

CHAPTER 323

PRIVATE BUSINESS, TRADE AND TECHNICAL SCHOOLS

§9501. License; exemptions; definitions

1. Requirement of license. Any person located either within or outside the State shall obtain a license from the commissioner before operating or maintaining any proprietary school or before collecting any tuition, fee or other charge for operating or maintaining or soliciting for any proprietary school within the State.

[PL 1983, c. 841, §2 (AMD).]

2. Exemptions. Educational programs related to the real estate professions that are subject to approval under Title 32, chapter 114, commercial driver education schools subject to approval by the Secretary of State under Title 29-A, chapter 11, subchapter 3, schools of barbering and schools of cosmetology subject to approval by the Director of the Office of Professional and Occupational Regulation 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.

[PL 2023, c. 405, Pt. A, §46 (AMD).]

3. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Person" includes a person, partnership, association or corporation, but does not include any public agency. [PL 1983, c. 841, §2 (NEW).]

B. "Proprietary school" means a school as defined in the rules of the commissioner, but means, at a minimum, any school maintained or course of instruction conducted for the purpose of teaching any trade or any industrial, occupational, career and technical, business or technical skill, except as exempt under subsection 2. [PL 1983, c. 841, §2 (NEW); PL 1991, c. 716, §7 (AMD); PL 2003, c. 545, §6 (REV).]

[PL 1983, c. 841, §2 (NEW); PL 1991, c. 716, §7 (AMD); PL 2003, c. 545, §6 (REV).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 140, §1 (AMD). PL 1983, c. 841, §2 (AMD). PL 1991, c. 716, §7 (AMD). PL 1995, c. 402, §A47 (AMD). PL 1995, c. 505, §9 (AMD). PL 1995, c. 505, §22 (AFF). PL 1997, c. 266, §11 (AMD). PL 2003, c. 545, §6 (REV). PL 2009, c. 369, Pt. A, §29 (AMD). PL 2011, c. 286, Pt. B, §5 (REV). PL 2023, c. 405, Pt. A, §46 (AMD).

§9502. Application form; fee; bond

1. Application requirements; licensing; bonding and revocation of license. The application for a license required by this chapter must be made on forms furnished by the commissioner and be accompanied by a fee of \$100 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 department. 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 the calendar year in which it is issued. [PL 1983, c. 862, §62 (RPR).]

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 chapter or rules adopted under this chapter or breach of contract. The bond must provide for written notification by the surety to the commissioner in the event of cancellation. Cancellation of the bond by the surety, or of payment under the bond by the surety to the department or the Finance Authority of Maine, results in the revocation of the license. The bond must 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. [PL 1997, c. 771, §1 (AMD).]

C. If one or more students notify the department 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 chapter or applicable rules, or if any such event is discovered by the department 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 department. The department 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 chapter and rules adopted under this chapter, or to determine if any claim of a student against the school is valid. [PL 1997, c. 771, §1 (NEW).]

[PL 1997, c. 771, §1 (AMD).]

2. Renewal fee and requirements. A fee of \$50 is charged for the 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 commissioner shall provide copies of the audit or financial statements and, when the bond is not in favor of the department, 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 [PL 1997, c. 771, §1 (NEW).]

B. The school is in compliance with all applicable federal and state laws and regulations. [PL 1997, c. 771, §1 (NEW).]
[PL 1997, c. 771, §1 (AMD).]

3. General Fund. All fees collected for the issuance or renewal of a license shall be deposited in the State Treasury.
[PL 1983, c. 862, §62 (RPR).]

4. Definitions. As used in this section, the term "bond" means a bond, letter of credit or cash equivalent acceptable to the holder, in its discretion.
[PL 1997, c. 771, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 651, §2 (AMD). PL 1983, c. 841, §3 (AMD). PL 1983, c. 862, §62 (RPR). PL 1997, c. 266, §12 (AMD). PL 1997, c. 771, §§1,2 (AMD).

§9502-A. Complaints; license; refusal to renew; suspension; revocation

The commissioner may investigate complaints involving a school including any allegation of noncompliance with or violation of this chapter and applicable rules. The commissioner 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 IV, the commissioner may amend or modify a license and may suspend or refuse to renew a license as provided in Title 5, section 10004. [PL 1997, c. 771, §3 (NEW).]

The District Court may suspend or revoke the license of any person, partnership, association or corporation in violation of this chapter or any lawful order or rule issued by the department. [PL 1997, c. 771, §3 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1997, c. 771, §3 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF).

§9503. Penalties

1. Fines. Any person, who operates or maintains a proprietary school in violation of this chapter, or represents itself as operating and maintaining such a school, is subject to a civil penalty of not more than \$5,000, payable to the State, to be recovered in a civil act. [PL 1983, c. 841, §4 (NEW).]

2. Enforcement actions. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted. A violation of the provisions of this chapter or any rules adopted under this chapter is prima facie evidence of a violation of the Maine Unfair Trade Practices Act. Responsible owners, officers and employees of licensees are personally liable to any person harmed by intentional violations of this chapter or applicable rules, including violations of rules regarding refunds, for the amount of damage caused by the violation. [PL 1997, c. 771, §4 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 841, §4 (RPR). PL 1997, c. 771, §4 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF).

§9504. Rules

The commissioner shall adopt rules for the administration and enforcement of this chapter. The rules must establish requirements relating to advertising, records and record keeping, health and sanitation, safety, personnel, tuition, fees, contracts and other matters that protect the public and consumer interests and must establish requirements for payment of refunds, and notices and information to be provided to students. Rules adopted pursuant to this chapter are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [RR 2021, c. 2, Pt. A, §44 (COR).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 841, §5 (AMD). PL 1997, c. 771, §5 (AMD). RR 2021, c. 2, Pt. A, §44 (COR).

§9505. Regulation of schools of barbering and schools of cosmetology

(REPEALED)

SECTION HISTORY

PL 1983, c. 841, §6 (NEW). PL 1997, c. 266, §13 (RP).

§9506. License; refusal to renew; suspension; revocation

The commissioner may investigate complaints involving a school, including any allegation of noncompliance with or violation of this chapter and applicable rules. The commissioner may, after a hearing in conformance with Title 5, chapter 375, subchapter IV, to the extent applicable, amend, modify or refuse to renew any license and may revoke, suspend or refuse to renew a license as provided in Title 5, section 10004. [PL 1983, c. 841, §6 (NEW).]

The District Court may suspend or revoke the license of any person found to have violated any provision of this chapter or any lawful order or rule issued by the commissioner. [PL 1983, c. 841, §6 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1983, c. 841, §6 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF).

§9507. Hearings

The commissioner shall not refuse to renew a license for any reason other than failure to pay the required fee, unless the licensee has been given an opportunity for a hearing. [PL 1983, c. 841, §6 (NEW).]

Hearings may also be conducted by the commissioner, at the commissioner's discretion, to assist with investigations of complaints, to determine whether grounds exist for suspension, revocation, denial or nonrenewal of any license, or as otherwise deemed necessary to fulfill the responsibilities under this chapter. [PL 1983, c. 841, §6 (NEW).]

The commissioner may subpoena witnesses, records and documents in any hearing conducted pursuant to this chapter. [PL 1983, c. 841, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 841, §6 (NEW).

§9508. Actions on behalf of students

In addition to other powers or remedies under this chapter, the State may bring one or more actions in any state or federal court having jurisdiction on behalf of students harmed by fraud, misrepresentation, violation of this chapter or applicable rules, breach of contract or failure to pay refunds of tuition due from the school or its owners or employees. The Finance Authority of Maine has concurrent power to bring one or more actions in any state or federal court having jurisdiction on behalf of students harmed by failure to pay refunds of tuition due from the school or its owners or employees. [PL 1997, c. 771, §6 (NEW).]

SECTION HISTORY

PL 1997, c. 771, §6 (NEW).

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