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An Act To Create a Registration Process and Permits for Vacation Rentals

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

Sec. 1. 22 MRSA §2492, as amended by PL 2017, c. 322, §4, is further amended to read:

§ 2492. License or permit required

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

- A. An eating establishment;
- C. A lodging place;
- D. A recreational camp or sporting camp;
- E. A campground;
- F. A youth camp;
- G. A public pool; or
- H. A public spa.

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

1-A. Permit required for vacation rental. A person may not conduct, control, manage or operate a vacation rental for compensation, directly or indirectly, without registering with the department and obtaining a permit from the department. In order to obtain a permit under this subsection, the applicant shall provide proof of appropriate insurance from an insurance carrier. A permit obtained pursuant to this subsection must be displayed in a place readily visible to customers or other persons using the vacation rental.

2. Violation. A person, ~~corporation, firm or copartnership~~ may not:

- A. Violate subsection 1 or 1-A; or
- B. Violate subsection 1 or 1-A after having previously violated subsection 1 or 1-A.

3. Campground; presumption. If a campground consists of 5 or more tents or recreational vehicles on a commercial lot, it is presumed that the owner or renter of the lot is receiving compensation for the use of a campground. The owner or renter may rebut the presumption if the owner or renter presents a preponderance of evidence to the contrary.

Sec. 2. 22 MRSA §2493, as enacted by PL 1975, c. 496, §3, is amended to read:

§ 2493.Applicant

~~Any~~A person, corporation, firm or copartnership desiring a license or permit shall submit satisfactory evidence of his, her or its~~the person's~~ ability to comply with the minimum standards of this chapter and all regulations~~rules~~ adopted thereunder~~pursuant to this chapter~~.

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

§ 2494.Fees

Each application for, or for renewal of, a license or permit to operate an eating establishment, lodging place, vacation rental, recreational camp, youth camp or campground ~~within the meaning of this chapter~~ must be accompanied by a fee, appropriate to the size of the establishment, place, camp or area of the licensee or permittee, determined by the department and not to exceed the fees listed below. All fees collected by the department must be deposited into a special revenue account established for this purpose. ~~No such~~A fee may not be refunded. ~~No~~A license ~~may be~~ or permit issued pursuant to this chapter is not assignable or transferable. The fees may not exceed:

1. One hundred dollars. One hundred dollars for:

A. Public schools governed by a school board of an administrative unit;

B. Private secondary schools approved for tuition when school enrollments are at least 60% publicly funded students as determined by the previous school year's October to April average enrollment; and

C. Schools operated by an agency of State Government for the education of children in unorganized territories;

2. Sixty dollars. Sixty dollars for each inspection for any establishment that is located in a municipality that requires local inspections of establishments; ~~and~~

2-A. Fifty dollars. Fifty dollars for a vacation rental required to be registered pursuant to section 2492, subsection 1-A; and

3. Three hundred dollars. Three hundred dollars for all other establishments, places and camps not included in subsection 1 ~~or~~ 2 or 2-A.

All ~~such~~ fees imposed pursuant to subsections 1, 2 and 3 are for the license, one licensure inspection and one follow-up inspection. The fee imposed pursuant to subsection 2-A is for the permit. When additional inspections are required to determine an applicant's eligibility for licensure, the department

is authorized through its rules to charge an additional fee not to exceed \$100 to cover the costs of each additional inspection or visit. Failure to pay such charges within 30 days of the billing date constitutes grounds for revocation of the license, unless an extension for a period not to exceed 60 days is granted in writing by the commissioner.

Sec. 4. 22 MRSA §2495, as amended by PL 2017, c. 322, §6, is further amended to read:

§ 2495. Issuance of licenses and permits

The department shall, within 30 days following receipt of application, issue an annual license to operate any eating establishment, lodging place, recreational camp, youth camp or campground that is found to comply with this chapter and the rules adopted by the department. The department, within 30 days following receipt of application, shall issue an annual permit to operate a vacation rental that is found to comply with this chapter and the rules adopted by the department.

When any initial applicant is found, based upon an inspection by the department or by municipal inspection made according to section 2499, not in compliance with the requirements of this chapter or departmental ~~regulations~~rules adopted and approved pursuant to section 2496 or 2499, subsection 1, the department may refuse issuance of the initial license or permit, but shall issue a conditional license or permit, except when conditions are found that present a serious danger to the health and safety of the public. A conditional license or permit may not exceed 90 days. Failure by the conditional licensee or conditional permittee to meet the conditions specified by the department permits the department to void the conditional license or permit.

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

The department may redistribute expiration dates for new and renewed licenses and permits to provide for comparable distribution of licenses and permits on a quarterly basis throughout the year and shall prorate the fees for licenses and permits with a term less or more than one year. The ~~prescribed fee~~ required by section 2494 must accompany the application for a new license or permit, or the renewal of a license or permit.

Licenses ~~shall~~ and permits must be renewed upon application ~~therefor~~ and ~~upon~~ payment of the ~~prescribed fee~~ fees and are subject to compliance with ~~regulations~~rules of the department and with this chapter. The department shall provide licensees and permittees with notice of the need for renewal and necessary forms no less than 30 days prior to the expiration of the license or permit.

The issuance of the license or permit provided for in this chapter does not provide exemption from other state or local laws, ordinances or regulations, notwithstanding any other provision of law to the contrary.

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

Sec. 5. 22 MRSA §2496, sub-§3 is enacted to read:

3. Registration of vacation rentals. The department shall establish and maintain a registry of vacation rentals for which a person has sought a permit under this chapter and shall include in the registry information including, but not limited to, ownership, violations and the resolution of those violations.

Sec. 6. 22 MRSA §2497, first ¶, as amended by PL 2011, c. 375, §2, is further amended to read:

The department and any duly designated officer or employee of the department have the right, without an administrative inspection warrant, to enter upon and into the premises of any establishment licensed or permitted pursuant to this chapter at any reasonable time in order to determine the state of compliance with this chapter and any rules in force pursuant to this chapter. ~~Such~~This right of entry and inspection extends to any premises that the department has reason to believe is being operated or maintained without a license ~~but no such~~or permit except that entry and inspection of any unlicensed or unpermitted premises may not be made without the permission of the owner or person in charge unless a search warrant is obtained authorizing entry and inspection. The department and any duly designated officer or employee of the department do not have the right to enter, for inspection under this chapter, upon and into the premises of any establishment that is licensed under chapter 551, subchapter 1.

Sec. 7. 22 MRSA §2498, as amended by PL 2017, c. 322, §7, is further amended to read:

§ 2498. Fines and penalties

1. Authorization. The department is authorized to impose one or more of the following sanctions when a violation of this chapter, or rules ~~enacted~~adopted 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, lodging place, vacation rental, 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, lodging place, vacation rental, 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~~an eating establishment, lodging place, vacation rental, recreational camp, youth camp, public pool or public spa or campground without first obtaining a license or permit as required by this chapter must be punished, upon adjudication of unlicensed or unpermitted operation, by a fine of not less than \$25 nor more than

\$200, and upon a 2nd or subsequent adjudication of unlicensed or unpermitted 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 or permit 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.

2. Schedule of penalties. The department shall establish a schedule of penalties according to the nature and duration of the violation.

3. Enforcement and appeal. Enforcement and appeal of this section ~~is~~ are as follows.

A. The department may impose any fine in conformity with ~~the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV~~4, providing the licensee or permittee the opportunity for an administrative hearing.

B. ~~Licensees~~A licensee or permittee that ~~are~~ is fined pursuant to this chapter ~~are~~ is required to pay the department the amount of the penalties. If a licensee or permittee has not paid any collectible fines by the time of its license or permit renewal, the department may collect such fines by requiring their payment prior to the processing of any license or permit renewal application. An appeal of the department's decision to fine a licensee or permittee stays the collection of any fine. Interest ~~must accrue~~accrues on fines at a rate described in Title 14, section 1602-B prior to the completion of any appeal. After the completion of any appeal process or after any appeal period has passed, interest ~~must accrue~~accrues pursuant to Title 14, section 1602-C.

Sec. 8. 22 MRSA §2499, as amended by PL 2011, c. 589, §1, is further amended by adding at the end a new paragraph to read:

This section does not apply to vacation rentals.

Sec. 9. 22 MRSA §2500, as amended by PL 1999, c. 547, Pt. B, §§41 and 78 and affected by §80, is further amended to read:

§ 2500. Suspension or revocation; appeals

When the department believes a license or permit should be suspended or revoked, it shall file a complaint with the District Court in conformity with the Maine Administrative Procedure Act. A person aggrieved by the refusal of the department to issue a license or permit may request a hearing in conformity with the Maine Administrative Procedure Act.

Whenever, upon inspection, conditions are found ~~which~~that violate this chapter or ~~regulations~~rules adopted ~~thereunder~~under this chapter, or ~~which~~that may endanger the life, health or safety of persons living in or attending any licensed or permitted establishment under this chapter, the department may request an emergency suspension of license or permit of the District Court pursuant to Title 4, section 184, subsection 6, and the court may grant suspension subject to reinstatement following a hearing before the court if cause is not shown.

Sec. 10. 22 MRSA §2501, as amended by PL 2015, c. 494, Pt. D, §4, is further amended to read:

§ 2501.Exceptions

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 are considered vacation rentals, subject to the provisions of this chapter, and 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~~inspected 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~~; dormitories of charitable, educational or philanthropic institutions or fraternity and sorority houses affiliated with educational institutions, or 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.

Rooms and cottages are not deemed or considered lodging places and subject to a license where not more than 3 rooms and cottages are let; such rooms or cottages are considered vacation rentals, subject to the provisions of this chapter.

Stores or other establishments, where bottled soft drinks or ice cream is sold for consumption from the original containers only, and where no tables, chairs, glasses or other utensils are provided in connection with such sale, are not considered eating establishments. At such establishments, straws or spoons may be provided to aid in the consumption of such bottled soft drinks or ice cream, as long as they are supplied in original individual single service sterile packages.

Nonprofit organizations including, but not limited to, 4-H Clubs, scouts and agricultural societies are exempt from department rules and regulations relating to dispensing foods and nonalcoholic beverages at not more than 12 public events or meals within one calendar year.

Sec. 11. 22 MRSA §2502, as enacted by PL 2009, c. 589, §3, is amended to read:

§ 2502.Transaction fee for electronic renewal of license or permit

The department may collect a transaction fee from a licensee or permittee who renews a license or permit electronically under this chapter. The fee may not exceed the cost of providing the electronic license or permit renewal service. The department may adopt rules necessary to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 12. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 562, in the chapter headnote, the words "campgrounds, recreational camps, youth camps and eating establishments" are amended to read "campgrounds, recreational camps, youth camps, vacation rentals and eating establishments" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

SUMMARY

Current law exempts private homes, when not more than 5 rooms are let in that home, and cottages and rooms, when not more than 3 rooms or cottages are let, from licensing as a lodging place. This bill retains that exemption from licensing for such places, but considers them vacation rentals and requires the owner of a vacation rental to register the vacation rental with the Department of Health and Human Services and obtain a permit. The permit is issued on an annual basis for a fee of no more than \$50. The department is required to establish and maintain a vacation rental registry. A vacation rental is defined in current law as 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.

This bill also makes nonsubstantive grammatical changes to reflect current drafting standards.