

## Office of Policy and Legal Analysis

Date: April 7, 2021  
To: Joint Standing Committee on Innovation, Development, Economic Advancement and Business  
From: Rachel Olson, Legislative Analyst  
Re: LD 612, “An Act To Recognize Occupational Licenses and Certifications from Other States  
To Attract New Residents and Businesses to Maine” (Andrews)  
*And*  
LD 1131, An Act To Allow Reciprocity for Licensed Workers from Out of State (Hutchins)

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### Bill Summary

This bill creates a framework for the various government agencies, boards, departments and other governmental entities that regulate and issue licenses within the State to offer a path to certification or licensure in Maine to persons who hold occupational credentials from other states in order to allow those persons to more quickly qualify to work within their occupations or professions in Maine.

Note: The bills are duplicates of each other.

### Testimony

#### Testimony:

**Proponents (LD 612):** Representative Andrews, sponsor; Sarah Calder, Maine Health; Haley Holik, Opportunity Solutions Project; Nick Murray, Maine Policy Institute; Lisa Harvey-McPherson, Northern Light Health; Matt Marks, Associated General Contractors of Maine; Garrett Mason, Associated Builders and Contractors of Maine;

**Proponents (LD 1131):** Representative Hutchins, sponsor; Jessica Laliberte, Manufacturers Assoc. of Maine; Betsy Sweet; Ben Lucas, Maine Jobs Council; Nick Murray, Maine Policy Institute;

**Opponents (LD 612):** Commissioner Anne Head, DPR/OPOR; David Jackson, State Board of Licensure for Professional Engineers; Kim Esquibel, State of Maine Board of Nursing; Sam Hurley, Maine Emergency Medical Services; Lt. Michael Johnston, Maine State Police and Maine Department of Public Safety; Will Lund, Maine Bureau of Consumer Credit Protection; Judith Shaw, Maine Office of Securities; Timothy Terranova, Board of Medicine; Penny Vaillancourt, Board of Dental Practice; Ben Yardley, Maine Bureau of Insurance; Meredith Owen, Church World Service;

**Opponents (LD 1131):** Karla Black, Maine Office of Securities; Donald Dostie, Maine Society of Land Surveyors; Kim Esquibel, State of Maine Board of Nursing; Meredith Owen, Church World Service;

**Neither for nor against (LD 1131):** Lisa Harvey-McPherson, Northern Light Health;

**Potential Issues or Technical Problems:**

- Although this bill falls within Title 32 (Professions and Occupations), the scope of the bill can be interpreted broadly to include professions and occupations that are regulated outside of Title 32.
- The definitions used within the statute do not clearly identify the scope of certifications, occupations, licenses, and certifications that are included. What is included as a voluntary “government certification” or a “private certification” are not clear.
- The bills use the term “person” rather than “individual” – “person” can also include corporations. If moving forward, the recommendation is to change “person” to “individual”.
- The provisions within the bills may create barriers or restrictions for some occupations or professions that already have reciprocity, compact, and/or endorsement provisions in place.
- As was noted in the testimony in opposition to the bills, the requirement to “provide the person with a written decision regarding the application within 60 days” may be too prescriptive and not account for the time necessary to review certain types of criteria or to seek additional information. Also, if a board denies an occupational license or government certification under the proposed bills, the person may file an appeal. The more general process, and one seen in similar laws in other states, would include an intermediary step of a hearing.
- The \$100 fee does not align with many professional license or certification fees already in statute. It was noted that this fee may not cover the costs of the program.

**Information Requests:**

1. During the public hearing on LD 1131, the Committee requested more information on the process of teacher certification for out of state applicants.
2. The Committee requested a copy of the Arizona law about universal licensing.

*Please find information related to these two questions on the following pages, as well as emailed to Committee members and uploaded to the electronic LD file. It should be noted that §18602 of LD 621 and LD 1131 are similar to Arizona’s statute 32-4302(A).*

**Other Considerations:** The Department of Professional and Financial Regulation has submitted LD 149 that has some similar goals, but a different approach.

**Fiscal Impact:** Not yet determined (for either).

**Additional Information:**

- [Occupational Licensing Final Report: Assessing State Policies and Practices \(NCSL\)](#)
- [Universal Licensure Recognition \(NCSL\)](#)
- [Universal Licensure State – Side-by-Side comparison](#)
- [Interstate Licensure Compacts, by state](#)

IDEA Committee:

**Arizona Revised Statutes**

Title 32: Professions and Occupations, section 4302

32-4302. Out-of-state applicants; residents; military spouses; licensure; certification; exceptions

A. Notwithstanding any other law, an occupational or professional license or certificate shall be issued, in the discipline applied for and at the same practice level as determined by the regulating entity, pursuant to this title to a person who establishes residence in this state or without an examination to a person who is married to an active duty member of the armed forces of the United States and who is accompanying the member to an official permanent change of station to a military installation located in this state if all of the following apply:

1. The person is currently licensed or certified in at least one other state in the discipline applied for and at the same practice level as determined by the regulating entity and the license or certification is in good standing in all states in which the person holds a license or certification.
2. The person has been licensed or certified by another state for at least one year.
3. When the person was licensed or certified by another state there were minimum education requirements and, if applicable, work experience and clinical supervision requirements in effect and the other state verifies that the person met those requirements in order to be licensed or certified in that state.
4. The person previously passed an examination required for the license or certification if required by the other state.
5. The person has not had a license or certificate revoked and has not voluntarily surrendered a license or certificate in any other state or country while under investigation for unprofessional conduct.
6. The person has not had discipline imposed by any other regulating entity. If another jurisdiction has taken disciplinary action against the person, the regulating entity shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that jurisdiction, the regulating entity may not issue or deny a license until the matter is resolved.
7. The person does not have a complaint, allegation or investigation pending before another regulating entity in another state or country that relates to unprofessional conduct. If an applicant has any complaints, allegations or investigations pending, the regulating entity in this state shall suspend the application process and may not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved.
8. The person pays all applicable fees.
9. The person does not have a disqualifying criminal history as determined by the regulating entity pursuant to section 41-1093.04.

B. This section does not prevent a regulating entity under this title from entering into a reciprocity agreement with another state or jurisdiction for persons married to active duty members of the armed forces of the United States, except that the agreement may not allow out-of-state licensees or certificate holders to obtain a license or certificate by reciprocity in this state if the applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the regulating entity on a case-by-case basis.

C. Except as provided in subsection A of this section, a regulating entity that administers an examination on laws of this state as part of its license or certificate application requirement may require an applicant to take and pass an examination specific to the laws of this state.

D. A person who is licensed pursuant to this title is subject to the laws regulating the person's practice in this state and is subject to the regulating entity's jurisdiction.

E. This section does not apply to:

1. A license or registration certificate that is issued pursuant to chapter 24 or 26 of this title.
2. Requirements for a fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1.
3. Criteria for a license, permit or certificate of eligibility that is established by an interstate compact.
4. The ability of a regulating entity under this title to require an applicant to submit fingerprints in order to access state and federal criminal records information for noncriminal justice purposes.

F. A license or certificate issued pursuant to this section is valid only in this state and does not make the person eligible to be part of an interstate compact. A regulating entity under this title may determine eligibility for an applicant to be licensed or certified under this section if the applicant is not part of an interstate compact.

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**Research Memo: Out-of-state applicants for teacher certification  
From Rachel Olson, legislative analyst to the IDEA Committee - April 7, 2021**

In regards to the works sessions for LD 149, LD 612, and LD 1131, the Committee requested more information concerning teacher certification in Maine and the current process for individuals who are certified in another state coming to Maine and being able to teach in public schools located within the state. I have found the following information:

- There are more than 150 different endorsement for Administrators, Education Specialists, Teachers, and CTE Teachers each with their own requirements. Each endorsement has its own requirements. These generally include education requirements (both general and specific), test scores, fingerprint/background check, and student teaching or similar approved experience.
  - Example: [Secondary Education \(7-12\)](#), [Social Studies](#)
- According to the Maine DOE, there are [three pathways to certification in Maine](#):
  - Approved Teacher Preparation Program (graduate of a Maine state approved educator preparation program)
  - Transcript Analysis
  - [Out of State Applicant](#)
- For out of state applicants, the process is based on an [interstate agreement arranged by the National Association of State Directors of Teacher Education and Certification \(NASDTEC\)](#). This is [a collection of over 50 individual agreements](#) by states and Canadian provinces. Each individual “agreement” is a statement by that state or jurisdiction outline which other states’ educator certificates will be accepted by that state.
- According to the Maine DOE webpage, pathway #3: Out of State Applicant, the following may qualify you for certification:
  - If you have taught for 5 of the last 7 years under the teaching endorsement being sought in Maine, have graduated from any state approved teacher education program, and have a valid certificate in the endorsement being sought, you may qualify for Professional Certification in Maine.
  - If you graduated from any state approved teacher education program and have a valid certificate in the endorsement being sought you may be eligible for a Conditional Certificate.
  - If you did not attend an approved program, your application will be reviewed in our normal transcript analysis pathway.

As a final note, in relation to the bills being considered, LD 612 and LD 1131 do not specify if the universal licensing requirements only apply to professions licensed or regulated under Title 32. Therefore, the provisions within LD 612 and LD 1131, as currently written, could apply to occupations and professions outside of Title 32, such as teaching. The only exception provided for in LD 612 and LD 1131 is for an occupation regulated by the Supreme Judicial Court.

Thank you. I am happy to answer, to the best of my ability, any questions you may have at the work session concerning this information.

Rachel Olson, legislative analyst