

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

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1991

does not affect structural or other safety features of the building and when the work contemplated by the design does not require the issuance of a permit under applicable building codes or when the work involves those structures as provided in paragraphs A and B.

Sec. 22. Transition clause. The following provisions apply to the transition required by this Act.

1. All liabilities and assets remain with the Maine State Board for Licensure of Architects and Landscape Architects and the Department of Professional and Financial Regulation.

2. All rules and procedures currently in effect and operations pertaining to any unit and that are in compliance with this Act remain in effect until rescinded or amended as provided by state law.

3. Members of the Maine State Board for Licensure of Architects and Landscape Architects who have been appointed to terms extending beyond the effective date of this Act continue to serve in their appointed terms of office under the Maine State Board for Licensure of Architects and Landscape Architects.

Sec. 23. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1991-92	1992-93
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Maine State Board for Licensure of Architects and Landscape Architects		
Personal Services	\$945	\$420
All Other	5,600	600
Total	<u>\$6,545</u>	<u>\$1,020</u>
Provides funds for the per diem and expenses of an additional board member and for the expenses related to promulgating rules.		

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.

Effective June 20, 1991, unless otherwise indicated.

CHAPTER 397

H.P. 1288 - L.D. 1858

An Act to Create the Board of Barbering and Cosmetology

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, delay in the implementation of changes to the law will result in unnecessary burden on the ability of the Board of Barbering and Cosmetology to function independently and financially; 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:

Sec. 1. 5 MRSA §12004-A, sub-§6, as enacted by PL 1987, c. 786, §5, is repealed and the following enacted in its place:

6. Board of \$35/Day 32 MRSA §14211 Barbering and Cosmetology

Sec. 2. 5 MRSA §12004-A, sub-§9, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 3. 10 MRSA §8001, sub-§9, as repealed and replaced by PL 1989, c. 806, §2, and c. 878, Pt. D, §6, is repealed and the following enacted in its place:

9. Board of Barbering and Cosmetology. Barbering and Cosmetology, Board of;

Sec. 4. 10 MRSA §8001-A, sub-§2, as enacted by PL 1989, c. 450, §5, is repealed.

Sec. 5. 32 MRSA cc. 7 and 23, as amended, are repealed.

Sec. 6. 32 MRSA c. 126 is enacted to read:

CHAPTER 126

BARBERING AND COSMETOLOGY LICENSING

SUBCHAPTER I

GENERAL PROVISIONS

§14201. Short title

This chapter may be known and cited as the "Barbering and Cosmetology Licensure Act."

§14202. Definitions

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

1. Apprentice. “Apprentice” means any person who is registered with the board and, under the direct supervision of a person licensed under this chapter in the same category as the training performed and in accordance with board rules, is engaged in learning and acquiring a knowledge of the practice of:

- A. Cosmetology;
- B. Barbering;
- C. Aesthetics; or
- D. Manicuring.

2. Board. “Board” means the Board of Barbering and Cosmetology.

3. Commissioner. “Commissioner” means the Commissioner of Professional and Financial Regulation.

4. Department. “Department” means the Department of Professional and Financial Regulation.

5. Establishment; shop. “Establishment” or “shop” means a beauty shop or salon, cosmetology shop or salon, barber shop or salon or hair styling shop or salon, or any premises, structure, building or part of a building where any activity licensed under this chapter is practiced.

6. Mobile shop. “Mobile shop” means a mobile vehicle or mobile structure designed, constructed or adapted to serve as a shop at a number of sites and capable of being readily moved from any site at any time.

7. Practice of aesthetics. “The practice of aesthetics” means the performance by any person for hire or compensation of any one or a combination of the following practices:

- A. Beautifying, massaging, cleansing, stimulating, toning, or exercising the skin of the human body by the use of cosmetic preparations, tonics, lotions, creams, antiseptics or clays or any device, electrical or otherwise, for the care of the skin;
- B. Applying makeup or eyelashes to any person; or
- C. Trimming or tinting eyebrows and eyelashes.

The practice of aesthetics under this subsection does not include the diagnosis, treatment or therapy of any dermatological condition.

8. Practice of barbering. “The practice of barbering” means any one or any combination of the following practices, when done for hire or compensation, upon the upper part of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

A. Shaving or trimming the beard, manicuring the fingernails, or cutting, arranging, waving or styling the hair;

B. Giving facial and scalp massage or treatments with cosmetic preparations, either by hand or mechanical or electrical appliances;

C. Singeing, dyeing, tinting, bleaching or shampooing the hair or applying cosmetic preparations to the hair, scalp, face, neck or upper part of the body;

D. Removing superfluous hair from the face, neck or upper part of the body; or

E. Cutting, fitting, coloring or styling hairpieces or wigs.

9. Practice of cosmetology. “The practice of cosmetology” means the performance by any person for hire or compensation of any one or more of the following practices:

A. Beautifying, massaging, cleansing, stimulating, toning, manipulating or exercising the skin of the human body by the use of cosmetic preparations, tonics, lotions, creams, antiseptics, or clays or any device, electrical or otherwise, for the care of the skin;

B. Applying makeup or eyelashes to any person;

C. Manicuring or pedicuring the nails of any person;

D. Arranging, dressing, curling, waving, cleansing, cutting, trimming, removing, singeing, bleaching, coloring, relaxing or similarly treating the hair of any person;

E. Arranging, brushing, dressing, curling, waving, cleansing, shampooing, cutting, trimming, singeing, bleaching, coloring, tinting, dyeing, straightening, relaxing or similarly treating a wig, wiglet or hairpiece made of human hair, animal hair or synthetics; or

F. Teaching or demonstrating cosmetology, hairdressing or beauty culture.

10. Practice of manicuring. “The practice of manicuring” means the performance by any person for hire or compensation of any one or more of the following practices:

A. Applying the hands or mechanical or electrical apparatus with or without cosmetic preparations, lotions, creams or antiseptics to cut, trim, shape, pedicure, polish, color, tint or apply artificial nails to the nails of any person or to massage, cleanse or beautify the hands or feet of any person.

11. Student. “Student” means any person duly enrolled in a school licensed by the Commissioner of Education and engaged in learning and acquiring a knowledge of the practice of:

- A. Cosmetology;
- B. Barbering;
- C. Aesthetics; or
- D. Manicuring.

§14203. Exemptions; exceptions

1. Exemptions. The prohibitions and penalties of this chapter do not apply to the following persons when acting within the scope of their profession or occupation:

- A. Persons authorized by law of this State to practice medicine and surgery;
- B. Commissioned medical officers of the United States Armed Forces;
- C. Registered nurses, licensed practical nurses and nurse's aides;
- D. Persons who practice upon members of their immediate families or on persons residing in their household and who receive no payment for such practice; and
- E. Persons employed by licensed establishments who provide shampooing services within the licensed establishments.

2. Exceptions. The practice of cosmetology, barbering, aesthetics or manicuring may be carried on only by persons duly licensed to practice in this State and only in an establishment licensed by the board, except as provided in this subsection. Duly licensed persons may practice their respective practices:

- A. On patients in hospitals or nursing homes;
- B. On residents of summer camps;
- C. On inmates or residents of institutions of the Department of Mental Health and Mental Retardation;
- D. On invalids or handicapped persons in those persons' places of residence;
- E. On residents of nursing homes;
- F. On hotel or motel occupants in their hotel or motel rooms;
- G. On persons in their residences, if the licensee maintains or is employed in a licensed shop; and
- H. On persons in their private businesses.

The exceptions listed in this subsection do not permit the practice of barbering, cosmetology, manicuring or aesthetics in food establishments or food preparation areas.

§14204. Instructors

A person may not instruct in any of the branches of barbering or cosmetology unless that person holds a valid license to practice and to instruct in each respective practice issued under this chapter, except that when specifically authorized by law, physicians may instruct without holding a license to practice in a branch of barbering or cosmetology.

The board and the Department of Education shall adopt rules for the qualification and examination of applicants for licensure as instructors of barbering or cosmetology in accordance with Title 5, chapter 375, subchapter II.

Examination applications must be furnished by the board. The application must be filed with the board and be accompanied by an examination fee as determined by the board. Upon satisfactory completion of the examination, the applicant must pay a fee to receive the initial instructor license, which is valid until the next renewal period.

§14205. Violations

1. Penalties. A person commits a Class E crime if that person:

- A. Practices barbering, cosmetology, manicuring or aesthetics in this State without having obtained a license as provided by this chapter;
- B. Employs a person to practice barbering, cosmetology, manicuring or aesthetics who does not have a license, unless that person is an apprentice within the meaning of this chapter; or

C. Falsely professes to be qualified to practice barbering, cosmetology, manicuring or aesthetics under this chapter.

2. Court action. 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.

SUBCHAPTER II

BOARD OF BARBERING AND COSMETOLOGY

§14211. Board

1. Membership. The Board of Barbering and Cosmetology, as established by Title 5, section 12004-A, subsection 6, consists of 11 members who must be citi-

zens of this State and have practiced in their respective fields for at least 3 years immediately prior to their appointment. Of the members, 4 must be licensed as cosmetologists, 1 must be licensed as a cosmetologist and instructor of cosmetology, 4 must be licensed as barbers and 2 must be representatives of the public.

The members of the board are appointed by the Governor for terms of 3 years. None of the members are eligible to serve more than 3 consecutive 3-year terms or to serve more than 9 years consecutively; for this purpose only, a period actually served that exceeds 1/2 of the 3-year term is deemed a full term. Upon expiration of a member's term, that member shall serve until a successor is qualified and appointed. The successor's term is 3 years from the date of the expiration, regardless of the date of appointment. During their membership on the board, the cosmetologist and barber members must hold valid licenses and be actively engaged in their practices. A board member may be removed by the Governor for cause.

Any vacancy in the board must be filled by the appointment by the Governor of a person with the same qualifications as the board member being replaced to hold office for the remainder of the unexpired term.

A person operating or employed by a school of cosmetology or school of barbering may not be appointed as a member of the board. If a member of the board, after appointment, becomes affiliated in any way with such a school, that person's membership on the board immediately terminates and the unexpired term of that member must be filled by the Governor.

2. Meetings; chair; quorum. The board shall meet at least once a year to conduct its business. Additional meetings may be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. All meetings of the board must be open to the public, except that the board may hold closed sessions to prepare, approve, grade or administer examinations, or to prepare or provide a response upon request of an applicant for the review of an examination. Six members of the board constitute a quorum for all purposes.

3. Compensation. The members of the board are entitled to compensation according to the provisions of Title 5, chapter 379.

4. Employees. The commissioner may appoint, subject to the Civil Service Law, those employees that are necessary to carry out this chapter. Any person so employed is in the department and under the administrative and supervisory direction of the commissioner.

5. Inspections. The board or its agents or assistants shall inspect each establishment for compliance with the applicable requirements of this chapter and the applicable rules of the board adopted pursuant to this chapter. Each establishment must be inspected at least once a year for compliance with the applicable laws and rules

relating to the public health and safety and the conduct and operation of establishments.

§14212. Powers and duties

The board has the following powers and duties, in addition to those otherwise set forth in this chapter.

1. Board to administer, coordinate and enforce. The board shall administer, coordinate and enforce this chapter, evaluate the qualifications and supervise the examinations of applicants for licensure under this chapter and, at its discretion, investigate allegations of violations of this chapter. The board shall keep such records and minutes as necessary to the ordinary dispatch of its functions.

A member of the board or a department employee may enter and make reasonable examination of any licensed establishment during business hours for the purpose of ascertaining whether or not this chapter and board rules are being observed.

2. Rules. The board shall adopt, in accordance with the Maine Administrative Procedure Act, rules necessary to carry out the purposes of this chapter.

The rules must address, but are not limited to, the following:

A. The proper use of appliances, apparatus, and electrical and nonelectrical machines used in connection with the practice of cosmetology, barbering, manicuring and aesthetics;

B. Construction and safety of establishments;

C. Reasonable requirements, including sanitary standards, to govern the practice of cosmetology, barbering, manicuring and aesthetics within licensed establishments as well as for persons practicing outside of licensed establishments as authorized by section 14203; and

D. Requirements for licenses consistent with this chapter.

A copy of these rules must be kept posted in a conspicuous place within licensed establishments so as to be easily read by customers.

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 license, or as the board otherwise determines necessary to fulfill its responsibilities under this chapter.

The board may not refuse to renew a license for any reason other than failure to pay the 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 hearing for any reason other than failure to pay a

required fee, as long as the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

4. Diseases. A person who has a communicable disease may not give service to members of the public, including service within licensed establishments or schools licensed by the Department of Education. The board has the right to require the physical examination of any person who is suspected of having any communicable disease. Failure to submit to such an examination is grounds for suspension or revocation of the person's registration, certification, permit or license.

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

6. Reports. The board shall submit to the commissioner, no later than August 1st of each year, an annual report of its operations and financial position for the preceding fiscal year ending June 30th, together with those comments and recommendations that the board determines essential.

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

8. Complaints. The board shall investigate or cause to be investigated all complaints made on its own motion or on written complaint filed with the board and all cases of noncompliance with or violation of this chapter or any rules adopted by the board.

9. Officers. The board shall elect annually from among its members a chair, vice-chair and other officers as it determines necessary. The board shall appoint a person to serve as complaint officer.

10. Examinations. The board shall hold at least 2 public examinations each year, at such times and places as it designates. Additional examinations may be held at the discretion of the board. Notice of an examination must be given in a daily newspaper printed and published in the county in which the examination is held.

§14213. Register

The board shall keep a register of the names and residences of all persons licensed under this chapter and a record of all money received and disbursed by it. The register of licensees must be available to the public at cost.

§14214. Disposition of fees

The fees received by the board under this chapter must be paid to the Treasurer of State and used for carrying out the purposes of this chapter.

SUBCHAPTER III

LICENSURE

§14224. General provisions; licenses and permits

1. Practice; license required. A person may not practice cosmetology, barbering, manicuring or aesthetics in this State unless that person has first obtained a license as provided in this chapter or unless that person is acting within the scope of employment as an apprentice.

2. Operation of shop; license required. A person, firm or corporation may not provide services in, operate or cause to be operated a shop where cosmetology, barbering, manicuring or aesthetics is practiced unless that shop has been duly licensed by the board. A license issued pursuant to this subsection authorizes the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location is unlawful unless a license for the new location has been obtained in compliance with this chapter and applicable board rules. A new shop or a currently licensed shop that undergoes a change in location or ownership is required to either apply or reapply for licensure with the board. In the case of change of ownership, the shop license is valid for 30 days from the transaction date to allow the new owner to make application for licensure.

A shop that requires a special inspection, such as a new shop or a shop that changes location or ownership, may be assessed a separate inspection fee.

Shop licenses are issued on July 1st and must be renewed biennially unless otherwise provided by the commissioner. The fee is payable to the board.

A shop license is valid for 60 days following the death of the person in whose name the shop is licensed.

Booths, attached to or within a licensed shop, that are operated independently are subject to licensure, fees and applicable rules in the same manner as for independent shops. The board may establish rules for the operation of booths.

3. Apprentice. An apprentice cosmetologist, barber, manicurist or aesthetician registered pursuant to section 14232 may not independently conduct a practice but may, as an apprentice, do any or all acts constituting the practice under the immediate personal supervision of a person duly licensed and approved by the board in a licensed shop. Only one apprentice may be employed in any licensed shop at any time.

4. Student permit required. A student enrolled in the study of cosmetology, barbering, manicuring or aesthetics must file an application for a student permit pursuant to section 14233 on a form prescribed and supplied by the board. The application must contain satisfactory evidence of the qualifications required of the applicant under this chapter and must be notarized. The applicant must submit evidence of age and satisfactory completion of the 10th grade or its equivalent. The applicant must pay a fee set by the board at the time of application. The permit expires 12 months from the date of issuance and may be renewed upon filing the appropriate application and prescribed fee. A permit may not be issued to a person who has not attained 16 years of age.

§14225. Special mobile shop license

The board may, subject to section 14112, adopt rules authorizing the issuance of special mobile shop licenses, including requirements for mobile shops, locations for these shops and any other rules that the board considers necessary.

A special mobile shop license issued pursuant to this section must set out on the license the area in which that mobile shop is authorized to operate and any other special requirements or restrictions to which that license is subject. A separate license must be obtained for each municipality in which a mobile shop operates.

A mobile shop may not be licensed to operate in any municipality where a licensed shop is in operation prior to the issuance of the special mobile shop license, or in any municipality adjacent to a municipality where a licensed shop is in operation prior to the issuance of the special mobile shop license.

§14226. Qualifications; cosmetology

A person is eligible to obtain a license under this chapter for the practice of cosmetology if that person:

- 1. Age.** Is at least 17 years of age;
- 2. Education.** Has satisfactorily completed the 10th grade in a secondary school or its equivalent;
- 3. Training.** Within the immediately preceding 3 years, has satisfactorily completed a course of instruction in cosmetology of 1,500 hours in not less than 9 months in a school licensed by the Commissioner of Education or has experience in the practice of cosmetology as an apprentice of 2,500 hours distributed over a period of at least 18 months; and
- 4. Examination.** Has satisfactorily passed an examination in subjects the board considers necessary to determine the fitness of the applicant to practice. The board shall establish the passing score for all examinations.

A. Applicants for examination must submit to the board an application on a form prescribed and supplied by the board and pay an application and examination fee in an amount established by the board. The application must contain satisfactory evidence of the qualifications required of the applicant under this chapter and must be sworn by the applicant.

B. Within 90 days of notification of passing an examination, the applicant must pay a fee established by the board to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, upon filing the appropriate application and fees, the applicant may take subsequent examinations held by the board within a period of one year from the date of the applicant's first examination. An applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

Any person licensed as a barber pursuant to this chapter and who has satisfactorily completed a course of instruction in cosmetology of at least 500 hours in a school licensed by the Commissioner of Education or has experience in the practice of cosmetology as an apprentice of at least 900 hours may take the examination upon submitting an appropriate application and payment of the fees prescribed in this chapter.

§14227. Qualifications; barbering

A person is eligible to obtain a license under this chapter for the practice of barbering if that person:

- 1. Age.** Is at least 17 years of age;
- 2. Education.** Has satisfactorily completed the 10th grade in a secondary school or its equivalent;
- 3. Training.** Within the immediately preceding 3 years, has satisfactorily completed a course of instruction in barbering of 1,500 hours in not less than 9 months in a school licensed by the Commissioner of Education or has experience in the practice of barbering as an apprentice of 2,500 hours distributed over a period of at least 18 months; and
- 4. Examination.** Has satisfactorily passed an examination in subjects the board considers necessary to determine the fitness of the applicant to practice. The board shall establish the passing score for all examinations.

A. Applicants for examination must submit to the board an application on a form prescribed and supplied by the board and pay an application and examination fee in an amount established by the board. The application must contain satisfactory evidence of the qualifications required of the applicant under this chapter and must be sworn by the applicant.

B. Within 90 days of notification of passing an examination, the applicant must pay a fee established by the board to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant, upon filing the appropriate application and fees, may take subsequent examinations held by the board within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

Any person licensed as a cosmetologist pursuant to this chapter and who has satisfactorily completed a course of instruction in barbering of at least 500 hours in a school licensed by the Commissioner of Education or has experience in the practice of barbering as an apprentice of at least 900 hours may take the examination upon submitting an appropriate application and payment of the fees prescribed in this chapter.

§14228. Qualifications; aesthetics

A person is eligible to obtain a license under this chapter for the practice of aesthetics if that person:

1. Age. Is at least 17 years of age;

2. Education. Has satisfactorily completed the 10th grade in a secondary school or its equivalent;

3. Training. Within the immediately preceding 3 years, has satisfactorily completed a course of instruction in aesthetics of 750 hours in not less than 5 months in a school licensed by the Commissioner of Education or has experience in the practice of aesthetics as an apprentice of 1,250 hours distributed over a period of at least 7 months; and

4. Examination. Has satisfactorily passed an examination in subjects the board considers necessary to determine the fitness of the applicant to practice. The board shall establish the passing score for all examinations.

A. Applicants for examination must submit to the board an application on a form prescribed and supplied by the board and pay an application and examination fee in an amount established by the board. The application must contain satisfactory evidence of the qualifications required of the applicant under this chapter and must be sworn by the applicant.

B. Within 90 days of notification of passing an examination, the applicant must pay a fee established by the board to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time pe-

riod for extenuating circumstances. If not successful, the applicant, upon filing the appropriate application and fees, may take subsequent examinations held by the board within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

§14229. Qualifications; manicuring

A person is eligible to obtain a license under this chapter for the practice of manicuring if that person:

1. Age. Is at least 17 years of age;

2. Education. Has satisfactorily completed the 10th grade in a secondary school or its equivalent;

3. Training. Within the immediately preceding 3 years, has satisfactorily completed a course of instruction in manicuring of 200 hours in not less than 5 weeks in a school licensed by the Commissioner of Education or has experience in the practice of manicuring as an apprentice of 400 hours distributed over a period of at least 10 weeks; and

4. Examination. Has satisfactorily passed an examination in subjects the board considers necessary to determine the fitness of the applicant to practice. The board shall establish the passing score for all examinations.

A. Applicants for examination must submit to the board an application on a form prescribed and supplied by the board and pay an application and examination fee in an amount established by the board. The application must contain satisfactory evidence of the qualifications required of the applicant under this chapter and must be sworn by the applicant.

B. Within 90 days of notification of passing an examination, the applicant must pay a fee established by the board to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant, upon filing the appropriate application and fees, may take subsequent examinations held by the board within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

§14230. Temporary permit

If an applicant to practice cosmetology, barbering, manicuring or aesthetics qualifies for examination, the

board may issue to that applicant a permit to practice under the direct supervision of a qualified supervisor, as determined by board rules, within a licensed shop. The applicant must pay a permit fee in an amount established by the board. Permits expire 5 weeks from the date of the applicant's scheduled examination. Only 2 such permits may be issued to any person eligible for examination. The applicant is not considered an apprentice.

§14231. Reciprocity with other states

The board may waive the examination and grant a license to any applicant who presents proof of current licensure in another state or other jurisdiction of the United States or another country that grants similar privileges to persons registered under this chapter and maintains professional standards considered by the board to be equivalent to those set forth in this chapter, as long as no cause exists for denial of a license under section 14236. Such an applicant must pay the fee as provided in section 14238.

The board may allow an applicant to take the examination if that applicant presents proof of age, education, training or experience at least equal to that required in this chapter for the applicable license type in another state or jurisdiction of the United States or another country that maintains professional standards considered by the board to be equivalent to those set forth in this chapter, as long as no cause exists for the denial of a license under section 14236. Such an applicant must pay the fee as provided in section 14238.

§14232. Apprentices

1. Registration. Each apprentice must submit an application for registration to the board on a form prescribed and supplied by the board. The application must be accompanied by a registration fee set by the board. The registration for each type of apprenticeship training expires as indicated below.

- A. A cosmetology apprentice registration expires 18 months from date of issuance.
- B. A barber apprentice registration expires 18 months from date of issuance.
- C. A manicurist apprentice registration expires 6 months from date of issuance.
- D. An aesthetician apprentice registration expires 12 months from date of issuance.

The board shall furnish to each registered apprentice an apprentice registration. An apprentice registration is renewable upon payment of the registration fee. The registration must be displayed as provided for licenses in section 14235. The term "apprentice" must appear in conspicuous print upon the registration. To obtain a license, an appren-

tice, upon completion of the required training in accordance with this chapter, must file application for examination at the next examination held by the board.

2. Filing with the board. Before beginning an apprenticeship, an apprentice must file with the board:

- A. The employer's name, shop name and address;
- B. The date that the apprenticeship training will begin;
- C. The type of apprenticeship training, such as cosmetology, barbering, manicuring or aesthetics;
- D. Evidence of age; and
- E. Evidence of satisfactory completion of the 10th grade or its equivalent.

Apprentices who change their place of employment must notify the board, within 5 days of the change, of the name and place of business of the new employer and the date of the change.

3. Courses of instruction. An apprentice may take courses of instruction in a licensed school without having to register as a student as provided in this chapter. Hours or time accumulated in a school may not be combined with the required apprenticeship training hours and time.

§14233. Student permit

The board shall furnish to each applicant a student permit upon the student's completion and filing of an application, on a form supplied by the board, that demonstrates the student's eligibility for this permit.

To be eligible for a student permit, a student must be at least 16 years of age and have satisfactorily completed the 10th grade or its equivalent. The application must include evidence of the student's enrollment in a school licensed by the Commissioner of Education.

The student permit expires 12 months from the date of issuance.

All training or services rendered to a member of the public by a student must be under the direct supervision of a duly licensed instructor in a licensed school.

§14234. Demonstrators

A person licensed to practice cosmetology, barbering, manicuring or aesthetics may apply to the board as a demonstrator. A license limited to demonstrations only may be issued to an applicant who complies with such requirements as the board determines. Such a license is valid until the next renewal date. Licenses must be renewed biennially on or before July 1st.

§14235. Licenses; renewal

The board shall furnish to each licensed cosmetologist, barber, manicurist or aesthetician a license certifying that the holder of that license is entitled to practice in this State. The holder of a license shall post it in a conspicuous place where it may be readily seen and read by all persons served. The reproduction, altering or defacing of any license is prohibited.

Licensees must renew their licenses on or before July 1st biennially by filing an application prescribed by the board and payment of the required renewal fee as set forth in section 14238. The expiration dates for licenses issued under this chapter may be established by the commissioner.

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee as set forth in section 14238 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board, after giving due consideration to the protection of the public, may waive requirements. The board may assess a penalty fee for a renewal more than 90 days after a license expiration date.

Notwithstanding any other provision of this chapter, the board must waive examination if a renewal application is made by a person within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, if that person failed to renew a license because of active duty in the armed forces. The waiver of examination may not be granted if the person served more than 4 years in the armed forces, unless the board is presented with satisfactory evidence that the applicant was required by law to serve that period.

§14236. Investigation of complaints; suspension, revocation and refusal to issue or renew

1. Investigations. The board shall investigate or cause to be investigated a complaint on its own motion or upon receipt of a written complaint filed with the board regarding noncompliance with board rules or violations of this chapter. Any person may register a complaint of fraud, deceit, gross negligence, incompetence or misconduct against any person licensed or required to be licensed under this chapter. These complaints must be in writing and filed with the board.

2. Refusal to issue or renew. The board may refuse to issue or renew a license or take any other action pursuant to Title 10, section 8003, subsection 5 on a finding that the applicant, licensee or registrant:

A. Obtained a registration or a license by means of fraud, misrepresentation or concealment of material facts;

B. Violated any lawful order or rule adopted by the board;

C. Violated any provision of this chapter;

D. Was convicted of a crime in any court, other than minor traffic violations, if the acts for which the person was convicted are found by the board to have a direct bearing on whether the person should be entrusted to serve the public in a capacity that is subject to license or registration under this chapter, subject to the limitations of Title 5, chapter 341; or

E. While serving customers, committed an act of gross negligence, incompetence or misconduct that was dangerous or injurious, or was potentially so, to customers.

3. Reinstatement. The board may reissue a license to any person whose license has been revoked, if 6 or more members of the board vote in favor of that reissuance.

§14237. Enforcement and disciplinary procedures

1. Disciplinary procedures. The board shall adopt by rule a procedure for initiating and processing complaints.

2. Grounds for discipline. The board may take any disciplinary action authorized by this chapter based upon any one or more of the grounds set forth below:

A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered as a cosmetologist, barber, manicurist or aesthetician;

B. Addiction, as confirmed by professional diagnosis, to the use of alcohol or other drugs that has resulted or may result in the licensee being unable to perform duties or being unable to perform those duties in a manner that would not endanger the health or safety of the public to be served;

C. A professional diagnosis of mental incompetence;

D. Aiding or abetting a person not duly licensed in representing that person as a person licensed under this chapter;

E. Incompetence in the practice for which the person is licensed. A licensee is incompetent in the practice if the licensee has:

(1) Engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or the general public; or

(2) Engaged in conduct that evidences a lack of knowledge of or inability to apply principles or skills to carry out the practice for which the person is licensed;

F. Any negligence or misconduct in any of the practices licensed under this chapter;

G. Engaging in false, misleading or deceptive advertising; or

H. Violation of any provision of this chapter or any rule of the board.

§14238. Fees

1. Fees. Application, examination and license fees may be established by the board in amounts that are reasonable and necessary for their respective purposes. With the exception of the various application, examination, registration and permit fees collected as specified in this chapter, all fees are collected by the board on a biennial basis. The fees may not exceed the following amounts:

A. For a student permit, \$25;

B. For a temporary work permit, \$25;

C. For an apprentice registration, \$25;

D. For an original or biennial renewal of a shop license, \$100;

E. For an original or biennial renewal of a cosmetology license, \$100;

F. For an original or biennial renewal of a barber license, \$100;

G. For an original or biennial renewal of a manicurist license, \$100;

H. For an original or biennial renewal of an aesthetician license, \$100;

I. For an original or biennial renewal of a demonstrator license, \$100;

J. For an original or biennial renewal of an instructor license, \$100;

K. For a cosmetology, barber, manicurist, aesthetician or instructor examination, \$100;

L. For special shop inspections, \$40;

M. For a late fee, \$30; and

N. For a late filing penalty fee for repeat offenders, \$100.

2. Investigation; enforcement duties. When there is a finding of a violation of this chapter, a person licensed under this chapter may be assessed for the ac-

tual expenses incurred by the board or its agents for investigations and enforcement duties performed under this chapter.

Sec. 7. Transition provision. The following provisions apply to the transition required by this Act.

1. All liabilities and assets must be transferred from the State Board of Barbers and the State Board of Cosmetology to the Board of Barbering and Cosmetology and the Department of Professional and Financial Regulation.

2. All rules and procedures currently in effect and operations pertaining to any unit that are in compliance with the provisions of this Act remain in effect until rescinded or amended as provided by state law.

3. Members of the State Board of Barbers and the State Board of Cosmetology who have been appointed to terms extending beyond the effective date of this Act continue to serve in their appointed terms of office under the Board of Barbering and Cosmetology.

4. All employees of the Board of Cosmetology become employees of the Department of Professional and Financial Regulation. The accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement of those personnel, remain with those personnel.

5. Any valid license issued under the Maine Revised Statutes, Title 32, chapters 7 and 23 on or before the effective date of this Act remains valid and is renewable by the Board of Barbering and Cosmetology in the same license category upon satisfaction of all license requirements established by the board.

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

Effective June 20, 1991.

CHAPTER 398

H.P. 1109 - L.D. 1634

An Act Regarding Doe Permits

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

12 MRSA §7457, sub-§1, ¶H, as repealed and replaced by PL 1985, c. 230, is amended to read:

H. The commissioner may regulate the taking of antlerless deer within any area of the State, as necessary, to maintain deer populations in balance with