

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

requirements prescribed by the board by rule. The applicant's experience must include the use of accounting or auditing skills, including the issuance of reports on financial statements, and at least one of the following: the provision of management advisory, financial advisory or consulting services; the preparation of tax returns; the furnishing of advice on tax matters; or equivalent activities defined by the board by rule. Board rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. To the extent the applicant's experience is as an auditor engaged in the examination of financial statements for the Department of Audit or as a revenue agent or similar position engaged in the examination of personal and corporate income tax returns for the Bureau of Taxation, the applicant receives credit at the rate of 50% toward the experience required by this subsection. To the extent the applicant's experience is as an examiner engaged in financial examinations for the Bureau of Insurance, the applicant receives credit under this subsection if that experience meets the following standards:

See title page for effective date.

CHAPTER 266

S.P. 416 - L.D. 1337

An Act to Amend the Laws Relating to Education

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

Sec. 1. 5 MRSA §937, as amended by PL 1995, c. 560, Pt. F, §§2 and 3, is further amended to read:

§937. Department of Education

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Education. Notwithstanding any other provision of law, these positions and their successor positions are subject to this chapter:

- A. Deputy Commissioner;
- ~~B. Deputy Commissioner;~~
- F. Director, Planning and Management Information;
- G. Federal and State Education Program Coordinator; and

~~H. Executive Director, Interdepartmental Council, with the approval of the other commissioners of the Interdepartmental Council.~~

J. Director of Special Projects and External Affairs.

Sec. 2. 20-A MRSA §203, sub-§1, as amended by PL 1995, c. 560, Pt. F, §§9 and 10, is further amended to read:

1. Commissioner's appointments. The following officials are appointed by and serve at the pleasure of the commissioner:

- A. Deputy Commissioner;
- ~~B. Deputy Commissioner;~~
- F. Director, Planning and Management Information;
- G. Federal and State Education Program Coordinator; and
- ~~H. Executive Director, Interdepartmental Council, with the approval of the other commissioners of the Interdepartmental Council.~~

J. Director of Special Projects and External Affairs.

Sec. 3. 20-A MRSA §1407, sub-§2, as amended by PL 1983, c. 364, §5, is further amended to read:

2. Expense of keeping the school open. If the voters vote to keep the school open, the member municipality ~~shall be~~ is liable for ~~any some~~ additional expense for actual local operating costs, and transportation costs, ~~and minor capital costs as defined in section 15503, 15603 which exceed by 10% the expense of the district for the operating costs, transportation costs, and minor capital costs as compared on a per pupil basis in the base year.~~ The determination of costs ~~shall be~~ is subject to the approval of the commissioner. The cost to be borne by the town voting to keep an elementary school open is the amount that would be saved if the school were closed less the state operating subsidy for the students that attend the elementary school. Any additional costs ~~which that~~ must be borne by the member municipality ~~shall~~ must be part of the article presented to the voters at the meeting to determine whether the school should remain open.

Sec. 4. 20-A MRSA §2902, sub-§6, ¶E, as amended by PL 1985, c. 797, §23, is further amended to read:

- E. Maintain adequate, safely protected records; ~~and~~

Sec. 5. 20-A MRSA §2902, sub-§7, as amended by PL 1985, c. 797, §24, is further amended to read:

7. Approval rules. Meet the requirements applicable to the approval of private schools for attendance purposes adopted jointly by the state board and the commissioner; ~~and~~

Sec. 6. 20-A MRSA §2902, sub-§8 is enacted to read:

8. Release of student records. Upon the request of a school unit, release copies of all student records for students transferring from the private school to the school unit.

Sec. 7. 20-A MRSA §2951, sub-§5, as amended by PL 1985, c. 797, §26, is further amended to read:

5. Additional requirements. Complies with the reporting and auditing requirements in sections 2952 and 2953 and the requirements adopted pursuant to section 2954; ~~and~~

Sec. 8. 20-A MRSA §2951, sub-§6, as enacted by PL 1985, c. 797, §27, is amended to read:

6. Student assessment. Any school ~~which that~~ enrolls 60% or more ~~publicly-funded~~ publicly funded students, as determined by the previous year's October and April average enrollment, shall participate in the statewide assessment program to measure and evaluate the academic achievements of students; ~~and~~

Sec. 9. 20-A MRSA §2951, sub-§7 is enacted to read:

7. Release of student records. Upon the request of a school unit, release copies of all student records for students transferring from the private school to the school unit.

Sec. 10. 20-A MRSA §5805, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Maximum allowable tuition. The maximum allowable tuition charge by a public secondary school ~~shall be is~~ the rate computed under subsection 1 or the state average per public secondary student cost as adjusted, whichever is lower. The school board of the sending unit may vote to pay a higher tuition rate.

Sec. 11. 20-A MRSA §9501, sub-§2, as amended by PL 1995, c. 402, Pt. A, §47 and c. 505, §9 and affected by §22, is further amended to read:

2. Exemptions. Educational programs related to the real estate professions that are subject to approval under Title 32, chapter 59, commercial driver

education schools subject to approval by the Secretary of State under Title 29-A, chapter 11, subchapter III, schools of barbering and schools of cosmetology subject to approval by the Board of Barbering and Cosmetology under Title 32, chapter 126, educational programs offered by any Maine nonprofit corporation, any educational programs offered by any professional or trade association primarily for the benefit of its own members and any educational institution authorized by the laws of this State to grant a degree are exempt from the requirements of this chapter.

Sec. 12. 20-A MRSA §9502, sub-§§1 and 2, as repealed and replaced by PL 1983, c. 862, §62, are amended to read:

1. Application requirements; licensing; bonding and revocation of license. The application for a license required by this chapter ~~shall~~ must be made on forms furnished by the commissioner and ~~shall~~ be accompanied by a fee of \$100, ~~except as provided in section 9505 for schools of barbering and cosmetology~~, and a surety bond in the penal sum of \$10,000.

A. A license is valid for the calendar year in which it is issued.

B. The bond ~~shall~~ must be continuous and ~~shall~~ must provide indemnification to any student suffering loss as a result of any fraud or misrepresentation. The bond ~~shall~~ must provide for written notification by the surety to the commissioner in the event of cancellation. Cancellation of the bond by the surety ~~shall result~~ results in the revocation of the license.

2. Renewal fee. A fee of \$50 ~~shall be is~~ charged for the renewal of a license, ~~except as otherwise provided in section 9505 for schools of barbering and cosmetology.~~

Sec. 13. 20-A MRSA §9505, as enacted by PL 1983, c. 841, §6, is repealed.

Sec. 14. 20-A MRSA §13005, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 15. 20-A MRSA §13012, sub-§1, as amended by PL 1991, c. 682, §1, is further amended to read:

1. Definition. A provisional teacher certificate is the entry level certificate issued to an individual who has not taught previously in the State, except as provided in section 13013, subsection 2-A, ~~paragraph~~ paragraphs B and D.

Sec. 16. 20-A MRSA §13013, sub-§1, as amended by PL 1991, c. 682, §2, is further amended to read:

1. Definition. A professional teacher certificate is a renewable certificate issued to an individual who has held a provisional certificate and has met the qualifications of this section, except as provided in subsection 2-A, ~~paragraph~~ paragraphs B and D.

Sec. 17. 20-A MRSA §13013, sub-§2-A, as amended by PL 1995, c. 320, §§3 and 4, is further amended to read:

2-A. Qualifications. State board rules governing the qualifications for a professional teacher certificate must require that the certificate may only be issued to an applicant who, at a minimum, either:

A. Holds a provisional teacher certificate and has taught in a classroom for 2 academic years or has held a professional teacher certificate that has lapsed within the last 5 years. In this case, an applicant must receive a recommendation to the commissioner by an approved support system pursuant to section 13015;

B. Is a teacher with 5 or more years of experience teaching within the 7 years prior to application in the State under a valid certificate in another state and who has graduated from a state-approved preparation program that utilizes the standards of a national association of state directors of teacher education and certification or a national council for accreditation of teacher education or, with the exception of the national teachers exam, meets entry-level standards for the endorsement; ~~or~~

C. Holds a provisional teacher certificate issued under section 13012, subsection 2, paragraph D and has taught for at least one year under a provisional teacher certificate; ~~or~~

D. Is seeking to hold only adult education or from birth to under age 6 endorsements.

Sec. 18. 32 MRSA c. 126, sub-c. IV is enacted to read:

SUBCHAPTER IV

REGULATION OF SCHOOLS OF BARBERING AND SCHOOLS OF COSMETOLOGY

§14245. License required; penalties

1. Requirement of license. Any person, partnership, association or corporation located either within or outside the State must obtain a license as specified under section 14246 from the board before operating or maintaining any school of barbering or school of cosmetology within the State or before collecting any tuition, fee or other charge for operating or maintaining such a school within the State.

2. Penalties. Any person, partnership, association or corporation that operates or maintains a school of barbering or school of cosmetology in violation of this subchapter, or represents itself as operating and maintaining such a school, is subject to a civil penalty of not more than \$5,000, payable to the State, to be recovered in a civil act.

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

§14246. License application form; fee; bond

1. Application requirements; licensing; bonding and revocation of license. The application for a license required by this subchapter must be made on forms furnished by the board and be accompanied by an application fee not to exceed \$100 and a surety bond in the penal sum of \$10,000.

A. A license is valid for the calendar year in which it is issued.

B. The bond must be continuous and must provide indemnification to any student suffering loss as a result of any fraud or misrepresentation. The bond must provide for written notification by the surety to the board in the event of cancellation. Cancellation of the bond by the surety results in the revocation of the license.

2. License fee; renewal fee. A fee not to exceed \$500 is charged for the initial license and for the annual renewal of a license.

§14247. Rules

The board shall adopt rules for the licensing of persons, partnerships, associations or corporations to maintain and operate schools of barbering and schools of cosmetology. The rules must include standards relating to educational programs, instructor qualifications, records and recordkeeping, health and sanitation, safety and physical facilities. Rules adopted pursuant to this subchapter are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

§14248. On-site evaluations

The board shall conduct biennial on-site evaluations of schools to ensure compliance with this subchapter and applicable rules. The expense of the on-site evaluation must be borne by the school examined. This expense includes only the reasonable, necessary and proper hotel and travel expenses of the board member evaluators and staff and board member per diem. A school evaluated pursuant to this section

must promptly pay to the board the expenses of the evaluation upon presentation of a reasonably detailed written statement of the expenses.

§14249. Complaints; license; refusal to renew; suspension; revocation

The board may investigate complaints involving a school including any allegation of noncompliance with or violation of this subchapter and applicable rules. After a hearing in conformance with Title 5, chapter 375, subchapter IV, the board may amend or modify any license and may suspend or refuse to renew a license as provided in Title 5, section 10004.

A board member may not participate in any on-site evaluation, complaint, hearing or license-related action that involves a school of barbering or a school of cosmetology with which the board member has or has had a direct relationship as a student, instructor, administrator or director or the board member has a direct pecuniary interest in the school.

The Administrative Court may suspend or revoke the license of any person, partnership, association or corporation found to have violated any provision of this subchapter or any lawful order or rule issued by the board.

§14250. Hearings

The board may not refuse to renew a license for any reason other than failure to pay the required renewal fee, unless the licensee has been given an opportunity for a hearing.

Hearings may also be conducted by the board at the board's discretion to assist with investigations of complaints to determine whether grounds exist for suspension, revocation, denial or nonrenewal of any license, or as otherwise determined necessary to fulfill the responsibilities under this subchapter.

The board may subpoena witnesses, records and documents in any hearing conducted pursuant to this subchapter.

Sec. 19. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1997-98	1998-99
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF Licensing and Enforcement		
Personal Services	\$3,000	\$3,000
All Other	4,000	3,000

Provides funds for the Board of Barbering and Cosmetology to approve and license barbering and cosmetology schools.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
TOTAL \$7,000 \$6,000

See title page for effective date.

CHAPTER 267

S.P. 359 - L.D. 1218

An Act to Expand the Harassment Laws

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

Sec. 1. 17-A MRSA §506-A, sub-§1, as amended by PL 1993, c. 475, §4, is further amended to read:

1. A person is guilty of harassment if, without reasonable cause, that person engages in any course of conduct with the intent to harass, torment or threaten another person, after having been forbidden to do so by any sheriff, deputy sheriff, constable, police officer or justice of the peace or by a court in a protective order issued under Title 5, section 4654 or 4655 or Title 19, section 765 or 766 or, if the person is an adult in the custody or under the supervision of the Department of Corrections, after having been forbidden to do so by the Commissioner of Corrections, the chief administrative officer of the facility, the regional correctional administrator for the region or their designees.

Sec. 2. 17-A MRSA §506-A, sub-§1, as amended by PL 1995, c. 694, Pt. D, §24 and affected by Pt. E, §2, is further amended to read:

1. A person is guilty of harassment if, without reasonable cause, that person engages in any course of conduct with the intent to harass, torment or threaten another person, after having been forbidden to do so by any sheriff, deputy sheriff, constable, police officer or justice of the peace or by a court in a protective order issued under Title 5, section 4654 or 4655 or Title 19-A, section 4006 or 4007 or, if the person is an adult in the custody or under the supervision of the Department of Corrections, after having been forbidden to do so by the Commissioner of Corrections, the chief administrative officer of the facility,