

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1255 - L.D. 1768

An Act To Amend the Barbering and Cosmetology Licensing Laws**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 32 MRSA §14202, sub-§3-A, as amended by PL 2011, c. 286, Pt. M, §1, is repealed.

Sec. 2. 32 MRSA §14202, sub-§5, as enacted by PL 1991, c. 397, §6, is amended to read:

5. Establishment. "Establishment" ~~or "shop"~~ means a beauty shop or salon, cosmetology shop or salon, barber hair styling shop or salon ~~or~~, hair styling shop or salon, hair design shop or salon or any premises, structure, building or part of a building where any activity licensed under this chapter is practiced.

Sec. 3. 32 MRSA §14202, sub-§5-A, as enacted by PL 2011, c. 286, Pt. M, §2, is repealed.

Sec. 4. 32 MRSA §14202, sub-§6, as enacted by PL 1991, c. 397, §6, is amended to read:

6. Mobile establishment. "Mobile ~~shop~~ establishment" means a mobile vehicle or mobile structure designed, constructed or adapted to serve as ~~a shop~~ an establishment at a number of sites and capable of being readily moved from any site at any time.

Sec. 5. 32 MRSA §14202, sub-§8, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 6. 32 MRSA §14202, sub-§8-A is enacted to read:

8-A. Practice of barber hair styling. "Practice of barber hair styling" means any one or any combination of the following practices, when done for hire or compensation, upon the head of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

A. Shaving, trimming or cutting the beard or mustache or removing superfluous hair;

B. Massaging of the scalp, face and neck and giving a facial and scalp treatment with creams, lotions, oils and other cosmetic preparations, either by hand or mechanical appliances, but such appliances may not be galvanic or faradic;

C. Shampooing or applying hair tonics and conditioners;

D. Cutting, arranging and styling human hair; or

E. Cutting, fitting or styling hairpieces or wigs.

Sec. 7. 32 MRSA §14202, sub-§9, ¶D, as enacted by PL 1991, c. 397, §6, is amended to read:

D. Arranging, dressing, curling, waving, cleansing, cutting, trimming, removing, which includes shaving, singeing, bleaching, coloring, relaxing or similarly treating the hair of any person;

Sec. 8. 32 MRSA §14202, sub-§9-A is enacted to read:

9-A. Practice of hair design. "Practice of hair design" means any one or any combination of the following practices, when done for hire or compensation, upon the head of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

A. Shaving, trimming or cutting the beard or mustache or removing superfluous hair;

B. Massaging of the scalp, face and neck and giving a facial and scalp treatment with creams, lotions, oils and other cosmetic preparations, either by hand or mechanical appliances, but such appliances may not be galvanic or faradic;

C. Shampooing or applying hair tonics and conditioners;

D. Arranging, dressing, curling, waving, cleansing, cutting, trimming, removing, singeing, bleaching, coloring, relaxing or similarly treating the hair of any person; or

E. Cutting, fitting or styling hairpieces or wigs.

Sec. 9. 32 MRSA §14202, sub-§10-A, as amended by PL 2011, c. 286, Pt. M, §4, is further amended to read:

10-A. School. "School" means a school or education institution where a program of study in cosmetology, ~~barbering, limited barbering~~ barber hair styling, hair design, aesthetics or nail technology or the instruction of cosmetology, ~~barbering, limited barbering~~ barber hair styling, hair design, aesthetics or nail technology is offered or taught.

Sec. 10. 32 MRSA §14202, sub-§11, as amended by PL 2011, c. 286, Pt. M, §5, is repealed and the following enacted in its place:

11. Student. "Student" means any person duly enrolled in a school licensed by the director and engaged in learning and acquiring a knowledge of the practice of:

A. Cosmetology;

- B. Barber hair styling;
- C. Aesthetics;
- D. Nail technology;
- E. Instructing; or
- F. Hair design.

Sec. 11. 32 MRSA §14202, sub-§13, as amended by PL 2011, c. 286, Pt. M, §6, is repealed and the following enacted in its place:

13. Trainee. "Trainee" means any person who, under the direct supervision of a person licensed under this chapter in the same category as the training performed and in accordance with rules adopted by the director, is engaged in learning and acquiring a knowledge of the practice of:

- A. Cosmetology;
- B. Barber hair styling;
- C. Aesthetics;
- D. Nail technology;
- E. Instructing; or
- F. Hair design.

Sec. 12. 32 MRSA §14203, sub-§1-A is enacted to read:

1-A. Activities exempted. A license under this chapter is not required for the following activities:

- A. Hair braiding services;
- B. Threading services for removal of unwanted facial hair;
- C. Selling makeup, oils and cosmetics and application of those products during the process of selling those products by persons employed by a retail store; and
- D. Tanning services by means of airbrushing or spray tanning.

Sec. 13. 32 MRSA §14203, sub-§2, as amended by PL 2011, c. 286, Pt. M, §7, is further amended to read:

2. Exceptions. The practice of cosmetology, ~~barbering, limited barbering~~ barber hair styling, hair design, aesthetics or nail technology may be ~~carried on~~ performed only by persons duly licensed to practice in this State and only in an establishment licensed by the director, except as provided in this subsection. Duly licensed persons may practice their respective practices:

- A. On patients in hospitals or nursing homes;
- B. On residents of youth camps;

- C. On inmates or residents of institutions of the Department of Health and Human Services or the Department of Corrections;
- D. On invalids or handicapped persons in those persons' places of residence;
- E. On residents of nursing homes;
- F. On hotel or motel occupants in their hotel or motel rooms;
- G. On persons in their residences;
- H. On persons in their private businesses;
- I. On human remains in licensed funeral establishments; and
- J. On persons at special events ~~with a special event services permit. Services rendered pursuant to this paragraph must be rendered for compensation. A person may not perform special event services without first obtaining a special event services permit from the director. The services provided pursuant to the special event services permit must comply with any applicable public health and safety requirements, the requirements of this chapter and all federal, state and local laws such as weddings, conventions and other similar events as determined by the director.~~

The services provided pursuant to this subsection must comply with any applicable health and safety requirements, the requirements of this chapter and rules adopted under this chapter and all federal, state and local laws.

Sec. 14. 32 MRSA §14203, sub-§3, as enacted by PL 2015, c. 132, §1, is repealed.

Sec. 15. 32 MRSA §14204, first ¶, as amended by PL 2011, c. 286, Pt. M, §8, is further amended to read:

A person may not instruct in any of the branches of aesthetics, ~~barbering, limited barbering~~ barber hair styling, cosmetology, hair design or nail technology unless that person holds a valid license to practice and is authorized to instruct in each respective practice issued under this chapter, except that when specifically authorized by law, physicians may instruct without holding a license to practice in a branch of aesthetics, ~~barbering, limited barbering~~ barber hair styling, cosmetology, hair design or nail technology.

Sec. 16. 32 MRSA §14205, sub-§1, as amended by PL 2011, c. 286, Pt. M, §9, is further amended to read:

1. Penalties. A person is subject to the provisions of section 14236-A and Title 10, section 8003, subsection 5-A if that person:

- A. Practices ~~barbering, limited barbering~~ barber hair styling, cosmetology, hair design, nail technology or aesthetics in this State without having obtained a license as provided by this chapter;
- B. Employs a person to practice ~~barbering, limited barbering~~ barber hair styling, cosmetology, hair design, nail technology or aesthetics who does not have a license; or

C. Falsely professes to be qualified to practice or instruct ~~barbering, limited barbering~~ barber hair styling, cosmetology, hair design, nail technology or aesthetics under this chapter.

Sec. 17. 32 MRSA §14212-A, sub-§2, ¶A, as amended by PL 2011, c. 286, Pt. M, §10, is further amended to read:

A. Requirements for the licensure of aestheticians, ~~barbers, limited barbers~~ barber hair stylists, cosmetologists, hair designers, nail technicians, ~~demonstrators~~, instructors and trainees;

Sec. 18. 32 MRSA §14212-A, sub-§2, ¶C, as enacted by PL 2009, c. 369, Pt. B, §10, is amended to read:

C. Requirements for licensing and operation of physical facilities and inspection of establishments ~~and booths~~ consistent with this chapter; and

Sec. 19. 32 MRSA §14224, sub-§1, as amended by PL 2011, c. 286, Pt. M, §11, is further amended to read:

1. Practice; license required. A person may not practice cosmetology, ~~barbering, limited barbering~~ barber hair styling, hair design, nail technology or aesthetics or act as a trainee in this State unless that person has first obtained a license as provided in this chapter.

Sec. 20. 32 MRSA §14224, sub-§2, as amended by PL 2011, c. 286, Pt. M, §12, is repealed and the following enacted in its place:

2. Level 1 establishment license and level 2 establishment license; operation; license required. A person, firm, corporation or other legal entity may not provide services in, operate or cause to be operated a level 1 establishment or a level 2 establishment where cosmetology, barber hair styling, hair design, nail technology or aesthetics is practiced unless that establishment has been licensed by the director. A level 1 establishment license or a level 2 establishment license issued pursuant to this subsection authorizes the operation of an establishment only at the location for which the license is issued. Operation of a level 1 establishment or level 2 establishment at any other location is unlawful unless a license for the new location has been obtained in compliance with this chapter and applicable rules.

A. A level 1 establishment licensee is a person who owns an establishment, who may hold a license to practice under this chapter and who may employ one or more individuals licensed to practice in one or a combination of the practices licensed under this chapter. A level 1 establishment owner may lease space or a chair or station within or on the owner's premises to a level 2 establishment owner.

B. A level 2 establishment licensee is a person who holds a license to practice under this chapter and who leases space or a chair or station, pursuant to a written agreement or contract, within or on the premises of a licensed level 1 establishment and who provides services separate and apart from the level 1 establishment licensee. A level 2 establishment licensee is not an employee of the level 1 establishment licensee from whom the level 2 establishment licensee leases space or a chair or

station and is subject to licensure, fees and compliance with laws and rules in the same manner as the level 1 establishment licensee. A person who is required to work under the supervision of a person licensed to practice under this chapter such as a holder of a temporary license issued pursuant to section 14230 or a trainee licensed pursuant to section 14232 is not eligible for a level 2 establishment license.

The director shall furnish to each licensed cosmetologist, barber hair stylist, hair designer, nail technician or aesthetician a license certifying that the holder of that license is entitled to practice in this State. The licensee shall post the license in a conspicuous place where it may be readily seen and read by all persons served. The reproduction, altering or defacing of any license is prohibited.

The exceptions listed in section 14203, subsection 2 do not permit the practice of cosmetology, barber hair styling, hair design, nail technology or aesthetics in food establishments or food preparation areas.

Sec. 21. 32 MRSA §14224, sub-§2-B, as amended by PL 2009, c. 369, Pt. B, §12, is further amended to read:

2-B. Change of ownership. The owner of a new ~~shop~~ establishment is required to apply to the director for licensure of that ~~shop~~ establishment. ~~The owner of a licensed shop that undergoes a change in location is required to reapply to the director for licensure.~~ The owner or owners of a licensed ~~shop~~ establishment that undergoes a change in ownership shall notify the director within ~~7~~ 10 calendar days of the change. If a ~~shop~~ an establishment has more than one owner and the change in ownership results from the death or divorce of one of the owners, the notice must be provided to the director as set forth in subsection 2-C. Whenever there is a change of ownership, the ~~shop~~ establishment license is valid for 30 calendar days from the transaction date to allow the new owner to comply with this section.

Sec. 22. 32 MRSA §14224, sub-§2-C, as amended by PL 2009, c. 369, Pt. B, §13, is further amended to read:

2-C. Ownership changes resulting from death or divorce of an owner. If a licensed ~~shop~~ establishment has more than one owner and ownership changes as a result of the death or divorce of one of the owners, the director shall reissue the license for the remaining license period as long as a remaining owner is named on the existing license and the director is notified within 30 calendar days of the divorce decree or the date of death. ~~A shop~~ An establishment license is valid for 60 calendar days following the death of the person in whose name the ~~shop~~ establishment is licensed.

Sec. 23. 32 MRSA §14224, sub-§2-D, as enacted by PL 1997, c. 622, §2, is repealed.

Sec. 24. 32 MRSA §14224, sub-§2-E is enacted to read:

2-E. Change of establishment location. The owner of a licensed establishment that undergoes a change in location shall notify the director, in a format as prescribed by the director, within 10 calendar days of the change in location. The director shall issue a license for the new location. The owner is not required to submit a new application and

fee. The new location is subject to all requirements for the operation of an establishment and may be subject to inspection.

Sec. 25. 32 MRSA §14224, sub-§3, as amended by PL 2011, c. 286, Pt. M, §13, is further amended to read:

3. Trainee. A trainee cosmetologist, ~~barber, limited barber~~ barber hair stylist, hair designer, nail technician or aesthetician licensed pursuant to section 14232 may not independently conduct a practice but may, as a trainee, do any or all acts constituting the practice under the immediate personal supervision of a person ~~duly~~ licensed and approved by the director in a licensed ~~shop~~ establishment.

Sec. 26. 32 MRSA §14224, sub-§4, as amended by PL 2011, c. 286, Pt. M, §14, is further amended to read:

4. Student. A student studying the practice of cosmetology, ~~barbering, limited barbering~~ barber hair styling, hair design, nail technology, aesthetics or instructing must be enrolled in a school licensed by the director pursuant to section 14233.

Sec. 27. 32 MRSA §14225, as amended by PL 2011, c. 286, Pt. M, §15, is further amended to read:

§14225. Special mobile establishment license

The director may, subject to section 14212-A, subsection 2, adopt rules authorizing the issuance of special mobile ~~shop~~ establishment licenses, including requirements for mobile ~~shops~~ establishments, locations for these ~~shops~~ establishments and any other rules that the director considers necessary. The fee for a special mobile ~~shop~~ establishment license is set under section 14238.

A special mobile ~~shop~~ establishment license issued pursuant to this section must set out on the license the area in which that mobile ~~shop~~ establishment is authorized to operate and any other special requirements or restrictions to which that license is subject. A separate license must be obtained for each municipality in which a mobile ~~shop~~ establishment operates.

Sec. 28. 32 MRSA §14226, sub-§§1 and 2, as enacted by PL 1991, c. 397, §6, are repealed.

Sec. 29. 32 MRSA §14226-A is enacted to read:

§14226-A. Qualifications; hair designer

A person is eligible to obtain a license under this chapter for the practice of hair design if that person:

1. Training. Has satisfactorily completed a course of instruction in the practice of hair design of 1,200 hours in not less than 7 months in a school licensed by the director or has experience in the practice of hair design as a trainee of 2,000 hours distributed over a period of at least 12 months; and

2. Examination. Has passed an approved examination.

Sec. 30. 32 MRSA §14227, as amended by PL 2011, c. 286, Pt. M, §§18 and 19, is repealed.

Sec. 31. 32 MRSA §14227-A, as enacted by PL 2011, c. 286, Pt. M, §20, is amended to read:

§14227-A. Qualifications; barber hair styling

A person is eligible to obtain a license under this chapter for the practice of ~~limited barbering~~ barber hair styling if that person:

1. Age. ~~Is at least 17 years of age;~~

2. Education. ~~Has satisfactorily completed the 10th grade in a secondary school or its equivalent;~~

3. Training. Has satisfactorily completed a course of instruction in the practice of ~~limited barbering~~ barber hair styling of 800 hours in not less than 5 months in a school licensed by the director or has experience in the practice of ~~limited barbering~~ barber hair styling as a trainee of 1,600 hours distributed over a period of at least 10 months; and

4. Examination. Has passed an approved examination.

Only individuals licensed under this section may hold themselves out as barber hair stylists, barbers or hair stylists.

Sec. 32. 32 MRSA §14228, sub-§§1 and 2, as enacted by PL 1991, c. 397, §6, are repealed.

Sec. 33. 32 MRSA §14229, sub-§§1 and 2, as enacted by PL 1991, c. 397, §6, are repealed.

Sec. 34. 32 MRSA §14229-A, as amended by PL 2011, c. 286, Pt. M, §23, is further amended to read:

§14229-A. Initial license; reexamination

Within one year of notification of passing an examination, the applicant must pay a fee as set under section 14238 to receive a ~~first~~ an initial license; otherwise, the applicant must retake the full examination to apply for initial licensure. The ~~first~~ initial license is valid until the next renewal period. The director has the authority to waive the one-year time period for extenuating circumstances.

Sec. 35. 32 MRSA §14230, as amended by PL 2011, c. 286, Pt. M, §24, is further amended to read:

§14230. Temporary license

If an applicant to practice cosmetology, ~~barbering, limited barbering~~ barber hair styling, hair design, nail technology or aesthetics qualifies for examination, the director may issue ~~to that applicant~~ a temporary license to practice under the direct supervision of a qualified supervisor, as determined by rules, within a licensed ~~shop~~ establishment. The applicant must pay the fee as set under section 14238. A temporary license expires 6 months from the date of issuance and is not renewable. The applicant is not considered a trainee.

Sec. 36. 32 MRSA §14231, first ¶, as amended by PL 2011, c. 286, Pt. M, §25, is further amended to read:

The director may ~~waive the examination and grant~~ issue a license to any applicant who presents proof of being licensed to practice by another state or other jurisdiction of the United States ~~or as long as no cause exists for denial of a license under section 14236-A.~~ The director may grant a license to any applicant who presents proof of being licensed in another country that maintains professional standards considered by the director to be equivalent to or higher than those set forth in this chapter, as long as no cause exists for denial of a license under section 14236-A. Such an applicant must pay the fee as provided in section 14238.

Sec. 37. 32 MRSA §14232, sub-§2, as amended by PL 2011, c. 286, Pt. M, §26, is further amended to read:

2. Filing with the director. Before beginning training, a trainee must file with the director:

- A. The employer's name, ~~shop~~ establishment name and address;
- B. The date that the training will begin;
- C. The type of training, such as cosmetology, ~~barbering, limited barbering~~ barber hair styling, hair design, nail technology or aesthetics;
- D. Evidence of age; and
- E. ~~Evidence of satisfactory completion of the 10th grade or its equivalent; and~~
- F. The name of the licensee who will directly supervise the trainee in compliance with section 14224, subsection 3.

Trainees who change their place of employment ~~must, employer or qualified supervisor shall, as prescribed,~~ notify the director within 10 calendar days of the change and must file a new. The trainee is not required to submit a new application and fee.

Sec. 38. 32 MRSA §14232, sub-§3-A is enacted to read:

3-A. Qualified supervisor; trainees per establishment. A level 1 establishment licensee may have no more than 5 trainees at one time. A level 2 establishment licensee may have no more than one trainee at one time. A qualified supervisor may not supervise more than 2 trainees at one time.

Sec. 39. 32 MRSA §14232, sub-§4, as amended by PL 2011, c. 286, Pt. M, §26, is further amended to read:

4. Renewal; display; examination. ~~The director shall furnish a trainee license to each trainee.~~ A trainee license is renewable upon payment of the fee as set under section 14238. The license must be displayed as provided for licenses in section 14224. The term "trainee" must appear in conspicuous print on the license. To be licensed as a cosmetologist, ~~barber, limited barber~~ hair stylist, hair designer, aesthetician or nail technician, a trainee, upon completion of the required training in accordance with this chapter, must pass an approved examination.

Sec. 40. 32 MRSA §14233, 2nd ¶, as amended by PL 2011, c. 286, Pt. M, §27, is further amended to read:

To be eligible for enrollment, the student must be at least 16 years of age ~~and have satisfactorily completed the 10th grade or its equivalent.~~ Schools may accept a student who is 15 years of age at the time of enrollment if the student attains 16 years of age during the course of the study enrollment period. Evidence of the student's eligibility and enrollment in the school must be maintained by the school and presented to the director or a designee of the director as required by rule and upon request.

Sec. 41. 32 MRSA §14234, as amended by PL 2009, c. 369, Pt. B, §32, is repealed.

Sec. 42. 32 MRSA §14235, first ¶, as amended by PL 2011, c. 286, Pt. M, §28, is further amended to read:

Licensees must renew their licenses ~~annually~~ by filing an application and paying the renewal fee as set under section 14238. The expiration dates for licenses issued under this chapter may be established by the commissioner.

Sec. 43. 32 MRSA §14236-A, sub-§1, as amended by PL 2011, c. 286, Pt. M, §29, is further amended to read:

1. Disciplinary action. In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the director or the director's designee may deny a license, refuse to renew a license under this chapter or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

- A. Addiction, as confirmed by professional diagnosis, to the use of alcohol or other drugs that has resulted or may result in the licensee's being unable to perform duties or being unable to perform those duties in a manner that would not endanger the health or safety of the public to be served;
- B. A professional diagnosis of mental incompetence;
- C. Engaging in false, misleading or deceptive advertising;
- D. Employing a person to practice cosmetology, ~~barbering, limited barbering~~ barber hair styling, hair design, nail technology or aesthetics who does not hold a valid license, unless that person is a trainee within the meaning of this chapter; or

E. Any negligence or misconduct in any of the practices licensed under this chapter.

Sec. 44. 32 MRSA §14246, sub-§4 is enacted to read:

4. Exemption. A career and technical education center pursuant to Title 20-A, chapter 313 that does not assess or collect tuition for a course of study offered is exempt from the surety bond or financial audit filing requirement under this section.

Sec. 45. 32 MRSA §14248, as amended by PL 2009, c. 369, Pt. B, §40, is further amended to read:

§14248. On-site evaluations

The director ~~shall~~ may conduct biennial on-site evaluations of schools to ensure compliance with this subchapter and applicable rules. The expense of the on-site evaluation must be borne by the school examined.

Sec. 46. 32 MRSA §14250, as amended by PL 2009, c. 369, Pt. B, §42, is repealed.

Sec. 47. Transition provision. Notwithstanding any provision to the contrary in the Maine Revised Statutes, Title 32, chapter 126:

1. Barber licensees. The Department of Professional and Financial Regulation shall provide each person holding an active barber license on the effective date of this Act the option of being issued a barber hair stylist license to perform haircutting services that do not involve chemical services or, if the licensee intends to perform chemical services, excluding skin care or nail technology services, a hair designer license, or, if the licensee intends to perform hair and chemical services, skin care and nail technology services, a cosmetologist license;

2. Limited barber licensees. The Department of Professional and Financial Regulation shall issue each person holding an active limited barber license on the effective date of this Act a barber hair stylist license;

3. Instructor license to teach barbering. The Department of Professional and Financial Regulation shall issue each person holding an active instructor license to teach barbering on the effective date of this Act an instructor license to teach barber hair styling;

4. Booth licensees. The Department of Professional and Financial Regulation shall issue each person holding an active booth license on the effective date of this Act a level 2 establishment license upon affirmation, by the licensee and the level 1 establishment owner, that the level 2 establishment owner is a lessee of the level 1 establishment owner and is not an employee; and

5. Demonstrator licensees. The Department of Professional and Financial Regulation shall notify each person holding an active demonstrator license on the effective date of this Act that, upon the expiration of the demonstrator license, the license will not be renewed.