

## **125th MAINE LEGISLATURE**

## FIRST REGULAR SESSION-2011

**Legislative Document** 

No. 869

S.P. 273

In Senate, March 8, 2011

An Act To Clarify the State's Authority under Public Health Laws for Municipal Inspections of Establishments

Reference to the Committee on Health and Human Services suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR. Secretary of the Senate

Presented by Senator McCORMICK of Kennebec.

- 1 Be it enacted by the People of the State of Maine as follows:
- 2 Sec. 1. 22 MRSA §2491, sub-§12, as enacted by PL 1975, c. 496, §3, is repealed.
- 3 Sec. 2. 22 MRSA §2491, sub-§17 is enacted to read:

4 **<u>17. Health inspector.</u>** "Health inspector" means a person whose education and 5 experience in the biological and sanitary sciences quality the person to engage in the 6 promotion and protection of the public health.

Sec. 3. 22 MRSA §2499, as amended by PL 2003, c. 673, Pt. X, §§4 to 6 and c.
689, Pt. B, §7, is further amended to read:

## 9 §2499. Municipal inspections

10 Notwithstanding any other provisions of this chapter, the department may issue a 11 license to <u>the</u> establishments <del>as</del> defined in section 2491 on the basis of an inspection 12 performed by <del>an</del> <u>a health</u> inspector who works for and is compensated by the 13 municipality in which such establishment is located, but only if the following conditions 14 have been met.

15 **1. Adopted ordinances; code of standards.** The municipality involved has adopted 16 a set of rules and regulations, ordinances or other <u>a</u> code of standards for such the 17 establishments which has been approved by the department and which is that are 18 consistent with the regulations <u>rules</u> used by the department for the issuance of <del>such</del> 19 licenses in effect at the time of inspection.

20 2. Qualified to make inspections. No <u>A</u> municipal employed sanitarians shall
 21 <u>health inspector may not</u> make inspections under the provisions of this chapter unless
 22 certified as qualified by the Commissioner of Health and Human Services.

**3. Inspection to ascertain intent.** The department may from time to time inspect
 such municipally inspected establishments to ascertain that the intent of these statutes is
 being followed.

4. Inspection reports. The municipalities municipality shall furnish the department
 electronic copies of its inspection reports relating to said inspections on a monthly basis
 in a format and on a schedule determined by the department.

29 5. Charge. Municipalities may not charge the department for performing such inspections.

6. License fee. When a license is issued to an eating establishment licensed under section 2492 and located in a municipality to which authority to conduct inspection has been delegated by the department as specified in this section, the requirement for payment of a license fee by the establishment to the department as set forth in section 2494 must be waived. However, the The licensee is required to pay the department a sum not to exceed \$60 set by department rules to support the costs of mailing and handling. **7. Licenses.** Licenses issued under this section must be displayed, renewed and in
 every other way treated the same as licenses issued under this chapter on the basis of
 inspection by the department.

8. Certification. Certification of municipally employed sanitarians shall health
 inspectors must be in accordance with standards set by the commissioner and shall must
 be for a period of 3 years.

7 9. Delegation renewal. Beginning January 1, 2005, and every 3 years thereafter, the 8 department shall review the restaurant inspection program of the municipalities to which authority to conduct inspections has been delegated. The process for the delegation of 9 this authority and other such provisions describing the assignment of and removal of this 10 delegation of authority must be established by rule and must include, but not be limited 11 12 to,. The department shall renew this delegation of authority if the municipality's 13 inspection program has met the provisions of this section, including staff competency, enforcement and compliance history, inspection practices and reporting practices. Rules 14 adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 15 375, subchapter 2-A. 16

## SUMMARY

18 This bill establishes the authority of and clarifies that the Department of Health and 19 Human Services is the preeminent authority for inspection and licensing of 20 establishments in order to ensure statewide uniformity of health standards. The bill 21 clarifies the terms and conditions under which the department may authorize 22 municipalities to conduct inspections of establishments within the municipality.

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