources, in consultation with the Commissioner of Inland Fisheries and Wildlife, may regulate the taking of freshwater fish species in coastal waters. Rules shall be promulgated in accordance with section 6171. Whenever a bag limit on freshwater fish species in coastal waters exists, as defined in section 6001, subsection 17-A, no person may possess more than one day's bag limit, regardless of whether the fish are taken from inland or coastal waters.

Effective September 29, 1987.

CHAPTER 313

S.P. 169 — L.D. 473

AN ACT Making Changes to the Dietitian Registration Act.

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

Sec. 1. 32 MRSA §9901, first ¶, as enacted by PL 1985, c. 389, §28, is amended to read:

In order to recognize the professional qualifications of dietitians and dietetic technicians and to assure the availability to the public of information regarding those who hold themselves out to be dietitians and dietetic technicians, it is the purpose of this chapter to provide for the registration licensing of qualified dietitians and dietetic technicians.

Sec. 2. 32 MRSA §9902, sub-§§1, 5 and 6, as enacted by PL 1985, c. 389, §28, are amended to read:

1. Board. "Board" means the Board of Registration Licensing of Dietetic Practice established under this chapter.

5. Licensed dietetic technician. "Registered Licensed dietetic technician" means a person registered licensed under this chapter who practices dietetics under the supervision of a dietitian who is registered licensed in accordance with this chapter.

6. Licensed dietitian. "Registered Licensed dietitian" means a person who practices dietetics and who

is ~~registered~~ licensed as a dietitian under this chapter.

Sec. 3. 32 MRSA §§9903 and 9904, as enacted by PL 1985, c. 389, §28, are amended to read:

§9903. Board of Licensing of Dietetic Practice; establishment; compensation

1. Establishment and membership. There is established, within the Department of ~~Business, Occupational and Professional and Financial Regulation~~, the Board of ~~Registration~~ Licensing of Dietetic Practice. The board shall consist of 5 members appointed by the Governor, including 2 public members who are residents of this State, who do not hold ~~registration~~ a license to practice dietetics and who have no direct or indirect financial interest in the practice or delivery of dietetic services. Other than these public members, the persons appointed to the board shall have been engaged in rendering dietetic services to the public or in teaching or research in dietetics for at least 2 years immediately preceding their appointments. Two board members shall be dietitians. The 5th member shall be either a dietitian or a dietetic technician. The professional members shall at all times be holders of valid ~~registrations~~ licenses under this chapter, except for the members of the first board, each of whom shall fulfill the requirements for ~~registration~~ licensing under this chapter.

2. Terms of appointment. To the first board established under this chapter, the Governor shall appoint 2 board members for terms of one year, 2 for terms of 2 years and one for a term of 3 years. Appointments made thereafter shall be for 3-year terms, but no person may be appointed to serve more than 3 consecutive terms, provided that for this purpose only, a period actually served which exceeds 1/2 of a 3-year term shall be deemed a full term. Any member of the board may be removed from office for cause by the Governor.

3. Meetings. The board shall meet at least once a year to conduct its business and to elect a chairperson. Additional meetings shall be held as necessary to conduct the business of the board and may be convened at the call of the chairperson or a majority of the board members. A majority of the members of the board shall constitute a quorum for all purposes.

4. Compensation. Members of the board shall be compensated as provided in Title 5, section 12002-A.

§9904. Board of Licensing of Dietetic Practice; powers and duties

1. Powers. The board shall administer and enforce this chapter and evaluate the qualifications of applicants for ~~registration~~ licensing. The board may examine witnesses, administer oaths and shall investigate or cause to be investigated any complaints made to it or any cases of noncompliance with or violation of this chapter.

2. Rules. The board may adopt, in accordance with

the Maine Administrative Procedure Act, Title 5, chapter 375, rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional ~~registration~~ licensing and to the establishment of ethical standards of practice for persons ~~registered~~ licensed to practice dietetics in this State.

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a ~~registration~~ license or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter. Hearings shall be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable.

4. Records. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

5. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

6. Reports. No later than August 1st of each year, the board shall submit to the commissioner, for the preceding fiscal year, its annual report of its operations together with such comments and recommendations as the commissioner deems essential.

Sec. 4. 32 MRSA §9905, as amended by PL 1985, c. 785, Pt. B, §146, is further amended to read:

§9905. Board of Licensing of Dietetic Practice; administrative provisions

1. Employees. With the advice of the board, the commissioner may appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

2. Budget. The board shall submit to the commissioner its budgetary requirements in the same manner as provided in Title 5, section 1665.

Sec. 5. 32 MRSA §§9906 to 9909, as enacted by PL 1985, c. 389, §28, are amended to read:

§9906. Licensing

1. Licensing required. No person may practice dietetics or hold himself out to be a ~~registered~~ dietitian or a ~~registered~~ dietetic technician or use related terms or words, unless he is ~~registered~~ licensed in accordance with this chapter.

2. Individual licensing. Only an individual may be ~~registered~~ licensed under this chapter.

3. Penalty; injunction. A person who violates this

section is guilty of a Class E crime.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

§9907. Requirements for licensing; education; experience

1. Dietitian's licensing. An applicant for ~~registration~~ licensing as a dietitian shall file a written application on forms provided by the board, showing to the satisfaction of the board that he meets the following requirements.

A. The applicant must exhibit adherence to established ethical professional standards.

B. An applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements established by the American Dietetic Association or equivalent requirements as determined by the board and shall have received a baccalaureate or higher degree from an accredited college or university. ~~Such a program includes~~ As part of his professional education an applicant shall have completed courses in organic and inorganic chemistry, human physiology, microbiology, principles of sociology or psychology, basic communication skills, economics, food composition, nutrition and management theory.

C. An applicant shall submit to the board evidence of having successfully completed the experience requirements approved by the American Dietetic Association or equivalent experience approved by the board. That experience shall include at least 6 months full-time clinical experience in the field of dietetics, or its part-time equivalent. The experience shall have been acquired during or within 5 years of completion of the academic requirements in paragraph B and not more than 5 years before the date of license application.

D. The applicant must have successfully completed an examination given by the American Dietetic Association or its equivalent as determined and administered by the board.

2. Dietetic technician's licensing. An applicant for ~~registration~~ licensing as a dietetic technician shall file a written application on forms provided by the board showing to the satisfaction of the board that he meets the following requirements.

A. The applicant must exhibit adherence to established ethical professional standards.

B. The applicant must have graduated from a dietetic technician program approved by the Commission on Accreditation of the American Dietetic Association or

its equivalent, as determined by the board, or graduated with a Bachelor of Science Degree in Food and Nutrition from an approved 4-year program.

C. An applicant shall submit to the board evidence of having successfully completed a 2-month work experience approved by the board. That experience shall have been acquired during or within 5 years from completion of the academic requirements in paragraph B and not more than 5 years from the date of license application.

D. The applicant must have successfully completed an examination given by the American Dietetic Association or its equivalent as determined by the board.

§9908. Issuance of license

The board shall issue a ~~registration~~ license to any person who meets the requirements of this chapter upon payment of the prescribed fee. Persons currently registered shall be allowed to continue to practice dietetics until their registration is due for renewal. At that time, they shall be required to meet all the requirements of section 9907 in order to receive the license required for the practice of dietetics.

§9909. Term of license

1. Annual renewal. ~~Registration~~ A license shall expire annually on December 31st or on such other date as the commissioner may determine. Notice of expiration shall be mailed to each registrant's licensee's last known address at least 30 days in advance of the expiration of his registration the license. The notice shall include any requests for information necessary for renewal.

Registrations Licenses may be renewed up to 90 days after the date of 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 registration licensing renewal date shall be subject to all requirements governing new applicants under this chapter.

2. Continuing education. Each ~~registration~~ license renewal shall be accompanied by evidence of continuing education or other requirements as established in rule by the board.

Sec. 6. 32 MRSA §9910, sub-§§2 and 3, as enacted by PL 1985, c. 389, §28, are amended to read:

2. Disciplinary actions; grounds. The board may suspend or revoke a ~~registration~~ license pursuant to Title 5, section 1004. In addition, the board may refuse to renew or the Administrative Court may revoke, suspend or refuse to renew any ~~registration~~ license issued under this chapter on any of the following grounds:

A. The practice of fraud or deceit in obtaining a registration license under this chapter or in connection with

service rendered within the scope of the registration license issued;

B. A registrant licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice of dietetics;

C. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the individual is registered licensed or convicted convicted of any crime for which imprisonment for one year or more may be imposed; or

D. Any violation of this chapter or rules adopted by the board.

3. Reinstatement. An application for reinstatement may be made to the board after one year from the date of revocation of a registration license.

Sec. 7. 32 MRSA §9911, sub-§1, as enacted by PL 1985, c. 389, §28, is amended to read:

1. Amount. Application fees may be established by the board in amounts which are reasonable and necessary. Registration Licensing fees may not exceed the following amounts:

A. For an original dietitians or dietetic technicians registration license, \$80; or

B. For a renewal dietitians or dietetic technicians registration license, \$40.

Sec. 8. 32 MRSA §9912, first ¶, as enacted by PL 1985, c. 389, §28, is amended to read:

The board may, in its discretion, grant a registration license under this chapter to an individual registered or licensed in another state if it determines that the requirements or standards for registration or licensure in that state are equivalent to, or greater than, those established by this chapter.

Sec. 9. 32 MRSA §§9913, 9914 and 9915 are enacted to read:

§9913. Equivalent requirements

The board shall adopt rules, as it determines necessary and appropriate, to indicate what requirements will be considered the equivalent of the specific education, experience and examination required by section 9907.

§9914. Temporary license

The board shall adopt rules establishing requirements for a temporary license within the scope of this chapter.

§9915. Persons and practices exempt

Nothing in this chapter prevents the activities of:

1. Licensed persons. Any person licensed or registered in this State under any other law from engaging in the profession or occupation for which he is licensed or registered;

2. Persons giving general nutrition-related information. Individuals who give general nutrition-related information;

3. State and federal employees. State and federal employees in state or federally funded cooperative extension food and nutrition programs and supplemental food and nutrition programs for women, infants and children;

4. Persons marketing or distributing food products. Persons who market or distribute food, food materials or dietary supplements or any person who engages in the explanation of the use of those products or the preparation of those products; and

5. Persons providing weight control services. Any person who provides weight control services, provided that:

A. The weight control program either recommends physician consultation generally or has in place procedures which require physician referral when medical conditions, such as heart disease, cancer, diabetes, hypoglycemia, morbid obesity and pregnancy exist; and

B. The program has been reviewed by, consultation is available from and no program change may be initiated without prior approval by:

(1) A licensed dietitian;

(2) A dietitian licensed in another state that has licensure requirements determined by the board to be equal to the requirements of this chapter; or

(3) A dietitian in another state without licensing who is registered by the Commission on Dietetic Registration of the American Dietetic Association.

Effective September 29, 1987.

CHAPTER 314

S.P. 525 — L.D. 1577

AN ACT to Ensure that the General Public does not have Access to Licensed Games of Chance.

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

Sec. 1. 17 MRSA §330, sub-§3-B is enacted to read: