

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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
1993

E. The extent a guardian ad litem may assist in providing information concerning the best interest of the child; and

F. Other factors the court determines relevant.

2. Duties. The court shall specify the duties of the guardian ad litem. If, in order to perform the assigned duties, the guardian needs information concerning the child or parents, the court may order the parents to sign an authorization form allowing the release of the necessary information. The duties of the guardian ad litem may include the following:

A. Interviewing the child with or without another person present;

B. Interviewing the parents, teachers and other people who have knowledge of the child or family;

C. Reviewing mental health, medical and school records of the child;

D. Reviewing mental health and medical records of the parents;

E. Having qualified people perform medical and mental evaluations on the child;

F. Having qualified people perform medical and mental evaluations on the parents;

G. Procuring counseling for the child;

H. Retaining an attorney to represent the guardian ad litem in the pending proceeding, with approval of the court;

I. Subpoenaing witnesses and documents and examining and cross-examining witnesses;

J. Serving as a contact person between the parents and the child;

K. Making a written report of investigations, findings and recommendations, with copies of the report to each party and the court; and

L. Other duties that the court determines necessary.

3. Best interest of the child. The guardian ad litem must be guided by the standard of the best interest of the child as set forth in section 752, subsection 5.

4. Written report. A written report of a guardian ad litem may be admitted as evidence in the proceeding for which the guardian was appointed only if the party seeking the admission of the report has furnished a copy to all parties at least 14 days

prior to the hearing. The report may not be admitted as evidence without the testimony of the guardian ad litem if a party objects to the admittance of the report at least 7 days prior to the hearing.

5. Court's agent. A person serving as a guardian ad litem under this section acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the guardian ad litem.

6. Payment for services. Payment for the services of the guardian ad litem is the responsibility of the parties, as ordered by the court. In determining the responsibility for payment, the court shall consider:

A. The income of the parties;

B. The marital and nonmarital assets of the parties;

C. The division of property made as part of the final divorce;

D. Which party requested appointment of a guardian; and

E. Other relevant factors.

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

Effective April 7, 1994.

CHAPTER 630

S.P. 681 - L.D. 1861

An Act Concerning Registered Apprenticeship Programs

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

PART A

Sec. A-1. 26 MRSA §2172-A is enacted to read:

§2172-A. Apprenticeships

1. Notification to training applicants. The Department of Labor shall explain to each person seeking to enroll in a Maine Job Training System program the general nature of registered apprenticeship programs, that a registered apprenticeship program is one of the job training options available under the Maine Job Training System and ascertain that person's interest in such a program.

2. Referral. When an individual's employability development plan has been developed, the Department of Labor shall:

A. Determine whether the individual's employment goal includes an apprenticeable occupation by reference to a list of apprenticeable occupations provided by the State Apprenticeship and Training Council;

B. If the occupation appears on the list of apprenticeable occupations, contact the State Apprenticeship and Training Council for assistance in establishing a registered apprenticeship program as part of or following Maine Job Training System training;

C. Ensure that the State Apprenticeship and Training Council provides to the Commissioner of Labor a semiannual and annual list of the number of Maine Job Training System referrals received and the number of registered apprenticeship positions established from these referrals; and

D. If a registered apprenticeship program is developed under this subsection, provide the trainee with information on educational and training opportunities that may be of assistance for indenturing in the registered apprenticeship program.

PART B

Sec. B-1. 1 MRSA §72, sub-§17-A is enacted to read:

17-A. Registered apprenticeship. "Registered apprenticeship" means an apprenticeship program registered with the State Apprenticeship and Training Council under Title 26, chapter 11.

Sec. B-2. 5 MRSA §7072, 2nd ¶, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

The Bureau of Labor Standards shall assist the director in determining which classifications are apprenticeable and in encouraging and assisting state agencies to utilize the benefits of registered apprenticeship programs or other training programs.

Sec. B-3. 5 MRSA §7072, sub-§2, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

2. Agency review. The Bureau of Labor Standards and each agency utilizing apprenticeable classifications shall determine where registered apprenticeships should be established subject to the authorization of the Director of the Bureau of Human

Resources and the State Apprenticeship and Training Council.

Sec. B-4. 5 MRSA §7072, sub-§3, ¶¶A, E and F, as enacted by PL 1985, c. 785, Pt. B, §38, are amended to read:

A. A review of the development and operation of training and registered apprenticeship programs;

E. The number of persons who applied for registered apprenticeship positions under this chapter;

F. The number of persons who were accepted into the registered apprenticeship program under this chapter;

Sec. B-5. 25 MRSA §2804-B, sub-§2, as enacted by PL 1989, c. 521, §§5 and 17, is amended to read:

2. Preservice training standards. The board shall establish standards for preservice training certification ~~which that~~ are equivalent to the 100-hour reserve officer training course as of November 1, 1988. In establishing the standards, the board shall consider the use of a registered apprenticeship with a certified, experienced officer, to be followed by an examination given by the board, as an alternative to part or all of the preservice training course leading to preservice certification. In establishing the standards, the board shall cooperate with the State and local departments and agencies to which the preservice standards apply to ensure that the standards are appropriate.

Sec. B-6. 26 MRSA c. 11, first 2 lines are repealed and the following enacted in their place:

CHAPTER 11

REGISTERED APPRENTICESHIP

Sec. B-7. 26 MRSA §1002, first ¶, as amended by PL 1991, c. 716, §2, is further amended to read:

The State Apprenticeship and Training Council, as established by Title 5, section 12004-G, subsection 25, ~~shall be~~ is composed of 12 members ~~to be~~ appointed by the Governor and made up as follows: ~~4~~ four members ~~shall~~ must be representatives of employees and ~~shall~~ be bona fide members of a recognized major labor organization; 4 members ~~shall~~ must be representatives of employers and ~~shall~~ be bona fide employers or authorized representatives of bona fide employers; 2 members ~~shall~~ must be representatives of the public, selected from neither industrial employers nor employees, nor ~~shall~~ may they be directly

concerned with any particular industrial employer or employee; and 2 members who ~~shall~~ represent the interests of women, minorities and aid to families with dependent children recipients in registered apprenticeship. The appointments ~~shall~~ must be made so that the term of one member of each group ~~shall expire~~ expires each year. Each member ~~shall hold~~ holds office until a successor is appointed and qualified, and any vacancy ~~shall~~ must be filled by appointment for the unexpired portion of the term. The chair and secretary of the council ~~shall~~ must be named by the members of the council and the chair ~~shall~~ must be a member of the council. ~~The Associate Commissioner of Applied Technology and Adult Learning, the Director of the Bureau of Labor Standards, the Commissioner of Labor and the director of apprenticeship training of the Maine Technical College System shall be ex officio members of the council without vote. The Director of the Division of Applied Technology Administration within the Department of Education, the Director of Workforce Development, the Commissioner of Labor and the Director of Apprenticeship Training for the Maine Technical College System are nonvoting ex officio members of the council. The members of the council shall be compensated are entitled to receive compensation according to the provisions of Title 5, chapter 379.~~

Sec. B-8. 26 MRSA §1002, sub-§1 is amended to read:

1. Establish standards. Establish standards, through joint action of employers and employees, and assist in the development of registered apprenticeship programs in conformity with this chapter and generally encourage and promote the establishment of registered apprenticeship programs;

Sec. B-9. 26 MRSA §1002, sub-§4, as amended by PL 1989, c. 483, Pt. A, §44, is further amended to read:

4. Records. Keep a record of registered apprenticeship programs and apprentice agreements, including the number of women in registered apprenticeships by trade and the number of women apprentices in occupations that are nontraditional for women;

Sec. B-10. 26 MRSA §1002, sub-§9, as amended by PL 1993, c. 360, Pt. C, §5, is further amended to read:

9. Commitment to apprenticeships for women and recipients of aid to families with dependent children. Cooperate, consult and coordinate with the Maine Aid to Families with Dependent Children Advisory Council, established by Title 22, section 3774, and other relevant groups to identify the obstacles which may prevent the greater participation of

women and of aid to families with dependent children recipients in registered apprenticeships, and the necessary measures to be taken to overcome them.

Sec. B-11. 26 MRSA §2015-A, sub-§6, ~~¶C,~~ as amended by PL 1989, c. 541, §8, is further amended to read:

C. At the end of the assessment process, an employability development plan ~~shall~~ must be developed for each participant based on the results of the assessment, the participant's occupational preference and the occupational opportunities available as determined under subsection 9, including opportunities in nontraditional occupations. Participants may choose among training opportunities provided under subsection 7, provided that that choice is appropriate for the occupation identified in their employability development plan. The plan ~~shall~~ must identify the occupation selected and what additional training and education is necessary. If the occupation is one for which ~~an a~~ a registered apprenticeship program may be available, the State Apprenticeship and Training Council ~~shall~~ must be notified, and shall determine what additional training or education may be necessary for indenturing in ~~an apprentice~~ a registered apprenticeship program.

Sec. B-12. 32 MRSA §14202, sub-§1, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. B-13. 32 MRSA §14202, sub-§12 is enacted to read:

12. Trainee. "Trainee" 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.

Sec. B-14. 32 MRSA §14205, sub-§1, ¶B, as enacted by PL 1991, c. 397, §6, is amended to read:

B. Employs a person to practice barbering, cosmetology, manicuring or aesthetics who does not have a license, unless that person is ~~an apprentice~~ a trainee within the meaning of this chapter; or

Sec. B-15. 32 MRSA §14224, sub-§§1 and 3, as enacted by PL 1991, c. 397, §6, are amended to read:

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~~ a trainee.

3. Trainee. ~~An apprentice~~ A trainee cosmetologist, barber, manicurist or aesthetician registered pursuant to section 14232 may not independently conduct a practice but may, as ~~an apprentice~~ a trainee, 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~~ trainee may be employed in any licensed shop at any time.

Sec. B-16. 32 MRSA §14226, sub-§3, as enacted by PL 1991, c. 397, §6, is amended to read:

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~~ a trainee of 2,500 hours distributed over a period of at least 18 months; and

Sec. B-17. 32 MRSA §14226, last ¶, as enacted by PL 1991, c. 397, §6, is amended to read:

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~~ a trainee of at least 900 hours may take the examination upon submitting an appropriate application and payment of the fees prescribed in this chapter.

Sec. B-18. 32 MRSA §14227, sub-§3, as enacted by PL 1991, c. 397, §6, is amended to read:

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~~ a trainee of 2,500 hours distributed over a period of at least 18 months; and

Sec. B-19. 32 MRSA §14227, last ¶, as enacted by PL 1991, c. 397, §6, is amended to read:

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~~ a trainee of at least 900 hours may take the examination upon submitting an appropriate application and payment of the fees prescribed in this chapter.

Sec. B-20. 32 MRSA §14228, sub-§3, as enacted by PL 1991, c. 397, §6, is amended to read:

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~~ a trainee of 1,250 hours distributed over a period of at least 7 months; and

Sec. B-21. 32 MRSA §14229, sub-§3, as enacted by PL 1991, c. 397, §6, is amended to read:

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~~ a trainee of 400 hours distributed over a period of at least 10 weeks; and

Sec. B-22. 32 MRSA §14230, as enacted by PL 1991, c. 397, §6, is amended to read:

§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~~ a trainee.

Sec. B-23. 32 MRSA §14232, as enacted by PL 1991, c. 397, §6, is amended to read:

§14232. Trainees

1. Registration. Each ~~apprentice~~ trainee 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~~ trainee registration expires 18 months from date of issuance.
- B. A barber ~~apprentice~~ trainee registration expires 18 months from date of issuance.
- C. A manicurist ~~apprentice~~ trainee registration expires 6 months from date of issuance.
- D. An aesthetician ~~apprentice~~ trainee registration expires 12 months from date of issuance.

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

Sec. B-24. 32 MRSA §14238, sub-§1, ¶C, as enacted by PL 1991, c. 397, §6, is amended to read:

- C. For ~~an apprentice~~ a trainee registration, \$25;

Sec. B-25. Use of the term "apprenticeship." A committee composed of 3 members representing and appointed by the State Apprenticeship and Training Council and 3 members representing the Maine Youth Apprenticeship Program appointed by the President of the Maine Technical College System is established to consider the need for developing standards for the use of the term "apprenticeship" in describing training and education programs in the State. The committee shall report its recommendations and any necessary legislation to the joint standing committee of the Legislature having jurisdiction over labor matters by December 1, 1994.

See title page for effective date.

CHAPTER 631

H.P. 1381 - L.D. 1868

An Act to Clarify and Expand the Driver Education and Evaluation Programs in the State

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

Sec. 1. 5 MRSA §12004-G, sub-§15-A, as repealed by T. 5, §20078, sub-§8, is reenacted to read:

<u>15-A.</u>	<u>Driver</u>	<u>\$75/Day</u>	<u>5 MRSA</u>
<u>Substance</u>	<u>Education</u>		<u>§20078-A</u>
<u>Abuse</u>	<u>and Evalua-</u>		
	<u>tion Pro-</u>		
	<u>grams</u>		
	<u>Appeals</u>		
	<u>Board</u>		

Sec. 2. 5 MRSA §20071, sub-§1, as enacted by PL 1991, c. 601, §28, is amended to read:

1. Alcohol-related or other drug-related motor vehicle incident. "Alcohol-related or other drug-related motor vehicle incident" means a conviction or administrative action resulting in the suspension of a motor vehicle operator's license for a violation under Title 29, section 1311-A; Title 29, former section 1312, subsection 10-A; Title 29, former section 1312-B; Title 29, former section 1312-C; Title 29, section 1312-B; ~~or Title 29, section 1313-B;~~ Title 29, section 2241, subsection 1, paragraph N; Title 29, section 2241-G, subsection 2, paragraph B, subparagraph (2); ~~or Title 29, section 2241-J.~~

Sec. 3. 5 MRSA §20071, sub-§4-B, ¶¶C and D, as enacted by PL 1991, c. 622, Pt. Y, §2, are amended to read:

- C. Eluded or attempted to elude an officer, as defined in Title 29, section 2501-A, subsection