

## STATE OF MAINE

—  
 IN THE YEAR OF OUR LORD  
 TWO THOUSAND AND THIRTEEN

—  
 H.P. 990 - L.D. 1387

**An Act To Provide Clarity and Consistency in Routine Public Health  
 Licensing Activities**

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

**Sec. 1. 17 MRSA §3966**, as amended by PL 2011, c. 369, §9, is further amended to read:

**§3966. Animals in food stores**

It is unlawful for any person, ~~other than the owner or manager~~, to bring an animal into a store where food is sold for human consumption or into a restaurant where food is prepared and served on the premises. This section does not apply to a person requiring the services of a service animal.

For the purposes of this section, "service animal" has the same meaning as set forth in Title 5, section 4553, subsection 9-E, ~~paragraph A or B~~.

**Sec. 2. 22 MRSA §1686, first ¶**, as repealed and replaced by PL 1987, c. 769, Pt. A, §73, is amended to read:

~~Unless it is licensed for fewer than 13 seats and is not licensed for on-premise consumption of alcoholic beverages, an~~ An eating establishment ~~shall~~ must provide at least one toilet facility for the use of its customers. Toilet facilities ~~which~~ that require access through the food preparation area or the use of which would in any way cause the establishment to be in violation of any state law or rule ~~shall~~ may not be considered as fulfilling this requirement. The location of the toilets ~~shall~~ must be clearly marked, and the toilets must be maintained in a sanitary condition, and in good repair and their location must be identifiable from the eating area. There ~~shall~~ may not be ~~no~~ a charge for their use. Lavatory facilities ~~shall~~ must be located within or immediately adjacent to all toilet rooms or vestibules.

**Sec. 3. 22 MRSA §2491, sub-§7**, as amended by PL 2011, c. 193, Pt. A, §4, is further amended to read:

**7. Eating establishment.** "Eating establishment" means any place where food or drink is prepared and served, or served to the public for consumption on the premises, or catering establishments, or establishments dispensing food from vending machines, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, take-out restaurants, mobile eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments, private or public institutions routinely serving foods such as schools, retail frozen dairy product establishments, airports, parks, theaters, recreational camps, youth camps or any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for vending machines dispensing food other than in original sealed packages.

**Sec. 4. 22 MRSA §2491, sub-§7-F**, as enacted by PL 2011, c. 193, Pt. A, §6, is amended to read:

**7-F. Lodging place.** "Lodging place" means a building or structure, or any part of a building or structure, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for business purposes. "Lodging place" includes, but is not limited to, hotels, motels, ~~guest homes and cottages~~ bed and breakfasts and inns where the owner or managing entity maintains the ~~sleeping accommodations~~ lodging facilities and the structures are located in the same general physical location. "Lodging place" includes a property under common management where 4 or more rooms, cottages or condominium units are rented to the public. "Lodging place" does not include vacation rentals, youth camps, dormitories of charitable, educational or philanthropic institutions, fraternity or sorority houses affiliated with educational institutions, permanent residences, rooming houses, tenancies at will or rental properties with tenant and landlord relationships.

**Sec. 5. 22 MRSA §2491, sub-§17** is enacted to read:

**17. Vacation rental.** "Vacation rental" means a residential property that is rented for vacation, leisure or recreation purposes for a day, a week or a month, and typically under 30 days but not for more than an entire summer or winter season, to a person who has a place of permanent residence to which the person intends to return.

**Sec. 6. 22 MRSA §2498, sub-§1**, as amended by PL 2011, c. 193, Pt. B, §§4 to 6, is further amended to read:

**1. Authorization.** The department is authorized to impose one or more of the following sanctions when a violation of this chapter, or rules enacted pursuant to this chapter, occurs and the department determines that a sanction is necessary and appropriate to ensure compliance with state licensing rules or to protect the public health.

A. The department may impose penalties for violations of this chapter, or the rules adopted pursuant to this chapter, on any eating establishment, eating and lodging place, lodging place, recreational camp, youth camp, public pool or public spa or

campground. The penalties may not be greater than \$100 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. Penalties may be imposed for each violation of the rules.

B. The department may direct an eating establishment, eating and lodging place, lodging place, recreational camp, youth camp, public pool or public spa or campground to correct any violations in a manner and within a time frame that the department determines is appropriate to ensure compliance with state rules or to protect the public health. Failure to correct violations within the time frames constitutes a separate finable violation.

C. Any person, corporation, firm or copartnership that operates any eating establishment, eating and lodging place, lodging place, recreational camp, youth camp, public pool or public spa or campground without first obtaining a license as required by this chapter must be punished, upon adjudication of unlicensed operation, by a fine of not less than \$25 nor more than \$200, and upon a 2nd or subsequent adjudication of unlicensed operation must be punished by a fine of not less than \$200 nor more than \$500. Each day any such person, corporation, firm or copartnership operates without obtaining a license constitutes a separate offense.

D. In the event of any violation of this section or any rule pursuant to this chapter, the Attorney General may seek to enjoin a further violation, in addition to any other remedy.

E. A person, corporation, firm or copartnership that fails to pay a penalty imposed pursuant to this chapter:

(1) May be referred to the Attorney General for appropriate enforcement action; and

(2) In addition to all fines and penalties imposed pursuant to this chapter, is liable for any interest, costs and fees incurred by the department, including attorney's fees.

**Sec. 7. 22 MRSA §2501, first ¶**, as amended by PL 2011, c. 193, Pt. B, §10, is further amended to read:

Private homes are not deemed or considered lodging places and subject to a license when not more than 5 rooms are let; such private homes must post in a visible location in each rented room a card with the following statement in text that is easily readable in no less than 18-point boldface type of uniform font "This lodging place is not regulated by the State of Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention." The homes must provide guests upon check-in with a notice containing the same information. A license is not required from vacation rentals, youth camps, dormitories of charitable, educational or philanthropic institutions; or fraternity and sorority houses affiliated with educational institutions, or from private homes used in emergencies for the accommodation of persons attending conventions, fairs or similar public gatherings, nor from temporary eating establishments and temporary lodging places for the same, nor from railroad dining or buffet cars, nor from construction camps, nor from boarding houses and camps conducted in connection with wood cutting and

logging operations, nor from any boarding care facilities or children's homes that are licensed under section 7801.

**Sec. 8. 32 MRSA §1222**, as enacted by PL 1979, c. 87, §1, is amended to read:

**§1222. Licensure; penalty**

**1. License required.** ~~No~~ A person may not practice electrology in this State unless that person is ~~registered with~~ licensed by the department under this chapter. A license issued under this chapter is valid for one year from the date of issuance.

~~**2. Criminal penalty.** Any person who practices electrology in violation of subsection 1 is guilty of a Class E crime.~~

**3. Civil penalty.** A person who practices electrology without a license or who violates the sterilization, sanitation or safety standards adopted by the department under this chapter commits a civil violation for which a fine of not less than \$500 nor more than \$1,000 may be adjudged for each violation.

**4. Enforcement.** A person who fails to pay a penalty imposed pursuant to this chapter:

A. May be referred to the Attorney General for appropriate enforcement action; and

B. In addition to all fines and penalties imposed pursuant to this chapter, is liable for any interest, costs and fees incurred by the department, including attorney's fees.

**Sec. 9. 32 MRSA §1231-A**, as enacted by PL 1991, c. 416, §3, is amended to read:

**§1231-A. Licensure requirements**

**1. Licensure requirements.** Except as provided in section 1233, the department shall ~~register~~ issue a license to any person under this chapter who:

A. Is at least 17 years of age;

B. Has a high school diploma or its equivalent; and

C. Passes an inspection under section 1243 within 60 days before ~~that person is registered~~ the license is issued.

**2. Exemption.** A person who has a valid electrology license from the department as of January 1, 1991 is exempt from the requirements of subsection 1.

**3. Reciprocity.** Except as provided in section 1233 and notwithstanding the requirements of subsection 1, the department shall ~~register~~ issue a license to any applicant under this chapter who provides the department with evidence that the applicant has 3 years of experience as an electrologist in another state. That proof must consist of notarized copies of the license or registration issued by the state where the applicant last practiced electrology.

**Sec. 10. 32 MRSA §1232**, as enacted by PL 1979, c. 87, §1, is repealed.

**Sec. 11. 32 MRSA §1233, first ¶**, as enacted by PL 1979, c. 87, §1 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

The following ~~shall be~~ are grounds for the department's refusal to ~~register~~ issue a license to any person or for the District Court's suspension or revocation of the ~~registration~~ license of any person:

**Sec. 12. 32 MRSA §1233, sub-§3**, as enacted by PL 1979, c. 87, §1, is amended to read:

**3. Fraudulently obtaining license.** Attempting to ~~register~~ obtain a license or registering obtaining a license under this chapter by means of fraud or under false pretenses.

**Sec. 13. 32 MRSA §1241**, as enacted by PL 1979, c. 87, §1 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**§1241. Powers and duties**

The department ~~shall register or refuse to register persons under this chapter,~~ may investigate, inspect, examine and review persons and premises as necessary to properly administer this chapter; and may make any appropriate complaint to the District Court.

**Sec. 14. 32 MRSA §4204** is repealed and the following enacted in its place:

**§4204. Penalties**

**1. Penalty.** A person who fails to be licensed as required by this chapter, violates the sterilization, sanitation or safety standards adopted by the Department of Health and Human Services under section 4251 or performs tattooing on a minor commits a civil violation for which a fine of not less than \$500 nor more than \$1,000 may be adjudged for each violation.

**2. Enforcement.** A person who fails to pay a penalty imposed pursuant to this chapter:

A. May be referred to the Attorney General for appropriate enforcement action; and

B. In addition to all fines and penalties imposed pursuant to this chapter, is liable for any interest, costs and fees incurred by the Department of Health and Human Services, including attorney's fees.

**Sec. 15. 32 MRSA §4252**, as amended by PL 2009, c. 589, §11, is further amended to read:

**§4252. Issuance of licenses**

The Department of Health and Human Services ~~is empowered to~~ may license persons to practice the art of tattooing. Such licenses are issued ~~annually by the department upon~~

~~the payment of a~~ for a term of one year and may be renewed annually. The fee for an initial license or a renewal license may not exceed \$250. Licenses expire on September 30th of each year. All fees collected by the department pursuant to this section must be deposited in a special revenue account dedicated to a health inspection program.

**Sec. 16. 32 MRSA §4318** is enacted to read:

**§4318. Penalties**

**1. Penalty.** A person who fails to be licensed as provided by section 4312 or violates the sterilization, sanitation or safety standards adopted by the department under section 4313 commits a civil violation for which a fine of not less than \$500 nor more than \$1,000 may be adjudged for each violation.

**2. Enforcement.** A person who fails to pay a penalty imposed pursuant to this chapter:

A. May be referred to the Attorney General for appropriate enforcement action; and

B. In addition to all fines and penalties imposed pursuant to this chapter, is liable for any interest, costs and fees incurred by the department, including attorney's fees.

**Sec. 17. 32 MRSA §4327**, as enacted by PL 1997, c. 206, §1, is repealed and the following enacted in its place:

**§4327. Penalties**

**1. Penalty.** A person who fails to be licensed as provided by section 4324, violates the sterilization, sanitation or safety standards adopted by the department under section 4326 or performs body piercing on a minor without parental consent under section 4323 commits a civil violation for which a fine of not less than \$500 nor more than \$1,000 may be adjudged for each violation.

**2. Enforcement.** A person who fails to pay a penalty imposed pursuant to this chapter:

A. May be referred to the Attorney General for appropriate enforcement action; and

B. In addition to all fines and penalties imposed pursuant to this chapter, is liable for any interest, costs and fees incurred by the department, including attorney's fees.

**Sec. 18. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 18, subchapter 2, in the subchapter headnote, the word "registration" is amended to read "licensure" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 19. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

**Health - Bureau of 0143**

Initiative: Allocates funds for payment of fees to the Office of the Attorney General.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2013-14</b>	<b>2014-15</b>
All Other	\$7,200	\$7,200
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$7,200</u>	<u>\$7,200</u>