

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

2. Accelerated retirement programs designed to encourage the scrapping of older, high-emission vehicles;

3. Methods and strategies of ensuring that vehicle pollution prevention mechanisms are functioning properly;

4. Government procurement policies, including municipal procurement policies, that involve purchase of low-emission vehicles; and

5. Aggressive public education programs that inform the public about mobile-source emissions and the benefits of low-emission vehicles.

The commissioner shall also compile and evaluate data on the cars and trucks registered in the State including, but not limited to, the following: average age, percentage bought new and percentage bought used in each of the last 5 years, average prices for the most popular used cars and trucks sold in the State, and relevant available information about buyers in the State of used, post-model-year-1995 cars and trucks.

Sec. 6. Recommendations and report. The Commissioner of Environmental Protection, after consultation with the Joint Standing Committee on Natural Resources, representatives of low-income consumers, automobile dealers, public health agencies, environmental organizations, cleaner fuels organizations, the Department of Transportation, Bureau of Motor Vehicles and the Executive Department, State Planning Office, and other entities with interests or expertise relevant to the examination and development of mobile-source-emission-reduction strategies, shall issue a report providing the results of the examination undertaken pursuant to this Act. The report must include a recommended mobile-source-emission-reduction plan that includes the most effective and cost-efficient methods of ensuring compliance with federal Clean Air Act air quality standards and reducing in-state-generated vehicle pollution. The report must include draft legislation and funding mechanisms necessary to implement the recommendations. The report must be submitted to the Governor and the Joint Standing Committee on Natural Resources by September 15, 2000.

Sec. 7. Authorization. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation concerning mobile-source-emission-reduction methods to the First Regular Session and the Second Regular Session of the 120th Legislature.

Sec. 8. Transfer of funds. On the effective date of this Act, the State Controller shall transfer \$10,000 from the Clean Fuel Vehicle Fund within the Finance Authority of Maine to the Maine Environmental Protection Fund within the Department of

Environmental Protection. Funds transferred under this section may only be used to implement and administer the High-pollution Vehicle Retirement Pilot Program established under the Maine Revised Statutes, Title 10, Chapter 14.

Sec. 9. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

2000-01

**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF**

**Maine Environmental
Protection Fund**

All Other \$10,000

Allocates funds to cover the costs of implementing and administering the High-pollution Vehicle Retirement Pilot Program.

See title page for effective date.

CHAPTER 685

S.P. 938 - L.D. 2388

**An Act Relating to Licensing Board
Fees**

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

Sec. 1. 32 MRSA §1504, as repealed and replaced by PL 1989, c. 450, §24, is amended to read:

§1504. Fees; expiration and renewal of licenses

~~An application fee and an examination fee may be established by the board.~~ The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this chapter in amounts which that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

1. License renewal. All licenses and certificates of registration ~~which that~~ are issued by the board ~~shall expire on December 31st~~ February 1st annually or such other time as the Commissioner of Professional and Financial Regulation may designate. Any person holding a license or registration under this law

may have the license renewed by making and filing an application with the board, within 30 days preceding the expiration of that license or certificate of registration, upon blanks prescribed by the board and upon payment of the established renewal fee. ~~The board shall establish by rule the initial and renewal fees for licensure and registration for an embalmer's license, funeral home and branch registration, practitioner of funeral service license and practitioner trainee license. The initial and renewal license and registration fees shall not exceed the following amounts:~~

- ~~A. An embalmer's license, \$ 80;~~
- ~~B. A funeral director's license, \$ 80;~~
- ~~C. A funeral attendant's registration, \$ 80;~~
- ~~D. A funeral home and branch registration, \$ 80;~~
- ~~E. A practitioner of funeral service license, \$100; and~~
- ~~F. A practitioner trainee license,~~

2. Late renewal. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 2. 32 MRSA §2401-B, sub-§2, as enacted by PL 1999, c. 386, Pt. J, §14, is amended to read:

2. Apprentice. The board may issue an apprentice license without examination to any person who applies and submits ~~an annual~~ a fee as adopted by the ~~board~~ Director of the Office of Licensing and Registration by rule. Any such person employed by, or under the direct supervision of, a master licensee must apply for an apprentice license immediately upon employment or immediately after beginning school in a heating program. An apprentice oil burner technician may clean oil burners and oil burning equipment as specified by rule.

Sec. 3. 32 MRSA §2402-B, as enacted by PL 1999, c. 386, Pt. J, §16, is repealed and the following enacted in its place:

§2402-B. Fees

The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this subchapter in amounts that are

reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$350 biennially. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 4. 32 MRSA §2404, as amended by PL 1997, c. 82, §5, is further amended to read:

§2404. Renewals

All licenses expire 2 years from the original date of issue or at such other time as the Commissioner of Professional and Financial Regulation may designate. The licenses may be renewed on a biennial basis without further examination upon the payment of the proper fee. The board shall notify everyone registered under this chapter of the date of expiration of the license and the amount of fee required for its renewal for a 2-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license. A license 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 license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination or other requirements. The board may assess penalties for late renewals more than 90 days after the date of expiration.

Sec. 5. 32 MRSA §3270-B, sub-§8, as amended by PL 1993, c. 600, Pt. A, §206, is further amended to read:

8. Fees for original application. Fees for the original physician assistant application, which may not exceed ~~\$100~~ \$250;

Sec. 6. 32 MRSA §3270-B, sub-§11, as amended by PL 1997, c. 271, §10, is further amended to read:

11. Fees for biennial license renewal. Fees for the biennial license renewal of physician assistants in an amount not to exceed ~~\$100~~ \$250.

Sec. 7. 32 MRSA §3271, sub-§4, as amended by PL 1991, c. 425, §14, is further amended to read:

4. Fees. Each applicant shall pay a fee up to ~~\$500~~ \$600 plus the cost of the qualifying examination or examinations.

Sec. 8. 32 MRSA §3275, sub-§2, as amended by PL 1993, c. 600, Pt. A, §211, is further amended to read:

2. Fees. A physician who applies for a license pursuant to subsection 1 shall pay a fee of not more than ~~\$500~~ \$600.

Sec. 9. 32 MRSA §3276, as amended by PL 1993, c. 600, Pt. A, §212, is further amended to read:

§3276. Temporary licensure

A physician who is qualified under section 3275 may, without examination, be granted a temporary license for a period not to exceed one year, when the board determines that this action is necessary in order to provide relief for local or national emergencies or for situations in which the number of physicians is insufficient to supply adequate medical services. The fee for this temporary license may not be more than ~~\$200~~ \$400.

Sec. 10. 32 MRSA §3278, as amended by PL 1993, c. 600, Pt. A, §214, is further amended to read:

§3278. Locum tenens

A physician who is qualified under section 3275 may, at the discretion of the board, be given a temporary license to be effective for not more than 6 months after issuance for the purpose of permitting the physician to serve as "locum tenens" for some other physician who is then licensed to practice medicine in this State and whose own license is not temporary or limited under the provisions of this chapter, if the Maine physician is unable to maintain the practice because of illness or because of absence from the general locus of this physician's practice or for other reasons determined sufficient by the board. The fee for this temporary license may not be more than ~~\$150~~ \$400.

Sec. 11. 32 MRSA §3280-A, sub-§3, ¶A, as amended by PL 1997, c. 680, Pt. C, §3, is further amended to read:

A. The board may charge a license renewal application fee of not more than ~~\$340~~ \$500 to all applicants for license renewal who have not attained 70 years of age on the date renewal becomes due.

Sec. 12. 32 MRSA §3652, as amended by PL 1999, c. 257, §1, is further amended to read:

§3652. Fees; reexamination; license renewal

The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$600 annually. Rules adopted pursuant to this

section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

An applicant for an examination for a license to practice podiatry shall pay, at the time of filing an application, to the board a license application fee of ~~not more than \$200, and~~ a license fee of ~~not more than \$600~~, plus actual cost of examination administration ~~as set by the board. If the application is denied and examination refused, 1/2 of the application fee and all of the license fee must be returned to the applicant.~~ An applicant who fails to pass an examination is entitled to a reexamination within 6 months upon the payment of ~~an additional \$50 a fee~~, but only 2 such reexaminations are permitted. Podiatrists licensed in another state and applying for a license to practice in this State without examination shall pay an application fee of ~~not more than \$200~~ and a license fee of ~~not more than \$600~~.

A doctor of podiatric medicine licensed to practice podiatric medicine and surgery within this State shall apply, on or before August 1, 1993 and on or before July 1st of every year after August 1, 1993, to the board for a license renewal on a form furnished by the board and pay a renewal fee of ~~not more than \$600~~.

On or before August 1, 1993, and on or before July 1st of every year after August 1, 1993, an applicant who is practicing podiatric medicine and surgery in this State shall include satisfactory evidence to the board that in the preceding license period the applicant has completed a program of continuing education as prescribed in the rules of the board.

An application for license renewal made not more than 90 days after the date of expiration must include a late fee, ~~to be set by the board~~, in addition to the renewal fee. An application received more than 90 days but less than 2 years after the expiration date is subject to the requirements for new applicants as well as continuing education requirements, if applicable, and a late fee of ~~not more than \$200~~, except that the board, giving due consideration to the health, welfare and safety of the citizens of the State, may waive the examination requirement at its discretion. A license that has been expired for over 2 years may not be renewed and must be processed as a new application.

Sec. 13. 32 MRSA §3654, as amended by PL 1999, c. 257, §§2 and 3, is further amended to read:

§3654. Reciprocity; endorsement; residency requirement

Beginning July 1, 1995, the board may issue a license to practice podiatry by endorsement to an applicant who has successfully passed the written examination of another state or of a national certifying agency in podiatry recognized by the board if the

written examination of the other state or national certifying agency was, in the opinion of the board, equivalent to its own examination and if the applicant satisfies in all other respects the requirements for licensure in section 3651-A. An applicant for licensure by endorsement who graduated after January 1, 1991 from podiatric medical school under section 3651-A shall provide the board evidence of satisfactory completion of at least one year of postgraduate clinical training in a podiatric residency training program under section 3651-A. The application to the board must be accompanied by an application fee of ~~not more than \$200~~ and a license fee of ~~not more than \$600~~.

Sec. 14. 32 MRSA §4685, sub-§1, as repealed and replaced by PL 1991, c. 714, §12, is repealed and the following enacted in its place:

1. Fees. The department shall establish fees by rule for applications, registrations and renewals under this chapter in an amount not to exceed \$300 annually for any one purpose. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 15. 32 MRSA §4911, 2nd ¶, as enacted by PL 1983, c. 413, §182, is amended to read:

A certificate may be renewed up to 90 days after the date of expiration upon payment of a late fee of ~~\$40~~ in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date ~~shall be~~ is subject to all requirements governing new applicants under this chapter, except that the board may, in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 16. 32 MRSA §4912, as amended by PL 1997, c. 141, §1, is repealed and the following enacted in its place:

§4912. Fees

The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$250 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 17. 32 MRSA §6212, sub-§12, as amended by PL 1997, c. 210, §10, is further amended to read:

12. Clinical supervision. For purposes of direct clinical supervision of licensed practitioners in the

field of alcohol and drug counseling, the board may certify upon receipt of proper application and fee licensed psychologists, physicians, registered clinical nurse specialists, clinical professional counselors and clinical social workers, who are qualified to provide alcohol and drug counseling services by virtue of the requirements for that profession. Other members of any mental health profession must meet the criteria set forth by the International Certification and Reciprocity Consortium or equivalent qualifications as determined by the board by rulemaking.

Sec. 18. 32 MRSA §6215, as amended by PL 1999, c. 386, Pt. R, §2, is further amended to read:

§6215. Application; membership fees

Application for registration as a registered alcohol and drug counselor or licensure as a licensed alcohol and drug counselor must be on forms prescribed and furnished by the board. ~~Application and examination fees may be established by the board in amounts not to exceed \$100 each. Successful applicants shall pay biennial fees set by the board in an amount not to exceed \$75 for registration and \$150 for licensure as an alcohol and drug counselor. The payment of fees is suspended during the term of inactive status. The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$200 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.~~

Sec. 19. 32 MRSA §6219, as amended by PL 1995, c. 394, §26, is further amended to read:

§6219. Expiration and renewal

The license and ~~certificate~~ of registration expire ~~biennially~~ annually on August 31st ~~November 30th~~ or at such other time as the Commissioner of Professional and Financial Regulation may designate. Licensure or registration may be renewed ~~for the succeeding 2-year period~~ upon written application ~~of the registrant~~, the approval of the board and the payment of the fee provided. ~~A fee for renewal of license or certificate of registration is \$150 biennially for licensing and \$75 biennially for registration, due and payable on or before the expiration date. Before a license or certificate of registration may be renewed, the applicant must present evidence of continued professional learning and training of a type acceptable to the board. At a minimum, applicants for renewal must document the successful completion of at least 50 hours of continuing education, as defined by the board, within 2 years.~~

Licensure or registration 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 license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration or if the applicant is a registered inactive alcohol and drug counselor. The board is responsible for mailing notification of the date of expiration of a license or a certificate of registration to any licensed alcohol and drug counselor, inactive alcohol and drug counselor or registered alcohol and drug counselor not later than 30 days prior to the date of expiration. ~~At a minimum, applicants for renewal must document the successful completion of at least 50 hours of continuing education, as defined by rule by the board, related to alcohol and drug counseling during the 2-year period.~~

Sec. 20. 32 MRSA §13510, sub-§3, as amended by PL 1991, c. 338, §4, is further amended to read:

3. Fee for license. ~~The commission may, in its discretion, set~~ Director of the Office of Licensing and Registration shall establish, by rule, the fee for each promoter's license to promote amateur events and for a license to promote professional events, depending upon the probable income of the licensee to be derived from the conducting of the contests and exhibitions. ~~The commission~~ In addition, the director shall establish, by rule, fees for all other licenses issued under this section at a figure not to exceed \$50 \$200 for a one-year license. ~~The commission director shall establish by rule license fees for live events and the broadcast of live events. When application by a fraternal, charitable or patriotic organization for a license to promote and conduct amateur boxing or kick-boxing contests or exhibitions is made to the commission, it may grant the license without the requirement of the payment of a license fee. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.~~

Sec. 21. 32 MRSA §13511, 2nd ¶, as amended by PL 1991, c. 338, §5, is further amended to read:

All persons, other than wrestlers, engaging in professional wrestling matches, shows or exhibitions of wrestlers must be licensed by the commission in a like manner. ~~The commission shall by rule establish fees for licenses in an amount not to exceed \$50 a year.~~ The chair of the commission or the chair's designee may issue or deny temporary licenses. The

full commission may review decisions by the chair or the chair's designee at its next regular meeting.

Sec. 22. 32 MRSA §13514, first ¶, as amended by PL 1987, c. 816, Pt. KK, §23, is further amended to read:

The promoter or promoters of all boxing or kick-boxing contests or exhibitions and all professional wrestling matches, shows or exhibitions held under this chapter shall pay to the Treasurer of State, for credit to the Athletic Commission Fund, a tax of ~~5%~~ 15% of the gross receipts from the contest or exhibition. This section ~~shall apply~~ applies to all boxing, kick-boxing and wrestling contests or exhibitions ~~which that~~ are shown over closed circuit television.

Sec. 23. 32 MRSA §14358, first ¶, as enacted by PL 1995, c. 275, §1, is amended to read:

An applicant for initial licensure must submit a written application with supporting documents to the department on forms provided by the department. The applicant must pay a nonrefundable application fee established by the department by rule in an amount not to exceed ~~\$50~~ \$300 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 24. 32 MRSA §14359, first ¶, as enacted by PL 1995, c. 275, §1, is amended to read:

All licenses must be renewed annually on or before March 31st of each year or such other times as the commissioner may designate. The annual licensure renewal fee must be established by the department by rulemaking and may not exceed ~~\$100~~ \$300. The commissioner shall notify each licensee, at the licensee's last known address, 30 days in advance of the expiration of the license. Renewal notices must be on forms provided by the department. A license not renewed by March 31st automatically expires. The department may renew an expired license if the renewal application is returned within 90 days after the license expiration date and upon payment of a late fee of ~~\$10~~ \$50 in addition to the renewal fee. A 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 department may in its discretion, giving consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of that expiration. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 25. 32 MRSA §14509, as enacted by PL 1993, c. 444, §1, is amended to read:

§14509. Registration fee

A transient seller must pay to the department the following original and renewal license fees at the time an application is made for registration or renewal: established by the department by rule in an amount not to exceed \$300 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

1. ~~Transient seller registration.~~ For an original transient seller of home repair services registration, \$100; and

2. ~~Renewal.~~ For a renewal application, \$75.

The aggregate of fees provided for by this section is appropriated for the use of the department. Any balance of funds may not lapse but must be carried forward to be expended for the same purposes in the following fiscal year.

Sec. 26. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

2000-01

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement

All Other \$13,500
Provides for the allocation of funds for the costs associated with rulemaking.

See title page for effective date.

CHAPTER 686

H.P. 1730 - L.D. 2436

An Act to Permit the Attorney General, a Deputy Attorney General or a District Attorney to Request Records of Internet Service Providers and Mobile Telecommunications Service Providers

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

Sec. 1. 5 MRSA §200-B, as amended by PL 1999, c. 579, §1, is further amended to read:

§200-B. Authority of Attorney General to request utility records

1. Public utility services. As used in this section, the term "public utility services" means services furnished by a public utility as defined in Title 35-A, section 102, subsections 7, 8, 14, 15, 19, 20-B and 22 whether or not subject to the jurisdiction of the Public Utilities Commission.

1-A. Definitions. As used in this section, the following terms have the following meanings.

A. "Internet service provider" means an entity that provides electronic communication or remote computation services, whether or not subject to the jurisdiction of the Public Utilities Commission.

B. "Utility services" means:

(1) Services furnished by a public utility, as defined in Title 35-A, section 102, subsections 7, 8, 14, 15, 19, 20-B and 22, whether or not subject to the jurisdiction of the Public Utilities Commission;

(2) Services provided by an Internet service provider; and

(3) Mobile telecommunications services, as defined in Title 35-A, section 102, subsection 9-A, whether or not the provider of the mobile telecommunications services is subject to the jurisdiction of the Public Utilities Commission.

2. Demand for records of utility services; cause. The Attorney General, a deputy attorney general or a district attorney may demand, in writing, all the records or information in the possession of the public utility or Internet service provider relating to the furnishing of public utility services or Internet services to a person or a location if the attorney has reasonable grounds to believe that the services furnished to a person or to a location by a public utility or Internet service provider are being or may be used for, or to further, an unlawful purpose. Upon a showing of cause to any Justice of the Superior Court or Judge of the District Court, the justice or judge shall approve the demand. Showing of cause must be by the affidavit of any law enforcement officer.

Records of utility services, as applied to Internet service providers, are limited to the following information and records in the possession of the Internet service provider: the subscriber's or customer's name, address, local and long-distance telephone billing records, telephone number or other subscriber number or identity and length of time the