

LD 2063

L.D. 2063

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Date: (Filing No. H- )

N.B. Public records exceptions are §§20, 23, 27, 31

**HEALTH AND HUMAN SERVICES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT " " to H.P. 1465, L.D. 2063, Bill, "An Act To Provide Program Solvency, Clarity, Consistency and Flexibility in Routine Public Health Licensing Activities"

Amend the bill by inserting after the title and before the enacting clause the following:

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

**Whereas**, this legislation makes changes to the licensing requirements of hotels, restaurants and campgrounds that clarify and streamline licensing requirements; and

**Whereas**, the changes to licensing requirements need to be in place before the beginning of the tourism season in the State; 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,

Amend the bill by striking out all of section 4 and inserting the following:

**Sec. 4. 22 MRSA §2491, sub-§7-F**, as amended by PL 2013, c. 264, §4, is further amended to read:

**7-F. Lodging place.** "Lodging place" means a ~~building or~~ structure, or any part of a ~~building or~~ structure, used, maintained, or advertised or held out to the public as a place where sleeping accommodations are furnished to the public for business purposes and that offers stays that are temporary in nature and consist of fewer than 183 days in the aggregate per year. "Lodging place" includes accommodations in the entertainment, hospitality, recreation and tourism industries, including but is not limited to, hotels, motels, bed and breakfasts and inns where the owner or managing entity maintains the lodging facilities and the structures are located in the same general physical location. "Lodging place" includes a property and properties under common management and at

**COMMITTEE AMENDMENT**

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1 the same location where 4 or more rooms, cottages or condominium units are rented to  
2 the public available. "Lodging place" does not include vacation rentals, youth camps,  
3 dormitories of charitable, educational or philanthropic institutions, fraternity or sorority  
4 houses affiliated with educational institutions, permanent residences, ~~rooming houses,~~  
5 ~~tenancies at will or rental properties with tenant and landlord relationships as described in~~  
6 Title 14, chapters 709 to 710-D, nursing facilities as defined in section 1812-A, assisted  
7 living programs as defined in section 7852, subsection 4, or residential care facilities as  
8 defined in section 7852, subsection 14.'

9 Amend the bill by striking out all of section 6 and inserting the following:

10 'Sec. 6. 22 MRSA §2491, sub-§10-C is enacted to read:

11 10-C. Permanent residence. "Permanent residence" means the primary location  
12 where an individual lives, in the aggregate, more than 183 days in a year, as determined  
13 in accordance with department rule.'

14 Amend the bill by inserting after section 10 the following:

15 'Sec. 11. 22 MRSA §2494, first ¶, as amended by PL 2017, c. 322, §5, is further  
16 amended to read:

17 Each application for, or for renewal of, a license to operate an eating establishment,  
18 lodging place, recreational camp, youth camp ~~or~~, campground, public pool or public spa  
19 within the meaning of this chapter must be accompanied by a fee, appropriate to the size  
20 of the establishment, place, camp, pool, spa or area of the licensee, determined by the  
21 department and not to exceed the fees listed below. All fees collected by the department  
22 must be deposited into a special revenue account established for this purpose. No such  
23 fee may be refunded. No license may be assignable or transferable. The fees may not  
24 exceed.'

25 Amend the bill by striking out all of section 13.

26 Amend the bill by inserting after section 15 the following:

27 'Sec. 16. 22 MRSA §2503 is enacted to read:

28 §2503. Records; disclosure

29 1. Confidential information. The following provisions apply to records that are  
30 made, collected or maintained by the department in connection with the licensing or  
31 inspection of establishments under this chapter.

32 A. Except as provided in subsections 2 and 3, confidential information may not be  
33 released without a court order or a written release from the person whose privacy  
34 interest is protected by this section.

35 B. "Confidential information" means any information which directly or indirectly  
36 identifies:

37/1 (1) Any person who makes a report of a suspected licensing violation or a  
38 complaint to the department;

39 (2) A patron of an establishment that is licensed by the department; or

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or more (if matches  
Sec 11 (4 in  
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1 (3) Any medical or personal information concerning the individuals listed in  
2 subparagraphs (2) and (3).

3 2. Optional disclosure. The department may disclose relevant confidential  
4 information to the extent allowed by federal law and regulation to the following persons  
5 or agencies:

6 A. Employees of the department and legal counsel for the department in carrying out  
7 their official functions;

8 B. Professional and occupational licensing boards pursuant to chapter 857;

9 C. An agency or person investigating a report of abuse or neglect when the  
10 investigation is authorized by law or by an agreement with the department; or

11 D. A physician treating an individual whom the physician reasonably suspects may  
12 have been abused or neglected.

13 3. Mandatory disclosure. The department shall disclose relevant confidential  
14 information to the extent allowed by federal law and regulations to a law enforcement  
15 agency investigating a report of abuse or neglect or the commission of a crime by an  
16 owner, operator or employee of an establishment.

17 4. Further disclosure. Information released pursuant to subsections 2 and 3 <sup>may</sup> must be  
18 used solely for the purpose for which it was provided and may not be further  
19 disseminated.'

20 Amend the bill by inserting after section 17 the following:  
21 'Sec. 18. 32 MRS §1231-A, <sup>as amended by PL 2013 c. 264 §9 is further</sup> ~~sub-§4~~ is enacted to read: <sup>amended</sup>

Do  
Whole  
§1231-A

22 4. License issuance. The department may issue a license to a person to practice  
23 electrology in accordance with this chapter. The department shall issue a license annually  
24 upon a payment of a fee not to exceed \$150. The fee required by this section includes the  
25 cost of an annual inspection of the electrologist establishment by the department. A  
26 license expires one year from the date of issue. All fees collected by the department  
27 pursuant to this subsection must be deposited into a special revenue account dedicated to  
28 the health inspection program.'

See  
below  
for

29 Amend the bill by striking out all of section 18 and inserting the following:

30 'Sec. 18. 32 MRS §1233, as amended by PL 2013, c. 264, §§11 and 12, is  
31 repealed.

32 Sec. 19. 32 MRS §1234 is enacted to read:

33 §1234. Revocation; suspension; refusal to issue; probation

34 The department may revoke, suspend or refuse to issue a license or <sup>or renew</sup> to renew a license  
35 or place a person on probation if:

36 <sup>may</sup> 1. Conviction of crime. The person has been convicted of a crime related to the  
37 practice of electrology;

X-refs  
in §1231-A  
to  
§1233.

3

1 2. Deception or misrepresentation. The person has engaged in any deception or  
2 misrepresentation to the department or the public in applying for a license under this  
3 chapter or in the advertising or practice of electrology;

4 3. Negligence, incompetence or danger. The person has demonstrated negligence,  
5 incompetence or danger to the public in the practice of electrology; or

6 4. Rules violation. The person has violated any of the rules adopted by the  
7 department under this chapter.'

8 Amend the bill in section 19 in §1243 in the 2nd paragraph by striking out all of the  
9 first sentence (page 6, lines 21 to 25 in L.D.) and inserting the following: 'The department  
10 shall inspect that person's training, place of practice and equipment for compliance with  
11 the rules adopted by the department under this chapter.'

12 Amend the bill by inserting after section 19 the following:

13 **'Sec. 20. 32 MRSA §1244** is enacted to read:

14 **§1244. Records; disclosure**

15 1. Confidential information. The following provisions apply to records that are  
16 made, collected or maintained by the department in connection with the licensing or  
17 inspection of establishments under this chapter.

18 A. Except as provided in subsections 2 and 3, confidential information may not be  
19 released without a court order or a written release from the person whose privacy  
20 interest is protected by this section.

21 B. "Confidential information" means any information <sup>that</sup> ~~which~~ directly or indirectly  
22 identifies:

23 (1) Any person who makes a report of a suspected licensing violation or a  
24 complaint to the department;

25 (2) A patron of an establishment that is licensed by the department; or

26 (3) Any medical or personal information concerning the individuals listed in  
27 subparagraphs ~~(4)~~ and ~~(5)~~.

28 2. Optional disclosure. <sup>(1)</sup> <sup>(2)</sup> The department may disclose relevant confidential  
29 information to the extent allowed by federal law and regulation to the following persons  
30 or agencies:

31 A. Employees of the department and legal counsel for the department in carrying out  
32 their official functions;

33 B. An agency or person investigating a report of abuse or neglect when the  
34 investigation is authorized by law or by an agreement with the department; or

35 C. A physician treating an individual whom the physician reasonably suspects may  
36 have been abused or neglected.

37 3. Mandatory disclosure. The department shall disclose relevant confidential  
38 information to the extent allowed by federal law and regulations to a law enforcement



1 agency investigating a report of abuse or neglect or the commission of a crime by an  
2 owner, operator or employee of an establishment.

3 4. Further disclosure. Information released pursuant to subsections 2 and 3 <sup>may</sup> must be  
4 used solely for the purpose for which it was provided and may not be further  
5 disseminated.

6 Sec. 21. 32 MRSA §4201 is repealed and the following enacted in its place:

7 **§4201. Definitions**

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

10 1. Tattoo. "Tattoo" means to insert pigment under the skin of a human being by  
11 pricking with a needle or otherwise, so as to produce an indelible mark or figure visible  
12 through the skin.

13 2. Department. "Department" means the Department of Health and Human  
14 Services.'

15 Amend the bill by striking out all of sections 22 and 23 and inserting the following:

16 'Sec. 22. 32 MRSA §4252, as amended by PL 2013, c. 264, §15, is repealed and  
17 the following enacted in its place:

18 **§4252. Licenses**

19 1. Issuance of licenses. The department may license persons to practice the art of  
20 tattooing. Such licenses are issued for a term of one year and may be renewed annually.  
21 The fee for an initial license or a renewal license may not exceed \$250. All fees collected  
22 by the department pursuant to this section must be deposited in a special revenue account  
23 dedicated to a health inspection program.

24 2. Renewal. The department shall renew a license annually upon payment of the  
25 prescribed fee, including late fees, additional inspection fees and fines if assessed, and the  
26 licensee is subject to compliance with regulations of the department and this chapter. The  
27 department shall provide a licensee with notice of the need for renewal and necessary  
28 forms no later than 30 days prior to the expiration of the license.

29 3. Conditional license. When an applicant for a license or a licensee applying for  
30 license renewal under this chapter is found, based upon an inspection by the department,  
31 not in compliance with the requirements of this chapter and rules adopted under section  
32 4251, the department may refuse to issue or to renew the license and shall issue a  
33 conditional license, except when conditions are found that present a serious danger to the  
34 health and safety of the public. Failure by the conditional licensee to meet the conditions  
35 specified by the department permits the department to void the conditional license.

36 An applicant who is issued a conditional license may reapply for a license if the  
37 conditional license is voided or expires; however, the department may not issue another  
38 conditional license. In order for an applicant to be issued an annual license, all conditions  
39 specified by the department must be met.

40 Sec. 23. 32 MRSA §4302 is enacted to read:

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**§4302. Records; disclosure**

1. Confidential information. The following provisions apply to records that are made, collected or maintained by the department in connection with the licensing or inspection of establishments under this chapter.

A. Except as provided in subsections 2 and 3, confidential information may not be released without a court order or a written release from the person whose privacy interest is protected by this section.

B. "Confidential information" means any information <sup>that</sup> directly or indirectly identifies:

(1) Any person who makes a report of a suspected licensing violation or a complaint to the department;

(2) A patron of an establishment that is licensed by the department; or

(3) Any medical or personal information concerning the individuals listed in subparagraphs (2) and (3).

2. Optional disclosure. The department may disclose relevant confidential information to the extent allowed by federal law and regulation to the following persons<sup>(1) (2)</sup> or agencies:

A. Employees of the department and legal counsel for the department in carrying out their official functions;

B. An agency or person investigating a report of abuse or neglect when the investigation is authorized by law or by an agreement with the department; or

C. A physician treating an individual whom the physician reasonably suspects may have been abused or neglected.

3. Mandatory disclosure. The department shall disclose relevant confidential information to the extent allowed by federal law and regulations to a law enforcement agency investigating a report of abuse or neglect or the commission of a crime by an owner, operator or employee of an establishment.

4. Further disclosure. Information released pursuant to subsections 2 and 3 <sup>may</sup> must be used solely for the purpose for which it was provided and may not be further disseminated.

Amend the bill by inserting after section 26 the following:

'Sec. 27. 32 MRSA §4319 is enacted to read:

**§4319. Records; disclosure**

1. Confidential information. The following provisions apply to records that are made, collected or maintained by the department in connection with the licensing or inspection of establishments under this chapter.

1 A. Except as provided in subsections 2 and 3, confidential information may not be  
2 released without a court order or a written release from the person whose privacy  
3 interest is protected by this section.

4 B. "Confidential information" means any information which directly or indirectly  
5 identifies:

6 (1) Any person who makes a report of a suspected licensing violation or a  
7 complaint to the department;

8 (2) A patron of an establishment that is licensed by the department; or

9 (3) Any medical or personal information concerning the individuals listed in  
10 subparagraphs (2) and (3).

11 2. Optional disclosure. <sup>(1) (2)</sup> The department may disclose relevant confidential  
12 information to the extent allowed by federal law and regulation to the following persons  
13 or agencies:

14 A. Employees of the department and legal counsel for the department in carrying out  
15 their official functions;

16 B. An agency or person investigating a report of abuse or neglect when the  
17 investigation is authorized by law or by an agreement with the department; or

18 C. A physician treating an individual whom the physician reasonably suspects may  
19 have been abused or neglected.

20 3. Mandatory disclosure. The department shall disclose relevant confidential  
21 information to the extent allowed by federal law and regulations to a law enforcement  
22 agency investigating a report of abuse or neglect or the commission of a crime by an  
23 owner, operator or employee of an establishment.

24 4. Further disclosure. <sup>may</sup> Information released pursuant to subsections 2 and 3 must be  
25 used solely for the purpose for which it was provided and may not be further  
26 disseminated.'

27 Amend the bill by striking out all of sections 27 and 28 and inserting the following:

28 'Sec. 27. 32 MRSA §4325, as amended by PL 2009, c. 589, §13, is repealed and  
29 the following enacted in its place:

30 §4325. Issuance of licenses

31 1. Issuance of licenses. <sup>issue a to a</sup> The department may license persons to practice the art of  
32 body piercing. Licenses are issued annually by the department upon the payment of a fee  
33 not to exceed \$250. The license for a person engaged in both the arts of tattooing, as  
34 defined by chapter 63, and body piercing may not exceed \$300. The fee required by this  
35 section includes the cost of an annual inspection of the body piercing establishment by  
36 the department. Licenses expire one year from date of issue. All fees collected by the  
37 department pursuant to this section must be deposited into a special revenue account  
38 dedicated to a health inspection program.

39 2. Renewal. The department shall renew a license annually upon payment of the  
40 prescribed fee, including late fees, additional inspection fees and fines if assessed, and the

1 licensee is subject to compliance with regulations of the department and this chapter. The  
2 department shall provide a licensee with notice of the need for renewal and necessary  
3 forms no later than 30 days prior to the expiration of the license.

4 **3. Conditional license.** When an applicant for a license or a licensee applying for  
5 license renewal under this chapter is found, based upon an inspection by the department, *to be*  
6 not in compliance with the requirements of this chapter or rules adopted under section  
7 4326, the department may refuse to issue or to renew the license and shall issue a  
8 conditional license, except when conditions are found that present a serious danger to the  
9 health and safety of the public. Failure by the conditional licensee to meet the conditions  
10 specified by the department permits the department to void the conditional license.

11 An applicant who is issued a conditional license may reapply for a license if the  
12 conditional license is voided or expires; however, the department may not issue another  
13 conditional license. In order for an applicant to be issued an annual license, all conditions  
14 specified by the department must be met.'

15 Amend the bill by inserting after section 30 the following:

16 'Sec. 31. 32 MRSA §4330 is enacted to read:

17 **§4330. Records; disclosure**

18 **1. Confidential information.** The following provisions apply to records that are  
19 made, collected or maintained by the department in connection with the licensing or  
20 inspection of establishments under this chapter.

21 A. Except as provided in subsections 2 and 3, confidential information may not be  
22 released without a court order or a written release from the person whose privacy  
23 interest is protected by this section.

24 B. "Confidential information" means any information <sup>that</sup> which directly or indirectly  
25 identifies:

26 (1) <sup>6</sup> Any person who makes a report of a suspected licensing violation or a  
27 complaint to the department;

28 (2) A patron of an establishment that is licensed by the department; or

29 (3) Any medical or personal information concerning the individuals listed in  
30 subparagraphs <sup>(1)</sup> (2) and <sup>(2)</sup> (3).

31 **2. Optional disclosure.** The department may disclose relevant confidential  
32 information to the extent allowed by federal law and regulation to the following persons  
33 or agencies:

34 A. Employees of the department and legal counsel for the department in carrying out  
35 their official functions;

36 B. An agency or person investigating a report of abuse or neglect when the  
37 investigation is authorized by law or by an agreement with the department; or

38 C. A physician treating an individual whom the physician reasonably suspects may  
39 have been abused or neglected.

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1 3. Mandatory disclosure. The department shall disclose relevant confidential  
2 information to the extent allowed by federal law and regulations to a law enforcement  
3 agency investigating a report of abuse or neglect or the commission of a crime by an  
4 owner, operator or employee of an establishment.

5 4. Further disclosure. Information released pursuant to subsections 2 and 3 <sup>may</sup> must be  
6 used solely for the purpose for which it was provided and may not be further  
7 disseminated.<sup>f</sup>

8 Amend the bill by adding before the summary the following;

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

11 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
12 section number to read consecutively.

13 **SUMMARY**

14 This amendment makes the following changes to the bill.

15 1. It adds an emergency preamble and emergency clause to the bill.

16 2. It changes the definition of a "lodging place" <sup>as a place</sup> from offering stays that consist of 90  
17 or fewer consecutive days as in the bill to fewer than 183 aggregate days a year. It  
18 changes the definition of "permanent residence" <sup>used in the licensing laws to the primary</sup>  
19 location of an individual for more than 183 days a year. <sup>mean</sup>

Where

one offering stays of

20 3. It clarifies that the term "lodging place" does not include nursing homes, assisted  
21 living programs, or residential care facilities. <sup>lives or more in</sup>

22 4. It includes public pools and public spas to the fee section of the licensing laws to  
23 clarify the fee charged for licensing a public pool <sup>in</sup> or public spa.

24 5. It changes the section on confidentiality to clarify when confidential information  
25 <sup>may</sup> can be disclosed and who it can be disclosed to. <sup>and to whom</sup>

26 6. It adds the same confidentiality provisions <sup>for</sup> around reporters of licensing violations  
27 or complaints to the Department of Health and Human Services to the licensing laws for  
28 electrologists, tattoo artists, micropigmentation practitioners and body piercers.

29 7. It corrects the placement of sections of license renewal and conditional licenses  
30 within the Maine Revised Statutes, Title 32. <sup>regarding</sup>



# 129th MAINE LEGISLATURE

LD 2063

LR 3005(02)

## An Act To Provide Program Solvency, Clarity, Consistency and Flexibility in Routine Public Health Licensing Activities

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Health and Human Services

Fiscal Note Required: Yes

### Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$0	\$40,000	\$40,000
<b>Revenue</b>				
Other Special Revenue Funds	\$0	\$0	\$40,000	\$40,000

#### Fiscal Detail and Notes

The Department of Health and Human Services (DHHS) will receive additional revenue due to an increase in the annual license fee from \$60 to \$100. At that time DHHS will require an additional allocation to allow expenditure of this additional revenue.

No appropriations/allocations section required.  
ROS: Strike allocation, now reflected in future years on fiscal note only.