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Legislative Document

No. 1069

S.P. 337

In Senate, March 11, 2021

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

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CLAXTON of Androscoggin.

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

2 **Sec. 1. 22 MRSA §2175**, as amended by PL 2013, c. 533, §21 to 23, is repealed.

3 **Sec. 2. 22 MRSA c. 562, headnote** is amended to read:

4 **CHAPTER 562**

5 **EATING ESTABLISHMENTS, LODGING PLACES, CAMPGROUNDS,**
6 **RECREATIONAL AND SPORTING CAMPS, YOUTH CAMPS AND EATING**
7 **ESTABLISHMENTS, PUBLIC POOLS AND PUBLIC SPAS**

8 **Sec. 3. 22 MRSA §2491, sub-§1**, as amended by PL 2011, c. 193, Pt. A, §1, is
9 further amended to read:

10 **1. Campground.** "Campground" means, in addition to the generally accepted
11 definitions, camping areas, recreational vehicle parks, seashore resorts, lakeshore places,
12 picnic and lunch grounds or other premises where tents, recreational vehicles, rental cabins
13 and cottages are permitted on 5 or more sites for compensation ~~either directly or indirectly~~
14 or indirect compensation. "Campground" includes, but is not limited to, sites intended for
15 recreational purposes rather than permanent residency. "Campground" does not include
16 parking lots or areas where camping is not authorized.

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

19 **7-F. Lodging place.** "Lodging place" means a ~~building or fixed~~ structure, or any part
20 of a ~~building or~~ structure, used, maintained, or advertised ~~or held out to the public~~ as a place
21 where sleeping accommodations are furnished ~~to the public for business purposes that~~
22 offers stays that are temporary in nature and consist of fewer than 183 days in the aggregate
23 per year. "Lodging place" includes, accommodations in the entertainment, hospitality,
24 recreation and tourism industries, including, but is not limited to, hotels, motels, bed and
25 breakfasts and, inns ~~where the owner or managing entity maintains the lodging facilities~~
26 ~~and the structures are located in the same general physical location~~. "Lodging place"
27 ~~includes a property and properties under common management at the same location where~~
28 4 or more rooms, cottages or condominium units are ~~rented to the public available~~.
29 "Lodging place" does not include vacation rentals, youth camps, dormitories of charitable,
30 educational or philanthropic institutions, fraternity or sorority houses affiliated with
31 educational institutions, permanent residences, ~~rooming houses, tenancies at will~~ or rental
32 properties with tenant and landlord relationships as described under Title 14, chapters 709
33 to 710-D, nursing facilities as defined in section 1812-A, assisted living programs as
34 defined in section 7852, subsection 4 or residential care facilities as defined in section 7852,
35 subsection 14.

36 **Sec. 5. 22 MRSA §2491, sub-§7-G** is enacted to read:

37 **7-G. Indirect compensation.** "Indirect compensation" means nonmonetary
38 consideration provided to a consumer or patron.

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

1 **10-C. Permanent residence.** “Permanent residence” means the primary location
2 where a person lives 183 days or more in a year in the aggregate, as determined in
3 accordance with department rule.

4 **Sec. 7. 22 MRSA §2491, sub-§11**, as repealed and replaced by PL 2011, c. 193,
5 Pt. A, §9, is amended to read:

6 **11. Recreational camp or sporting camp.** "Recreational camp" or "sporting camp"
7 means a building or group of buildings devoted primarily to the offering of ~~primitive eating~~
8 and lodging facilities to guests only, with 4 or more rooms or cottages for rent, for a fee to
9 persons ~~who want primitive seeking~~ recreation, including snowmobiling, hunting, fishing
10 and similar ~~camp~~ activities, not including ~~summer sports~~ programs overseen by employees
11 or volunteers of municipalities and educational institutions when the activities generally
12 take place at municipal or institutional properties and buildings.

13 **Sec. 8. 22 MRSA §2491, sub-§16**, as amended by PL 2011, c. 193, Pt. A, §13, is
14 further amended to read:

15 **16. Youth camp.** "Youth camp" means a combination of program and facilities
16 established for the primary purpose of providing an outdoor group living experience for
17 children with social, recreational, spiritual and educational objectives and operated and
18 used for 5 or more consecutive days during one or more seasons of the year. "Youth camp"
19 includes day camps, residential camps and trip and travel camps. "Youth camp" does not
20 include ~~summer sports~~ programs overseen by employees or volunteers of municipalities
21 and educational institutions when the activities generally take place at municipal or
22 institutional properties and buildings.

23 **Sec. 9. 22 MRSA §2492, sub-§1**, as amended by PL 2017, c. 322, §4, is further
24 amended to read:

25 **1. License required.** A person, corporation, firm or copartnership may not conduct,
26 control, manage or operate the following establishments for compensation, ~~directly~~ or
27 ~~indirectly~~, indirect compensation without a license issued by the department:

- 28 A. An eating establishment;
- 29 C. A lodging place;
- 30 D. A recreational camp or sporting camp;
- 31 E. A campground;
- 32 F. A youth camp;
- 33 G. A public pool; or
- 34 H. A public spa.

35 Licenses issued must be displayed in a place readily visible to customers or other persons
36 using a licensed establishment.

37 **Sec. 10. 22 MRSA §2492, sub-§3**, as amended by PL 2011, c. 193, Pt. A, §15, is
38 further amended to read:

39 **3. Campground; presumption.** If a campground consists of 5 or more tents or
40 recreational vehicles on a commercial lot, regardless of fees charged, it is presumed that
41 the owner or renter of the lot is receiving compensation for the use of a campground. The

1 owner or renter may rebut the presumption if the owner or renter presents a preponderance
2 of evidence to the contrary.

3 **Sec. 11. 22 MRSA §2494, first ¶**, as amended by PL 2017, c. 322, §5, is further
4 amended to read:

5 Each application for, or for renewal of, a license to operate an eating establishment,
6 lodging place, recreational camp, youth camp, public pool, public spa or campground
7 within the meaning of this chapter must be accompanied by a fee, appropriate to the size
8 of the establishment, place, camp, pool, spa or area of the licensee, determined by the
9 department and not to exceed the fees listed below. All fees collected by the department
10 must be deposited into a special revenue account established for this purpose. No such fee
11 may be refunded. No license may be assignable or transferable. The fees may not exceed:

12 **Sec. 12. 22 MRSA §2494, sub-§2**, as amended by PL 2011, c. 193, Pt. B, §2, is
13 further amended to read:

14 **2. Sixty One hundred dollars.** Sixty One hundred dollars for each inspection for any
15 an establishment that is located in a municipality that requires local inspections of
16 establishments to cover the costs of standardizing inspection practices; administrative
17 licensing and maintaining a centralized database; ongoing training, investigation,
18 compliance and technical assistance; and legal interpretation and advice; and

19 **Sec. 13. 22 MRSA §2495**, as amended by PL 2017, c. 322, §6, is further amended
20 to read:

21 **§2495. Issuance of licenses**

22 The department shall, within 30 days following receipt of a complete application, issue
23 an annual license to operate any eating establishment, lodging place, recreational camp,
24 youth camp ~~or~~, campground, public pool or public spa that is found to comply with this
25 chapter and the rules adopted by the department.

26 When any ~~initial~~ applicant is found, based upon an inspection by the department or by
27 municipal inspection made according to section 2499, not in compliance with the
28 requirements of this chapter or departmental ~~regulations~~ rules adopted and approved
29 pursuant to section 2496 or 2499, subsection 1, the department may refuse issuance of the
30 ~~initial~~ license, ~~but~~ and shall issue a conditional license, except when conditions are found
31 that present a serious danger to the health and safety of the public. ~~A conditional license~~
32 ~~may not exceed 90 days.~~ The department may issue only one conditional license per
33 applicant, which is valid for up to one year. Failure by the conditional licensee to meet the
34 conditions specified by the department permits the department to void the conditional
35 license.

36 The conditional license ~~shall be~~ is void when the department has delivered in hand or
37 by certified mail a written notice to the conditional licensee or, if the licensee cannot be
38 reached for service in hand or by certified mail, has left notice thereof at the facility.

39 A conditional licensee may apply for an annual license if the conditional license is
40 voided or expires. A conditional licensee must meet all conditions before applying for an
41 annual license.

42 The department may redistribute expiration dates for new and renewed licenses to
43 provide for comparable distribution of licenses on a quarterly basis throughout the year and

1 shall prorate the fees for licenses with a term less or more than one year. The prescribed
2 fee ~~shall~~ must accompany the application for a new license; or the renewal of a license.

3 Licenses ~~shall~~ must be renewed ~~upon application therefor~~ annually and upon payment
4 of the prescribed fee, including late fees, additional inspection fees and fines if assessed,
5 and subject to compliance with ~~regulations~~ rules of the department and with this chapter.
6 The department shall provide licensees with notice of the need for renewal and necessary
7 forms no less than 30 days prior to the expiration of the license.

8 The issuance of the license provided for in this chapter does not provide exemption
9 from other state or local laws, ordinances or ~~regulations~~ rules, notwithstanding any other
10 provision of law.

11 Licenses erroneously issued by the department are void and ~~shall~~ must be returned to
12 the department on demand in a notice delivered by hand or by certified mail to the licensee.
13 For cause, the department may revoke or suspend any license pursuant to section 2500.

14 **Sec. 14. 22 MRSA §2498, sub-§1, ¶C**, as amended by PL 2017, c. 322, §7, is
15 further amended to read:

16 C. ~~Any~~ The department may impose penalties up to \$5,000 on any person, corporation,
17 firm or copartnership that operates any eating establishment, lodging place,
18 recreational camp, youth camp, public pool or public spa or campground without first
19 obtaining a license as required by this chapter must be punished, upon adjudication of
20 unlicensed operation, by a fine of not less than \$25 nor more than \$200, and upon a
21 2nd or subsequent adjudication of unlicensed operation must be punished by a fine of
22 not less than \$200 nor more than \$500 an active, valid license, as determined by the
23 department. Each day any such person, corporation, firm or copartnership operates
24 without ~~obtaining a~~ an active, valid license constitutes a separate offense.

25 **Sec. 15. 22 MRSA §2499, sub-§6**, as amended by PL 2011, c. 193, Pt. A, §17, is
26 further amended to read:

27 **6. License fee.** When a license is issued to an establishment, as described in section
28 2492, subsection 1, located in a municipality to which authority to conduct inspection has
29 been delegated by the department as specified in this section, the requirement for payment
30 of a license fee by the establishment to the department as set forth in section 2494 must be
31 waived. However, the licensee is required to pay the department a sum not to exceed \$100
32 to support the costs of mailing and handling cover the costs of standardizing inspection
33 practices; administrative licensing and maintaining a centralized database; ongoing
34 training, investigation, compliance and technical assistance; and legal interpretation and
35 advice.

36 **Sec. 16. 22 MRSA §2503** is enacted to read:

37 **§2503. Articles detained, embargoed and condemned**

38 Whenever a duly designated officer or employee of the department finds or has reason
39 to believe that an establishment licensed under this chapter prepares or sells any food that
40 is adulterated pursuant to section 2156 or misbranded pursuant to section 2157, an order
41 detaining or embargoing that food may be issued to any person or persons with possession
42 or control thereof and the officer or employee may affix or require the person to whom the
43 order is directed to affix to such article a tag or other appropriate marking giving notice

1 that such article is or is suspected of being adulterated or misbranded and has been detained
2 or embargoed and warning all persons not to remove or dispose of such article by sale or
3 otherwise until permission for removal or disposal is given by such officer or employee or
4 the court. It is unlawful for any person to remove or dispose of such detained or embargoed
5 article by sale or otherwise without such permission. Orders relating to detention and
6 embargo issued pursuant to this chapter may not be considered licensing or an adjudicatory
7 proceeding, as those terms are defined under Title 5, chapter 375.

8 When any such officer or employee finds an article detained or embargoed under this
9 section to be adulterated or misbranded, the officer or employee may petition the District
10 Court or Superior Court in whose jurisdiction the article is detained or embargoed for a
11 libel for condemnation of such article if the licensee is unwilling to dispose of the article.
12 When such officer or employee has found that an article so detained or embargoed is not
13 adulterated or misbranded, the officer or employee shall remove the tag or other marking.

14 If the court finds that a detained or embargoed article is adulterated or misbranded,
15 such article must, after entry of the decree, be destroyed at the expense of the claimant
16 thereof, under the supervision of such officer or employee, and all court costs and fees and
17 storage and other proper expenses must be taxed against the claimant of such article or the
18 claimant's agent. When the adulteration or misbranding can be corrected by proper labeling
19 or processing of the article, the court, after entry of the decree and after such costs, fees and
20 expenses have been paid and a good and sufficient bond, conditioned that such article will
21 be so labeled or processed, has been executed, may by order direct that such article be
22 delivered to the claimant thereof for such labeling or processing under the supervision of
23 an officer or employee of the department. The expense of such supervision must be paid
24 by the claimant. Such bond must be returned to the claimant of the article on representation
25 to the court by the commissioner that the article is no longer in violation of this chapter and
26 that the expenses of such supervision have been paid. For purposes of this paragraph,
27 proper labeling may include displaying required information by law, on a menu board, on
28 a sign or in an open manner at the location where the article is for sale and served.

29 Whenever the commissioner or an officer or employee of the department finds in any
30 room, building, vehicle of transportation or other structure of an establishment licensed
31 under this chapter any meat, seafood, poultry, vegetable, fruit or other perishable articles
32 that are unsound or contain any filthy, decomposed or putrid substance or that may be
33 poisonous or deleterious to health or otherwise unsafe, the same being declared to be a
34 nuisance, the commissioner or the officer or employee shall forthwith destroy the same or
35 in any other manner render the same unsalable as human food.

36 The department is authorized to enact rules pursuant to this chapter to ensure
37 compliance with this chapter and to protect public health.

38 **Sec. 17. 32 MRSA §1222, sub-§1-A** is enacted to read:

39 **1-A. License renewal.** A license under this chapter may be renewed annually upon
40 payment of the prescribed fee, including late fees, additional inspection fees and fines if
41 assessed and subject to compliance with rules of the department and this chapter. The
42 department shall provide licensees with notice of the need for renewal and necessary forms
43 no less than 30 days prior to the expiration of a license.

44 **Sec. 18. 32 MRSA §1222, sub-§1-B** is enacted to read:

1 **1-B. Conditional license.** When an applicant for an initial license or a renewal license
2 is found, based upon an inspection by the department, not in compliance with this chapter
3 or rules adopted pursuant to section 1242, the department may refuse issuance of the initial
4 or renewal license, but shall issue a conditional license, except when conditions are found
5 that present a serious danger to the health and safety of the public. Failure by the conditional
6 licensee to meet the conditions specified by the department permits the department to void
7 the conditional license. The applicant may reapply for an annual license if the conditional
8 license is voided or expires; however, the department may not reissue another conditional
9 license. All conditions must be met in order for an applicant to reapply for and be issued
10 an annual license.

11 **Sec. 19. 32 MRSA §1231-A**, as amended by PL 2013, c. 264, §9, is further amended
12 to read:

13 **§1231-A. Licensure requirements**

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

- 16 A. Is at least 17 years of age;
- 17 B. Has a high school diploma or its equivalent; and
- 18 C. Passes an inspection under section 1243 within 60 days before the license is issued.

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

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

27 **Sec. 20. 32 MRSA §1233**, as amended by PL 2013, c. 264, §§11 and 12, is repealed.

28 **Sec. 21. 32 MRSA §1233-A** is enacted to read:

29 **§1233-A. Grounds for refusal, suspension or revocation**

30 The department may revoke, suspend or refuse to issue or renew a license under this
31 chapter or place a licensee on probation if:

32 **1. Conviction of crime.** The applicant or licensee has been convicted of a crime
33 related to the practice of electrology;

34 **2. Deception or misrepresentation.** The applicant or licensee has engaged in any
35 deception or misrepresentation to the department or the public in applying for a license or
36 license renewal under this chapter or in the advertising or practice of electrology;

37 **3. Negligence; incompetence; endangering the public.** The applicant or licensee
38 has demonstrated negligence or incompetence or has endangered the public in the practice
39 of electrology; or

40 **4. Violation of rule.** The applicant or licensee has violated a rule adopted by the
41 department under this chapter.

1 **Sec. 22. 32 MRSA §1243**, as amended by PL 2009, c. 589, §10, is further amended
2 to read:

3 **§1243. Inspections Right of entry, inspection and determination of compliance**

4 The department and any duly designated officer or employee of the department have
5 the right, without an administrative inspection warrant, to enter upon and into the premises
6 of any establishment licensed, or a place where a licensed electrologist practices, pursuant
7 to this chapter at any reasonable time in order to determine the state of compliance with
8 this chapter and any rules adopted by the department under this chapter. The right of entry
9 and inspection extends to any premises that the department has reason to believe is being
10 operated or maintained without a license or a place where a licensed electrologist practices,
11 but no such entry and inspection of any premises or place may be made without the
12 permission of the owner or person in charge unless a search warrant is obtained authorizing
13 entry and inspection. Determination of compliance with this chapter and any rules adopted
14 under this chapter must be made at least once every 2 years by inspection or other method
15 as determined by the department.

16 Upon any person's request and payment of a fee not to exceed \$150, the department
17 shall inspect that person's training, place of practice and equipment for compliance with
18 this chapter and the rules adopted by the department under this chapter. All fees collected
19 by the department must be deposited in a special revenue account dedicated to a health
20 inspection program.

21 **1. Additional inspection fees.** When an additional inspection is required to determine
22 an applicant's eligibility for licensure under this chapter, the department is authorized to
23 charge, in addition to the usual fees imposed pursuant to this chapter for one license, which
24 includes one licensure inspection and one follow-up inspection, an additional fee not to
25 exceed \$200 to cover the costs of each additional inspection or visit. The department may
26 impose on the applicant a penalty for the applicant's failure to pay an additional inspection
27 fee within 30 days of the billing date.

28 **Sec. 23. 32 MRSA §4201** is repealed and the following enacted in its place:

29 **§4201. Definitions**

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

32 **1. Department.** "Department" means the Department of Health and Human Services.

33 **2. Tattoo.** "Tattoo" means to insert pigment under the skin of a human being by
34 pricking with a needle or otherwise so as to produce an indelible mark or figure visible
35 through the skin.

36 **Sec. 24. 32 MRSA §4204, sub-§3** is enacted to read:

37 **3. Grounds for refusal, suspension or revocation.** The department may revoke,
38 suspend or refuse to issue or renew a license under this chapter or place a licensee on
39 probation if:

40 A. The applicant or licensee has been convicted of a crime related to the practice of
41 tattooing;

1 B. The applicant or licensee has engaged in any deception or misrepresentation to the
2 department or the public in applying for a license or license renewal under this chapter
3 or in the advertising or practice of tattooing;

4 C. The applicant or licensee has demonstrated negligence or incompetence or has
5 endangered the public in the practice of tattooing; or

6 D. The applicant or licensee has violated a rule adopted by the department under this
7 chapter.

8 **Sec. 25. 32 MRSA §4205** is enacted to read:

9 **§4205. Right of entry, inspection and determination of compliance**

10 The department and any duly designated officer or employee of the department have
11 the right, without an administrative inspection warrant, to enter upon and into the premises
12 of any establishment licensed, or a place where a person licensed under this chapter
13 practices, pursuant to this chapter at any reasonable time in order to determine the state of
14 compliance with this chapter and any rules adopted by the department under this chapter.
15 The right of entry and inspection extends to any premises that the department has reason to
16 believe is being operated or maintained without a license or a place where a person licensed
17 under this chapter practices, but no such entry and inspection of any premises or place may
18 be made without the permission of the owner or person in charge unless a search warrant
19 is obtained authorizing entry and inspection. Determination of compliance with this
20 chapter and any rules adopted under this chapter must be made at least once every 2 years
21 by inspection or other method as determined by the department.

22 **Sec. 26. 32 MRSA §4252, sub-§1** is enacted to read:

23 **1. Additional inspection fees.** When an additional inspection is required to determine
24 an applicant's eligibility for licensure under this chapter, the department is authorized to
25 charge, in addition to the usual fees under this section for one license, which includes one
26 licensure inspection and one follow-up inspection, an additional fee not to exceed \$200 to
27 cover the costs of each additional inspection or visit. The department may impose on the
28 applicant a penalty for the applicant's failure to pay an additional inspection fee within 30
29 days of the billing date.

30 **Sec. 27. 32 MRSA §4301, sub-§1** is enacted to read:

31 **1. License renewal.** A license under this chapter may be renewed annually upon
32 payment of the prescribed fee, including late fees, additional inspection fees and fines if
33 assessed and subject to compliance with rules of the department and this chapter. The
34 department shall provide licensees with notice of the need for renewal and necessary forms
35 no less than 30 days prior to the expiration of a license.

36 **Sec. 28. 32 MRSA §4301, sub-§2** is enacted to read:

37 **2. Conditional license.** When an applicant for initial licensure or license renewal is
38 found, based upon an inspection by the department, not in compliance with this chapter or
39 rules adopted pursuant to section 4251, the department may refuse issuance of the initial or
40 renewal license, but shall issue a conditional license, except when conditions are found that
41 present a serious danger to the health and safety of the public. Failure by the conditional
42 licensee to meet the conditions specified by the department permits the department to void
43 the conditional license. The applicant may reapply for an annual license if the conditional

1 license is voided or expires; however, the department may not reissue another conditional
2 license. All conditions must be met in order for an applicant to reapply for and be issued
3 an annual license.

4 **Sec. 29. 32 MRSA §4311, sub-§2**, as enacted by PL 1997, c. 383, §1, is amended
5 to read:

6 **2. Micropigmentation.** "Micropigmentation" means placing nontoxic dyes or
7 pigments into or under the ~~subcutaneous portion of the skin so as to form indelible marks~~
8 for cosmetic or medical purposes. "Micropigmentation" does not include tattooing.

9 **Sec. 30. 32 MRSA §4312, sub-§2-A** is enacted to read:

10 **2-A. License renewal.** A license under this chapter may be renewed biennially upon
11 payment of the prescribed fee, including late fees, additional inspection fees and fines if
12 assessed and subject to compliance with rules of the department and this chapter. The
13 department shall provide licensees with notice of the need for renewal and necessary forms
14 no less than 30 days prior to the expiration of a license.

15 **Sec. 31. 32 MRSA §4312, sub-§2-B** is enacted to read:

16 **2-B. Conditional license.** When an applicant for initial licensure or license renewal
17 is found, based upon an inspection by the department, not in compliance with this chapter
18 or rules adopted pursuant to section 4313, the department may refuse issuance of the initial
19 or renewal license, but shall issue a conditional license, except when conditions are found
20 that present a serious danger to the health and safety of the public. Failure by the conditional
21 licensee to meet the conditions specified by the department permits the department to void
22 the conditional license. The applicant may reapply for a biennial license if the conditional
23 license is voided or expires; however, the department may not reissue another conditional
24 license. All conditions must be met in order for an applicant to reapply for and be issued a
25 biennial license.

26 **Sec. 32. 32 MRSA §4314, sub-§1** is enacted to read:

27 **1. Additional inspection fees.** When an additional inspection is required to determine
28 an applicant's eligibility for licensure under this chapter, the department is authorized to
29 charge, in addition to the usual fees under this section for one license, which includes one
30 licensure inspection and one follow-up inspection, an additional fee not to exceed \$200 to
31 cover the costs of each additional inspection or visit. The department may impose on the
32 applicant a penalty for the applicant's failure to pay an additional inspection fee within 30
33 days of the billing date.

34 **Sec. 33. 32 MRSA §4316**, as enacted by PL 1997, c. 383, §1, is amended to read:

35 **§4316. ~~Revocation;~~ Grounds for refusal, suspension; or refusal to issue revocation**

36 The department may revoke, suspend or refuse to issue or renew a license ~~or renewal~~
37 under this chapter or place a licensee on probation if:

38 **1. Conviction.** The ~~person~~ applicant or licensee has been convicted of a crime related
39 to the practice of micropigmentation;

40 **2. Deception or misrepresentation.** Has The applicant or licensee has engaged in
41 any deception or misrepresentation to the department or the public in applying for a license
42 or license renewal under this chapter or in the advertising or practice of micropigmentation;

1 **3. Incompetence Negligence; incompetence; endangering the public.** Has The
2 applicant or licensee has demonstrated negligence, incompetence or danger to the public in
3 the practice of micropigmentation; or

4 **4. Violation of rules.** Has The applicant or licensee has violated any of the rules
5 adopted by the department under this chapter.

6 **Sec. 34. 32 MRSA §4319** is enacted to read:

7 **§4319. Right of entry, inspection and determination of compliance**

8 The department and any duly designated officer or employee of the department have
9 the right, without an administrative inspection warrant, to enter upon and into the premises
10 of any establishment licensed, or a place where a person licensed under this chapter
11 practices, pursuant to this chapter at any reasonable time in order to determine the state of
12 compliance with this chapter and any rules adopted by the department under this chapter.
13 The right of entry and inspection extends to any premises that the department has reason to
14 believe is being operated or maintained without a license or a place where a person licensed
15 under this chapter practices, but no such entry and inspection of any premises or place may
16 be made without the permission of the owner or person in charge unless a search warrant
17 is obtained authorizing entry and inspection. Determination of compliance with this
18 chapter and any rules adopted under this chapter must be made at least once every 2 years
19 by inspection or other method as determined by the department.

20 **Sec. 35. 32 MRSA §4324, sub-§1** is enacted to read:

21 **1. License renewal.** A license under this chapter may be renewed annually upon
22 payment of the prescribed fee, including late fees, additional inspection fees and fines if
23 assessed and subject to compliance with rules of the department and this chapter. The
24 department shall provide licensees with notice of the need for renewal and necessary forms
25 no less than 30 days prior to the expiration of a license.

26 **Sec. 36. 32 MRSA §4324, sub-§2** is enacted to read:

27 **2. Conditional license.** When an applicant for initial licensure or license renewal is
28 found, based upon an inspection by the department, not in compliance with this chapter or
29 rules adopted pursuant to section 4326, the department may refuse issuance of the initial or
30 renewal license, but shall issue a conditional license, except when conditions are found that
31 present a serious danger to the health and safety of the public. Failure by the conditional
32 licensee to meet the conditions specified by the department permits the department to void
33 the conditional license. The applicant may reapply for an annual license if the conditional
34 license is voided or expires; however, the department may not reissue another conditional
35 license. All conditions must be met in order for an applicant to reapply for and be issued
36 an annual license.

37 **Sec. 37. 32 MRSA §4324, sub-§3** is enacted to read:

38 **3. Additional inspection fees.** When an additional inspection is required to determine
39 an applicant's eligibility for licensure, the department is authorized to charge, in addition
40 to the usual fees under section 4325 for one license, one licensure inspection and one
41 follow-up inspection, an additional fee not to exceed \$200 to cover the costs of each
42 additional inspection or visit. The department may impose on the applicant a penalty

1 assessment for the applicant's failure to pay an additional inspection fee within 30 days of
2 the billing date.

3 **Sec. 38. 32 MRSA §4327, sub-§3** is enacted to read:

4 **3. Grounds for refusal, suspension or revocation.** The department may revoke,
5 suspend or refuse to issue or renew a license under this chapter or place a licensee on
6 probation if:

7 A. The applicant or licensee has been convicted of a crime related to the practice of
8 body piercing;

9 B. The applicant or licensee has engaged in any deception or misrepresentation to the
10 department or the public in applying for a license or license renewal under this chapter
11 or in the advertising or practice of body piercing;

12 C. The applicant or licensee has demonstrated negligence or incompetence or has
13 endangered the public in the practice of body piercing; or

14 D. The applicant or licensee has violated a rule adopted by the department under this
15 chapter.

16 **Sec. 39. 32 MRSA §4330** is enacted to read:

17 **§4330. Right of entry, inspection and determination of compliance**

18 The department and any duly designated officer or employee of the department have
19 the right, without an administrative inspection warrant, to enter upon and into the premises
20 of any establishment licensed, or a place where a person licensed under this chapter
21 practices, pursuant to this chapter at any reasonable time in order to determine the state of
22 compliance with this chapter and any rules adopted by the department under this chapter.
23 The right of entry and inspection extends to any premises that the department has reason to
24 believe is being operated or maintained without a license or a place where a person licensed
25 under this chapter practices, but no such entry and inspection of any premises or place may
26 be made without the permission of the owner or person in charge unless a search warrant
27 is obtained authorizing entry and inspection. Determination of compliance with this
28 chapter and any rules adopted under this chapter must be made at least once every 2 years
29 by inspection or other method as determined by the department.

30 SUMMARY

31 This bill:

32 1. Corrects a conflict regarding municipal fees in the Maine Revised Statutes, Title 22,
33 sections 2494 and 2499;

34 2. Makes changes to require a complete application to operate any eating
35 establishment, lodging place, recreational camp, youth camp, campground, public pool or
36 public spa, to remove the 90-day conditional license period and replace it with a conditional
37 license period of up to one year and to limit issuance of a conditional license to only one
38 per applicant;

39 3. Updates the laws governing eating establishments, lodging places, recreational
40 camps, youth camps, campgrounds, public pools and public spas to detain or embargo food
41 found to be adulterated or misbranded;

1 4. Repeals the law establishing the Maine Wild Mushroom Harvesting Certification
2 Program;

3 5. Clarifies the chapter headnote of Title 22, chapter 562, including public pools,
4 public spas, lodging places and sporting camps, and adds or clarifies definitions for "youth
5 camp," "indirect compensation," "recreational camp," "sporting camp," "lodging place"
6 and "permanent residence" under that chapter; and

7 6. Updates laws regulating electrologists and tattoo artists, persons licensed to practice
8 micropigmentation and persons licensed to practice body piercing to require payment of all
9 license fees, including late fees and additional inspection fees, allow issuance of
10 conditional licenses, provide penalties for violations and add provisions regarding right of
11 entry and inspection frequency consistent with other license types and updates and clarifies
12 the definition of "micropigmentation."