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Public Law
124th Legislature
First Regular Session

Chapter 369
H.P. 873 - L.D. 1254

An Act To Repeal Inactive Boards and Commissions

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

PART A

Sec. A-1. 5 MRSA c. 165, as amended, is repealed.

Sec. A-2. 5 MRSA c. 316, as amended, is repealed.

Sec. A-3. 5 MRSA §12004-A, sub-§6, as repealed and replaced by PL 1991, c. 397, §1, is repealed.

Sec. A-4. 5 MRSA §12004-G, sub-§4, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. A-5. 5 MRSA §12004-G, sub-§14-E, as enacted by PL 2005, c. 12, Pt. PP, §2, is repealed.

Sec. A-6. 5 MRSA §12004-I, sub-§18-E, as enacted by PL 2003, c. 710, §1, is repealed.

Sec. A-7. 5 MRSA §12004-I, sub-§24, as amended by PL 2003, c. 414, Pt. B, §9 and affected by c. 614, §9, is repealed.

Sec. A-8. 5 MRSA §12004-I, sub-§47-F, as enacted by PL 2003, c. 465, §2, is repealed.

Sec. A-9. 5 MRSA §12004-I, sub-§57-D, as enacted by PL 1999, c. 85, §1, is repealed.

Sec. A-10. 5 MRSA §12004-J, sub-§10, as enacted by PL 1991, c. 417, §2, is repealed.

Sec. A-11. 5 MRSA §12006, sub-§2, as amended by PL 2007, c. 395, §23, is further amended to read:

2. Legislative repeal of inactive boards. The Secretary of State shall submit suggested legislation to the joint standing committee of the Legislature having jurisdiction over state government matters on or before January 15th 30th in the first regular session of each biennium to repeal those boards that have not reported on their activities to the Secretary of State under this section or section 12005-A during either of the prior 2 calendar years or have been inactive during the preceding 24 months. The joint standing committee of the Legislature having jurisdiction over state government matters may submit legislation to the first regular session of each biennium to repeal those boards.

Sec. A-12. 5 MRSA §12006, sub-§3, ¶C, as enacted by PL 2003, c. 643, §6, is amended to read:

C. State Poet Laureate Advisory Selection Committee, as established in section 12004-I, subsection 5-A; and

Sec. A-13. 5 MRSA §12006, sub-§3, ¶D, as enacted by PL 2003, c. 643, §6, is amended to read:

D. Board of Emergency Municipal Finance, as established in Title 30-A, section 6101-;

Sec. A-14. 5 MRSA §12006, sub-§3, ¶E is enacted to read:

E. State Compensation Commission, as established in Title 3, section 2-B;

Sec. A-15. 5 MRSA §12006, sub-§3, ¶F is enacted to read:

F. Maine-Canadian Legislative Advisory Commission, as established in Title 3, section 227;

Sec. A-16. 5 MRSA §12006, sub-§3, ¶G is enacted to read:

G. New England and Eastern Canada Legislative Commission, as established in Title 3, section 231;

Sec. A-17. 5 MRSA §12006, sub-§3, ¶H is enacted to read:

H. State House and Capitol Park Commission, as established in Title 3, section 901-A; and

Sec. A-18. 5 MRSA §12006, sub-§3, ¶I is enacted to read:

I. Maine Agricultural Bargaining Board, as established in Title 13, section 1956.

Sec. A-19. 5 MRSA c. 407, sub-c. 2, as amended, is repealed.

Sec. A-20. 7 MRSA §1, as amended by PL 1995, c. 693, §3, is further amended to read:

§ 1. Department of Agriculture, Food and Rural Resources

The Department of Agriculture, Food and Rural Resources, is established and is maintained for the improvement of agriculture and the advancement of the interests of husbandry. The Department of Agriculture, Food and Rural Resources is referred to in this Title as the "department" and consists of the Commissioner of Agriculture, Food and Rural Resources, in this Title called the "commissioner," and the following: ~~The Aroostook Water and Soil Management Board~~, the Board of Pesticide Control, the Maine Milk Commission, the Maine Potato Board, the Seed Potato Board, the Harness Racing Commission and the Board of Veterinary Medicine. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture matters and to confirmation by the Legislature, and holds office during the pleasure of the Governor. The commissioner is entitled to receive actual expenses incurred in the performance of the commissioner's official duties. The commissioner may employ such clerical labor as may be required, subject to the Civil Service Law, and may expend such sums for postage, telephone, telegraph and other general office expenses as may be necessary in the performance of the commissioner's duties, the same to be paid out of any money appropriated by the Legislature for such purpose.

Sec. A-21. 7 MRSA c. 11, as amended, is repealed.

Sec. A-22. 10 MRSA §8001, sub-§38, as amended by PL 2007, c. 369, Pt. B, §§2 to 6 and affected by Pt. C, §5 and amended by c. 402, Pt. C, §1, is further amended to read:

38. Office of Licensing and Registration. Office of Licensing and Registration. The Office of Licensing and Registration is composed of the following:

- A. Board of Accountancy;
- D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers;
- E. Maine Athletic Commission;
- F. Board of Licensing of Auctioneers;
- G. ~~Board of Barbering and Cosmetology;~~
- H. Board of Chiropractic Licensure;
- H-1. Board of Complementary Health Care Providers;
- I. Board of Driver Education;
- J. Board of Counseling Professionals Licensure;
- K. Board of Licensing of Dietetic Practice;
- L. Electricians' Examining Board;
- M. Board of Licensure of Foresters;
- N. State Board of Funeral Service;
- O. State Board of Certification for Geologists and Soil Scientists;
- Q. Board of Licensure for Professional Land Surveyors;
- R. Manufactured Housing Board;
- S. Nursing Home Administrators Licensing Board;
- T. Board of Occupational Therapy Practice;
- U. Oil and Solid Fuel Board;
- V. Maine Board of Pharmacy;
- W. Board of Examiners in Physical Therapy;
- Y. Plumbers' Examining Board;
- Z. Board of Licensure of Podiatric Medicine;
- AA. State Board of Examiners of Psychologists;
- BB. Radiologic Technology Board of Examiners;

- CC. Board of Real Estate Appraisers;
- DD. Board of Respiratory Care Practitioners;
- EE. State Board of Social Worker Licensure;
- GG. State Board of Alcohol and Drug Counselors;
- HH. State Board of Veterinary Medicine;
- II. Propane and Natural Gas Board;
- JJ. Real Estate Commission;
- KK. Board of Boiler Rules;
- LL. Board of Elevator and Tramway Safety; and
- MM. Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting.

The Office of Licensing and Registration also administers the following regulatory functions: licensure of athletic trainers; licensure of massage therapists; licensure of interpreters for the deaf and hard-of-hearing; licensure of persons pursuant to the Charitable Solicitations Act; and licensure of transient sellers, including door-to-door home repair transient sellers; and licensure of persons pursuant to the Barbering and Cosmetology Licensure Act.

Sec. A-23. 12 MRSA §6024, sub-§1-A, as amended by PL 2007, c. 695, Pt. K, §1, is further amended to read:

1-A. Appointment; composition; term; compensation. The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, consists of 16 members. The chair of the Lobster Advisory Council, ~~the chair of the Marine Recreational Fishing Advisory Council~~, the chair of the Sea Run Fisheries and Habitat Advisory Council, the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council are ex officio members of the council. Each other member is appointed by the Governor and is subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources matters and to confirmation by the Legislature. Five members must be persons who are licensed under this Part to engage in commercial harvesting activities. Those 5 members are selected by the Governor from names recommended to the Governor by groups representing commercial harvesting interests. Each member must represent a different commercial harvesting activity, except that none of those 5 members may represent lobster harvesters. The remaining ~~6~~ 7 members must include one public member, 4 persons who hold a nonharvesting-related license under this Part, one person representing recreational saltwater anglers and one person representing the aquaculture industry. The Governor shall select the person to represent the aquaculture industry from among the names recommended by the aquaculture industry. The composition of the council must reflect a geographical distribution along the coast. All appointed members are appointed for a term of 3 years, except a vacancy must be filled in the same manner as an original member for the unexpired portion of the term. An appointed member may not serve for more than 2 consecutive terms. Appointed members serve until their successors are appointed. The chair of the Lobster Advisory Council, ~~the chair of the Marine Recreational Fishing Advisory Council~~, the chair of the Sea Run Fisheries and Habitat Advisory Council, the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council shall

serve until a new chair of the Lobster Advisory Council, ~~a new chair of the Marine Recreational Fishing Advisory Council~~, a new chair of the Sea Run Fisheries and Habitat Advisory Council, a new chair of the Sea Urchin Zone Council or a new chair of the Shellfish Advisory Council, respectively, is chosen. Members are compensated as provided in Title 5, chapter 379.

Sec. A-24. 12 MRSA §6033, as enacted by PL 1999, c. 85, §4, is repealed.

Sec. A-25. 12 MRSA §6034, sub-§1, as amended by PL 2005, c. 505, §1, is further amended to read:

1. Appointment; composition. The Commercial Fishing Safety Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-E, consists of ~~17~~ 16 members, 15 of whom are appointed by the commissioner as follows:

- A. One member who is a license holder under this Part and a member of the Lobster Advisory Council, recommended by the chair of the Lobster Advisory Council;
- B. One member who is a license holder under this Part and a member of the Marine Resources Advisory Council, recommended by the chair of the Marine Resources Advisory Council;
- C. One member who is a license holder under this Part and a member of the Sea Urchin Zone Council, recommended by the chair of the Sea Urchin Zone Council;
- D. Five members who are license holders under this Part and who represent commercial marine harvesting activities;
- E. An educator experienced in community-based adult education and volunteer safety training;
- F. An expert in fishing industry risk analysis and occupational health;
- G. An expert in marine safety equipment;
- H. A representative of the marine insurance industry;
- I. A marine surveyor;
- J. A spouse or domestic partner of a license holder under this Part; and
- K. A member of the public.

The chair of the Marine Resources Advisory Council ~~and the chair of the Marine Recreational Fishing Advisory Council~~ are is an ~~ex officio members~~ member of the council. The composition of the council must reflect a geographic distribution along the coast of the State. The council may invite to carry out the duties of the council other participants on an ad hoc basis, including representatives of private or governmental organizations or individuals with expertise or interest in marine, education, labor or health matters.

Sec. A-26. 12 MRSA §10051, 2nd ¶, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

The department consists of the Commissioner of Inland Fisheries and Wildlife, a deputy commissioner, the Bureau of Administrative Services, the Bureau of Resource Management and the Bureau of Warden Service. The department also includes the Advisory Board for the Licensing of Guides; ~~the Junior Maine Guides and Trip Leaders' Curriculum Board~~ and whatever state agencies that are designated. The department is under the control and supervision of the commissioner.

Sec. A-27. 12 MRSA §10154, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7 and c. 614, §9 and amended by c. 689, Pt. B, §6, is repealed.

Sec. A-28. 12 MRSA §12860, sub-§5, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

5. Curriculum. ~~With the advice of the Junior Maine Guides and Trip Leaders Curriculum Advisory Board, the~~ The commissioner shall review and adopt a trip leader safety course curriculum that includes, but is not limited to:

- A. Training in first aid;
- B. Training in water safety, including lifesaving techniques as appropriate; and
- C. Trip leader qualifications and required experience for the special waiver procedure in subsection 4.

The commissioner shall publish the curriculum ~~adopted or approved by the Junior Maine Guides and Trip Leaders Curriculum Advisory Board~~ and a current list of courses, with the ~~approved~~ curriculum, by name and address.

Sec. A-29. 20-A MRSA §9501, sub-§2, as amended by PL 1997, c. 266, §11, 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 ~~HH~~ 3, schools of barbering and schools of cosmetology subject to approval by the ~~Board of Barbering and Cosmetology~~ Director of the Office of Licensing and Registration 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. A-30. 20-A MRSA §12523, as enacted by PL 2003, c. 710, §2, is repealed.

Sec. A-31. 20-A MRSA §12531, sub-§2, as enacted by PL 2005, c. 427, §1, is amended to read:

2. Eligible employment position. "Eligible employment position" means a full-time position within the State as the founder or employee of a ~~technology-based business developed within the Applied Technology Development Center System, as established in Title 5, section 15321, or other~~ statewide recognized economic development entity.

Sec. A-32. 22 MRSA §5107-J, as enacted by PL 2003, c. 465, §4, is repealed.

Sec. A-33. 24-A MRSA §6981, sub-§2, as enacted by PL 2007, c. 447, §11, is amended to read:

2. Cooperative agreements. Dirigo Health may enter into voluntary cooperative agreements with a public purchaser for purchasing purposes and administrative functions. If a cooperative agreement is entered into pursuant to this subsection, the self-administered plan and any public purchaser shall maintain separate and distinct risk pools and reserves and may not commingle risk pools or reserve funds under any circumstances. For the purposes of this subsection, "public purchaser" means an entity that purchases health coverage in whole or in part with public funds, including, but not limited to, the state employee health insurance program, the University of Maine System, the Maine Community College System, the Maine Education Association benefits trust, the Maine School Management Association benefits trust and municipal and county governments. For the purposes of this subsection, "public purchaser" does not mean the Department of Health and Human Services, Office of MaineCare Services except for cooperative agreements for the purchasing of pharmaceuticals pursuant to Title 5, section 2031.

Sec. A-34. 34-B MRSA §5439, sub-§8, ¶A, as reallocated by PL 2007, c. 695, Pt. A, §41, is amended to read:

A. The commissioner shall:

(1) Ensure the input of consumers, personal assistants and any organization that represents personal assistants regarding providing a livable wage for personal care assistance services. The commissioner may seek input through one or more public hearings or by other means determined reasonable by the commissioner; and .

~~(2) Seek advice and input from the Long-term Care Oversight Committee established in Title 22, section 5107-J to determine whether the rates of reimbursement are sufficient for consumers to recruit, hire and retain personal care assistants.~~

Sec. A-35. 38 MRSA §470-F, as enacted by PL 2001, c. 619, §1, is amended to read:

§ 470-F. Local water use policies encouraged

The department shall encourage and cooperate with state, regional or municipal agencies, boards or organizations in the development and adoption of regional or local water use policies that protect the environment from excessive drawdown of water sources during low-flow periods. The department shall encourage those entities, in developing those policies, to review previously adopted low-flow policies; including any such policies adopted by the Aroostook Water and Soil Management Board established in Title 7, section 332.

PART B

Sec. B-1. 32 MRSA §14202, sub-§2, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. B-2. 32 MRSA §14202, sub-§3-A, as enacted by PL 1995, c. 80, §1, is amended to read:

3-A. Demonstrator. "Demonstrator" means a person who is licensed to practice cosmetology, barbering, aesthetics or manicuring and engages in performing demonstrations outside establishments licensed by the ~~board~~ director in the use of machines, articles or techniques pertaining to practices licensed under this chapter. The term "demonstrator" does not include one who performs demonstrations solely for persons currently licensed to practice cosmetology, barbering, aesthetics or manicuring under this chapter or under the licensing provision of any other state.

Sec. B-3. 32 MRSA §14202, sub-§4-A is enacted to read:

4-A. Director. "Director" means the Director of the Office of Licensing and Registration within the department.

Sec. B-4. 32 MRSA §14202, sub-§11, as amended by PL 1997, c. 210, §14, is further amended to read:

11. Student. "Student" means any person duly enrolled in a school licensed by the ~~board~~ director and engaged in learning and acquiring a knowledge of the practice of:

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

Sec. B-5. 32 MRSA §14202, sub-§13, as amended by PL 2007, c. 402, Pt. HH, §2, is further amended to read:

13. Trainee. "Trainee" means any person who, 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 adopted by the director, is engaged in learning and acquiring a knowledge of the practice of:

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

Sec. B-6. 32 MRSA §14203, sub-§2, as amended by PL 2009, c. 48, §§1 to 3, is further amended to read:

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~~ director, 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 Health and Human Services;
- 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;
- H. On persons in their private businesses;
- I. On human remains in licensed funeral establishments; and
- J. On persons at special events with a special event services permit. Services rendered pursuant to this paragraph must be rendered for compensation. A person may not perform special event services without first obtaining a special event services permit from the board director. The services provided pursuant to the special event services permit must comply with any applicable public health and safety requirements, the requirements of this chapter and all federal, state and local laws.

Sec. B-7. 32 MRSA §14204, 2nd ¶, as amended by PL 2007, c. 402, Pt. HH, §4, is repealed.

Sec. B-8. 32 MRSA §14211-A, as amended by PL 2007, c. 402, Pt. HH, §7, is repealed.

Sec. B-9. 32 MRSA §14212, as amended by PL 2007, c. 402, Pt. HH, §8, is repealed.

Sec. B-10. 32 MRSA §14212-A is enacted to read:

§ 14212-A. Director's powers and duties

1. Duties. The director shall administer, coordinate and enforce this chapter. The director may appoint an advisory committee to assist the director on any matter that may arise under this chapter, as needed.

2. Rule-making authority. The director shall establish guidelines and adopt rules necessary for the proper administration and enforcement of this chapter. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. The rules must address, but are not limited to, the following:

- A. Requirements for the licensure of aestheticians, barbers, cosmetologists, manicurists, demonstrators, instructors, students and trainees;
- B. Requirements for licensing, operating and inspecting schools. At a minimum, the rules must include standards relating to educational programs, instructor qualifications, school operation, academic and student records and record keeping, health, safety and sanitation, physical facilities of the school and off-site classrooms, payment of refunds, notices and information to be provided to students and credit for education obtained in subjects that are considered substantially equivalent to applied courses offered and consistent with this chapter;
- C. Requirements for licensing and operation of physical facilities and inspection of establishments and booths consistent with this chapter; and

D. The establishment of sanitation, health and safe practice standards, including but not limited to blood spill procedures and proper use of tools, implements, equipment and electrical and nonelectrical machines and devices used in connection with the practices authorized under this chapter.

3. Inspections. The director or a designee of the director may enter licensed premises to conduct random inspections for compliance with this chapter and rules adopted pursuant to this chapter.

4. Diseases. The director may require the physical examination of any person offering service to members of the public who is suspected of having any communicable disease. 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 director. Failure to submit to such an examination is grounds for suspension or revocation of the person's registration, certification, permit or license.

Sec. B-11. 32 MRSA §14224, sub-§2, as amended by PL 2007, c. 402, Pt. HH, §10, is further amended to read:

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~~ director. 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.

The ~~board~~ director 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 licensee shall post the license 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.

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 independent shops. ~~The board may establish rules for the operation of booths.~~

~~Shop licenses must be renewed biennially unless otherwise provided by the commissioner. The renewal fee is set under section 14238.~~

The exceptions listed in section 14203, subsection 3 do not permit the practice of cosmetology, barbering, manicuring or aesthetics in food establishments or food preparation areas.

Sec. B-12. 32 MRSA §14224, sub-§2-B, as enacted by PL 1997, c. 622, §2, is amended to read:

2-B. Change of ownership; change of location. The owner of a new shop is required to apply to the ~~board~~ director for licensure of that shop. The owner of a licensed shop that undergoes a change in location is required to reapply to the ~~board~~ director for licensure. The owner or owners of a licensed shop that undergoes a change in ownership shall notify the ~~board~~ director within 7 days of the change. If a shop has more than one owner and the change in ownership results from the death or divorce

of one of the owners, the notice must be provided to the board director as set forth in subsection 2-C. Whenever there is a change of ownership, the shop license is valid for 30 days from the transaction date to allow the new owner to comply with this section.

Sec. B-13. 32 MRSA §14224, sub-§2-C, as enacted by PL 1997, c. 622, §2, is amended to read:

2-C. Ownership changes resulting from death or divorce of an owner. If a licensed shop has more than one owner and ownership changes as a result of the death or divorce of one of the owners, the board director shall reissue the license for the remaining license period as long as a remaining owner is named on the existing license and the board director is notified within 30 days of the divorce decree or the date of death. A shop license is valid for 60 days following the death of the person in whose name the shop is licensed.

Sec. B-14. 32 MRSA §14224, sub-§3, as amended by PL 2007, c. 402, Pt. HH, §10, is further amended to read:

3. Trainee. A trainee cosmetologist, barber, manicurist or aesthetician licensed pursuant to section 14232 may not independently conduct a practice but may, as 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 director in a licensed shop.

Sec. B-15. 32 MRSA §14224, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §10, is further amended to read:

4. Student license required. A student enrolled in the study of cosmetology, barbering, manicuring or aesthetics must be licensed with the board director pursuant to section 14233.

Sec. B-16. 32 MRSA §14225, first ¶, as amended by PL 2007, c. 402, Pt. HH, §11, is further amended to read:

The board director may, subject to section ~~14112~~ 14212-A, subsection 2, 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 director considers necessary. The fee for a special mobile shop license is set under section 14238.

Sec. B-17. 32 MRSA §14226, sub-§3, as amended by PL 1997, c. 210, §24, is further amended to read:

3. Training. 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 board director or has experience in the practice of cosmetology as a trainee of 2,500 hours distributed over a period of at least 18 months; and

Sec. B-18. 32 MRSA §14226, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §12, is further amended to read:

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

B. Within 90 days of notification of passing an examination, the applicant must pay the fee as set under section 14238 to receive a first license.

Sec. B-19. 32 MRSA §14226, 2nd ¶, as amended by PL 1997, c. 210, §27, is further 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 ~~board~~ director or has experience in the practice of cosmetology as a trainee of at least 900 hours is eligible for examination.

Sec. B-20. 32 MRSA §14227, sub-§3, as amended by PL 1997, c. 210, §28, is further amended to read:

3. Training. 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 ~~board~~ director or has experience in the practice of barbering as a trainee of 2,500 hours distributed over a period of at least 18 months; and

Sec. B-21. 32 MRSA §14227, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §13, is further amended to read:

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

B. Within 90 days of notification of passing an examination, the applicant must pay the fee as set under section 14238 to receive a first license.

Sec. B-22. 32 MRSA §14227, 2nd ¶, as amended by PL 1997, c. 210, §31, is further 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 ~~board~~ director or has experience in the practice of barbering as a trainee of at least 900 hours is eligible for examination.

Sec. B-23. 32 MRSA §14228, sub-§3, as amended by PL 2001, c. 260, Pt. G, §1, is further amended to read:

3. Training. Has satisfactorily completed a course of instruction in aesthetics of 600 hours in not less than 3 months in a school licensed by the ~~board~~ director or has experience in the practice of aesthetics as a trainee of up to 1,000 hours distributed over a period of at least 6 months. ~~The board shall establish by rule the specific number of hours of course work required up to a maximum of 600 hours~~ must be specified by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter H-A ~~2-A~~; and

Sec. B-24. 32 MRSA §14228, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §14, is further amended to read:

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

B. Within 90 days of notification of passing an examination, the applicant must pay the fee as set under section 14238 to receive a first license.

Sec. B-25. 32 MRSA §14229, sub-§3, as amended by PL 1997, c. 210, §35, is further amended to read:

3. Training. Has satisfactorily completed a course of instruction in manicuring of 200 hours in not less than 5 weeks in a school licensed by the ~~board~~ director or has experience in the practice of manicuring as a trainee of 400 hours distributed over a period of at least 10 weeks; and

Sec. B-26. 32 MRSA §14229, sub-§4, as amended by PL 2007, c. 402, Pt. HH, §15, is further amended to read:

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

B. Within 90 days of notification of passing an examination, the applicant must pay the fee as set under section 14238 to receive a first license.

Sec. B-27. 32 MRSA §14229-A, as enacted by PL 2007, c. 402, Pt. HH, §16, is amended to read:

§ 14229-A. First license; reexamination

Within 90 days of notification of passing an examination, the applicant must pay a fee as set under section 14238 to receive a first license. The first license is valid until the next renewal period. The ~~board~~ director has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant may take subsequent examinations held 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.

Sec. B-28. 32 MRSA §14230, as amended by PL 2007, c. 402, Pt. HH, §17, is further amended to read:

§ 14230. Temporary permit

If an applicant to practice cosmetology, barbering, manicuring or aesthetics qualifies for examination, the ~~board~~ director 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 the fee as set under section 14238. A permit expires 6 months from the date of issuance and is not renewable. The applicant is not considered a trainee.

Sec. B-29. 32 MRSA §14231, as amended by PL 2007, c. 402, Pt. HH, §18, is further amended to read:

§ 14231. Endorsement

The ~~board~~ director may waive the examination and grant a license to any applicant who presents proof of being authorized to practice by another state or other jurisdiction of the United States or another country that maintains professional standards considered by the ~~board~~ director to be equivalent to or higher than those set forth in this chapter, as long as no cause exists for denial of a license under section 14236-A. Such an applicant must pay the fee as provided in section 14238.

Sec. B-30. 32 MRSA §14232, as amended by PL 2007, c. 402, Pt. HH, §19, is further amended to read:

§ 14232. Trainees

1. License. Each trainee must submit an application for licensure to the ~~board~~ director. The application must be accompanied by a fee as set under section 14238. The license for each type of training expires as indicated below.

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

2. Filing with the director. Before beginning training, a trainee must file with the ~~board~~ director:

- A. The employer's name, shop name and address;
- B. The date that the training will begin;
- C. The type of training, such as cosmetology, barbering, manicuring or aesthetics;
- D. Evidence of age;
- E. Evidence of satisfactory completion of the 10th grade or its equivalent; and
- F. The name of the licensee who will directly supervise the trainee in compliance with section 14224, subsection 3.

Trainees who change their place of employment must notify the ~~board~~, director within 10 days of the change and must file a new trainee application.

3. Courses of instruction. 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 be applied to the training program in accordance with rules adopted ~~by the board~~ pursuant to this chapter.

4. Renewal; display; examination. The ~~board~~ director shall furnish a trainee license to each trainee. A trainee license is renewable upon payment of the fee as set under section 14238. The license must be displayed as provided for licenses in section 14224. The term "trainee" must appear in conspicuous print on the license. To be licensed as a cosmetologist, barber, aesthetician or manicurist, a trainee, upon completion of the required training in accordance with this chapter, must pass an approved examination ~~approved by the board~~.

Sec. B-31. 32 MRSA §14233, as amended by PL 2007, c. 402, Pt. HH, §20, is further amended to read:

§ 14233. Licensed students

Schools licensed by the ~~board~~ director shall license students in accordance with rules adopted by the ~~board~~ director and upon payment of the fee as set under section 14238.

To be eligible for licensure, the student must be at least 16 years of age and have satisfactorily completed the 10th grade or its equivalent. Evidence of the student's eligibility and enrollment in the school must be provided on a form provided by the ~~board~~ director.

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 or as otherwise proved by rule.

Sec. B-32. 32 MRSA §14234, as amended by PL 2007, c. 402, Pt. HH, §21, is further amended to read:

§ 14234. Demonstrators

A person may not perform demonstrations unless licensed by the ~~board~~ director and upon payment of the fee as set under section 14238. The ~~board~~ director shall adopt rules that describe the articles, machines or techniques that may be demonstrated outside the licensed establishment. All demonstrations must be performed in a safe and sanitary manner for the protection of the public. Licenses must be renewed biennially or at such other times as the commissioner may designate. A license is not required for persons who perform demonstrations in a licensed establishment or solely to licensed persons.

Sec. B-33. 32 MRSA §14235, as amended by PL 2007, c. 402, Pt. HH, §22, is further amended to read:

§ 14235. Licenses; renewal

Licensees must renew their licenses on or before July 1st biennially by filing an application and paying the renewal fee as set under 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 under 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, including a late fee, renewal fee and additional late fee as set under section 14238, except that the ~~board~~ director, after giving due consideration to the protection of the public, may waive requirements.

Notwithstanding any other provision of this chapter, the ~~board~~ director 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~~ is presented to demonstrate that the applicant was required by law to serve that period.

Sec. B-34. 32 MRSA §14235-A is enacted to read:

§ 14235-A. Licenses; initial

An applicant for initial licensure must submit an application together with the fee set under section 14238 and meet the requirements set forth under this chapter.

Sec. B-35. 32 MRSA §14236-A, as enacted by PL 2007, c. 402, Pt. HH, §24, is amended to read:

§ 14236-A. Denial or refusal to renew license; disciplinary action

1. Disciplinary action. In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the ~~board~~ director may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

- A. Addiction, as confirmed by professional diagnosis, to the use of alcohol or other drugs that has resulted or may result in the licensee's 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;
- B. A professional diagnosis of mental incompetence;
- C. Engaging in false, misleading or deceptive advertising;
- D. Employing a person to practice cosmetology, barbering, manicuring or aesthetics who does not hold a valid license, unless that person is a trainee within the meaning of this chapter; or
- E. Any negligence or misconduct in any of the practices licensed under this chapter.

~~**2. Reinstatement.** The board may reissue a license to any person whose license has been revoked if 5 or more members of the board vote in favor of that reissuance.~~

Sec. B-36. 32 MRSA §14245, sub-§1, as amended by PL 2007, c. 402, Pt. HH, §27, is further amended to read:

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:

- A. Operating, maintaining or instructing at a school within the State; or
- B. Collecting any tuition, fee or other charge for education, instruction or other services provided or to be provided by a school.

Sec. B-37. 32 MRSA §14246, sub-§1, as amended by PL 2007, c. 402, Pt. HH, §28, is further amended to read:

1. Application requirements; licensing; bonding and revocation of license. The application for a license required by this subchapter must be accompanied by an application fee as set under section 14238 and a surety bond. For applicants that participate in state or federal financial aid programs, except the Federal Direct Student Loan Program under the federal Higher Education Act of 1965, 20 United States Code, Section 1087a et seq., the bond must be in favor of the Finance Authority of Maine. For all other applicants, the bond must be in favor of the ~~board~~ director. The amount of the bond for a new applicant is \$20,000. For renewal applicants, the amount of the bond must be equal to the greater of 10% of the applicant's gross receipts from tuition in the 12 months prior to the application for renewal or \$20,000.

- A. A license is valid for a period of 12 months from the date of issuance or as otherwise determined by the commissioner.

B. The bond must be continuous and must provide indemnification to any student suffering loss as a result of any fraud, misrepresentation, violation of this subchapter or rules adopted under this subchapter or breach of contract. The bond must provide for written notification by the surety to the board director in the event of cancellation. Cancellation of the bond by the surety, or payment under the bond by the surety to the board director or the Finance Authority of Maine, results in the revocation of the license. The bond must also specifically provide that proceeds are available to pay tuition refunds to students or to student loan lenders on behalf of students eligible for those refunds pursuant to the policies of the school or state or federal law, rule or regulation.

C. If one or more students notify the board director or the Finance Authority of Maine of a claim the student has against the school for fraud, misrepresentation, breach of contract or refund due, or that the school has violated the provisions of this subchapter or applicable rules, or if any such event is discovered by the board director or the Finance Authority of Maine from other sources and the holder of the bond has reason to believe the claim is valid, the holder may make a claim against the bond on behalf of the student or students affected, or on behalf of the board director. The board director and the Finance Authority of Maine have the concurrent right at any time to review the school's operations and all its records to determine if the school is in compliance with this subchapter and rules adopted under this subchapter, or to determine if any claim of a student against the school is valid.

Sec. B-38. 32 MRSA §14246, sub-§2, as amended by PL 2007, c. 402, Pt. HH, §29, is further amended to read:

2. License fee; renewal fee; renewal requirements. A fee as set under section 14238 is charged for the initial license and for the annual renewal of a license. Each submission for a license renewal must include the school's most recent financial audit conducted by a certified public accountant unaffiliated with the school. When a school does not participate in federal or state financial aid programs, internally prepared financial statements signed by the applicant are acceptable. Every renewal application must include a bond in the required amount. The board director shall provide copies of the audit or financial statements and, in cases in which the bond is not in favor of the board director, the original bond to the Finance Authority of Maine and may provide financial information regarding the school to other state agencies with an interest in the operation of the school. When a school applies for renewal of a license the school must certify that:

A. The school has included information in all school brochures and handbooks provided to students, and has posted information in a location in the school frequented by students advising students of their rights to receive refunds and where to direct any complaints the students have concerning their education; and

B. The school is in compliance with all applicable federal and state laws and regulations.

Sec. B-39. 32 MRSA §14247, as amended by PL 2007, c. 402, Pt. HH, §30, is repealed.

Sec. B-40. 32 MRSA §14248, as enacted by PL 1997, c. 266, §18, is amended to read:

§ 14248. On-site evaluations

The board director 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.~~

Sec. B-41. 32 MRSA §14249, as amended by PL 2007, c. 402, Pt. HH, §31, is further amended to read:

§ 14249. Complaints

The board director may investigate complaints involving a school including any allegation of noncompliance with or violation of this subchapter and applicable rules. The board director shall promptly notify the Finance Authority of Maine of any complaints involving student financial assistance. After a hearing in conformance with Title 5, chapter 375, subchapter 4, the board director 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 with which the board member has or has had a direct relationship as a student, instructor, administrator or director or in which the board member has a direct pecuniary interest.~~

Sec. B-42. 32 MRSA §14250, as repealed and replaced by PL 2007, c. 402, Pt. HH, §32, is amended to read:

§ 14250. Denial or refusal to renew school license; disciplinary action

The board director may deny a school license, refuse to renew a school license or impose the disciplinary sanctions authorized by Title 10, section 8003, ~~subsecton~~ subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

Sec. B-43. Transition provisions. The following provisions govern the elimination of the Board of Barbering and Cosmetology and the transfer of its authority to enforce this Act to the Department of Professional and Financial Regulation.

1. Successor. The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation is the successor in every way to the powers, duties and functions of the Board of Barbering and Cosmetology.

2. Rules. The rules adopted by the Board of Barbering and Cosmetology remain in effect until the director adopts rules pursuant to this Act.

3. Licenses. All licenses issued by the Board of Barbering and Cosmetology remain valid and are subject to license renewal requirements.

4. Board membership. Terms of members of the Board of Barbering and Cosmetology expire on the effective date of this Act.

Sec. B-44. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 32, chapter 126, subchapter 2 in the subchapter headnote, the words "board of barbering and cosmetology" are amended to read "director's powers and duties" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-45. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement 0352

Initiative: Deallocates funds as a result of the Board of Barbering and Cosmetology being repealed.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
Personal Services	(\$1,890)	(\$1,890)
All Other	(\$5,322)	(\$5,322)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$7,212)	(\$7,212)

Effective September 12, 2009