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Legislative Document

No. 1131

H.P. 809

House of Representatives, March 22, 2021

**An Act To Allow Reciprocity for Licensed Workers from Out of
State**

(EMERGENCY)

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Innovation, Development, Economic Advancement and Business pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HUTCHINS of Penobscot.

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

Whereas, difficult economic times and a shift in how people work increase the need to make Maine more competitive in attracting new residents and businesses; and

Whereas, the longer Maine waits to recognize occupational licenses and government certifications issued in other states, the more talent and investment Maine loses; 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. 32 MRSA c. 147 is enacted to read:

CHAPTER 147

OCCUPATIONAL LICENSE PORTABILITY

§18601. Definitions

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

1. Board. "Board" means a government agency, board, department or other governmental entity in this State or another state that regulates a lawful occupation and issues an occupational license or government certification to a person.

2. Government certification. "Government certification" means a voluntary, government-granted and nontransferable recognition to a person who meets personal qualifications and standards related to a lawful occupation that allows the individual to use "government certified" or "state certified" as a title. "Government certification" does not include an occupational license or other credentials that are prerequisites to performing a lawful occupation.

3. Lawful occupation. "Lawful occupation" means a course of conduct, pursuit or profession that includes the sale of goods or services that are not themselves unlawful to sell, irrespective of whether the person selling them is subject to an occupational license.

4. Occupational license. "Occupational license" means a nontransferable legal authorization that is required for a person to perform a lawful occupation and that is based on the person's meeting the qualifications established or administered by a board.

5. Other state or another state. "Other state" or "another state" means any United States territory or state in the United States other than this State.

6. Private certification. "Private certification" means a voluntary program in which a private organization grants nontransferable recognition to a person who meets personal qualifications and standards relevant to performing an occupation as determined by the

1 private organization and that permits the person to use a designated title of "certified" by
2 the private organization.

3 **7. Scope of practice.** "Scope of practice" means the procedures, actions, processes and
4 work that a person may perform under an occupational license or government certification
5 issued in this State.

6 **§18602. Occupational license and government certification**

7 Notwithstanding any provision of law to the contrary, a board in this State shall issue
8 an occupational license or government certification to a person who applies for an
9 occupational license or government certification issued by that board, if the person, as
10 determined by that board, meets all of the requirements of section 18606 and:

11 **1. Valid license or certification.** The person holds a current and valid occupational
12 license or government certification issued by a board in another state for a lawful
13 occupation with a similar scope of practice to the lawful practice governed by the
14 occupational license or government certification for which the person has applied;

15 **2. Term.** The person has held the occupational license or government certification
16 issued in the other state for at least one year;

17 **3. Requirements.** The issuing board in the other state required the person to pass an
18 examination or to meet education, training or experience standards that are substantially
19 similar to those required for the occupational license or government certification for which
20 the person has applied;

21 **4. Good standing.** The person is in good standing with the issuing board in the other
22 state;

23 **5. No disqualifications.** The person does not have a criminal record that disqualifies
24 the person from holding the occupational license or government certification for which the
25 person has applied;

26 **6. Not revoked.** No board in another state has revoked the person's occupational
27 license or government certification because of negligence or intentional misconduct related
28 to the person's work in the lawful occupation in that state;

29 **7. Not surrendered.** The person has not surrendered an occupational license or
30 government certification because of negligence or intentional misconduct related to the
31 person's work in the lawful occupation in another state;

32 **8. No complaints.** The person does not have a complaint, allegation or investigation
33 pending before a board in another state that relates to unprofessional conduct or an alleged
34 crime. If the person has a complaint, allegation or investigation pending, the board to which
35 the person has applied may not issue or deny an occupational license or government
36 certification to the person until the complaint, allegation or investigation is resolved or the
37 person otherwise meets the criteria for an occupational license or government certification
38 in this State to the satisfaction of the board; and

39 **9. Payment of fees.** The person pays all applicable fees for the occupational license
40 or government certification for which the person has applied.

41 **§18603. Government certification**

1 If a board in another state has issued a person a government certification that is
2 equivalent to an occupational license in this State, a board in this State shall issue an
3 occupational license to the person who holds that certification and applies for an
4 occupational license if the person otherwise satisfies the requirements of section 18602.

5 **§18604. Work experience**

6 Notwithstanding any provision of law to the contrary, a board in this State shall issue
7 an occupational license or government certification to a person who applies for an
8 occupational license or government certification issued by that board based on the person's
9 work experience in another state if the person, as determined by that board, meets all of the
10 requirements of section 18606 and:

11 **1. No license or certification requirement.** The person worked in a state that does
12 not require an occupational license or government certification to regulate the person's
13 lawful occupation;

14 **2. Time in work.** The person worked for at least 3 years in the lawful occupation in
15 the other state; and

16 **3. Other requirements.** The person satisfies the requirements of section 18602,
17 subsections 5 to 9.

18 **§18605. Private certification**

19 Notwithstanding any provision of law to the contrary, a board in this State shall issue
20 an occupational license or government certification to a person who applies for an
21 occupational license or government certification issued by that board based on the person's
22 private certification and work experience in another state if the person, as determined by
23 that board, meets all of the requirements of section 18606 and:

24 **1. No license or certification requirement.** The person holds a private certification
25 and worked in a state that does not require an occupational license or government
26 certification in the lawful occupation governed by an occupational license or government
27 certification in this State;

28 **2. Time in work.** The person worked for at least 2 years in the lawful occupation in
29 the other state;

30 **3. Current and valid private certification.** The person holds a current and valid
31 private certification in the lawful occupation;

32 **4. Good standing.** The person is in good standing with the private organization that
33 issued the certification; and

34 **5. Other requirements.** The person satisfies the requirements of section 18602,
35 subsections 5 to 9.

36 **§18606. State law examination**

37 A board in this State may require a person who applies under this chapter for an
38 occupational license or government certification issued by that board to pass an
39 examination that is specific to relevant laws of this State that regulate the lawful occupation
40 if the occupational license or government certification in this State that the person has
41 applied for requires a person to pass such an examination in order to receive the
42 occupational license or government certification.

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§18607. Decision

A board in this State that receives a complete application under this chapter for an occupational license or government certification shall provide the person with a written decision regarding the application within 60 days after receiving the application.

§18608. Appeal

A person who has applied under this chapter for an occupational license or government certification and been denied by a board may appeal the board's decision by filing a petition for review in Superior Court in accordance with Title 5, chapter 375, subchapter 7 within 30 days after receipt of the board's written decision.

§18609. State laws and jurisdiction

A person who obtains an occupational license or government certification under this chapter is subject to the laws regulating the lawful occupation in this State, including continuing education requirements and the jurisdiction of the issuing board in this State.

§18610. Exception

This chapter does not apply to an occupation regulated by the Supreme Judicial Court.

§18611. Limitations

1. Within the State. An occupational license or government certification issued under this chapter is valid only in this State and does not make the person who is issued the occupational license or government certification eligible to work in another state under an interstate compact or reciprocity agreement unless otherwise provided by law.

2. Compacts. Nothing in this chapter prevents the State from entering into a licensing compact or reciprocity agreement with another state, foreign province or foreign country.

3. Foreign credentials. Nothing in this chapter prevents the State from recognizing occupational credentials issued by a private certification organization, foreign province, foreign country, international organization or other entity.

4. Private certification. Nothing in this chapter requires a private certification organization to grant or deny private certification to any person.

§18612. Cost

A board receiving an application for an occupational license or government certification under this chapter may charge a fee to the person who applies to recoup its costs not to exceed \$100 for each application.

§18613. Preemption

No county or municipality in this State may regulate the issuance of occupational licenses or government certifications under this chapter.

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

SUMMARY

This bill creates a framework for the various government agencies, boards, departments and other governmental entities that regulate and issue licenses within the State to offer a

1 path to certification or licensure in Maine to persons who hold occupational credentials
2 from other states in order to allow those persons to more quickly qualify to work within
3 their occupations or professions in Maine.