

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 1932

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H.P. 1376

House of Representatives, January 8, 2020

### **An Act To Promote Outdoor Recreational Opportunities for Maine Students**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

Presented by Representative DUNPHY of Old Town.

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

2 **Sec. 1. 12 MRSA §1806, sub-§4, ¶H**, as amended by PL 2009, c. 211, Pt. B, §3,  
3 is further amended to read:

4 H. Violates the requirements for a ~~youth~~ camp trip leader permit issued under section  
5 12860; or

6 **Sec. 2. 12 MRSA c. 927** is amended by amending the headnote to read:

7 **CHAPTER 927**  
8 **GUIDES AND ~~YOUTH~~ CAMP TRIP LEADERS**

9 **Sec. 3. 12 MRSA §12852**, as amended by PL 2009, c. 211, Pt. B, §§8 to 10, is  
10 further amended to read:

11 **§12852. Rule violations; licensed guides and trip leaders**

12 The following penalties apply to violations of rules regulating licensed guides or  
13 ~~youth~~ camp trip leaders and course instructor certificates.

14 **1. Civil.** Notwithstanding section 10650, a person who violates a rule regulating  
15 licensed guides or ~~youth~~ camp trip leaders and course instructor certificates commits a  
16 civil violation for which a fine of not less than \$100 nor more than \$500 may be  
17 adjudged.

18 **2. Criminal.** A person who violates a rule regulating licensed guides or ~~youth~~ camp  
19 trip leaders and course instructor certificates after having been adjudicated as having  
20 committed 3 or more civil violations under this Part within the previous 5-year period  
21 commits a Class E crime.

22 **Sec. 4. 12 MRSA §12853**, as amended by PL 2017, c. 441, §§1 and 2 and affected  
23 by §3, is further amended to read:

24 **§12853. License, fees and requirements; ~~youth~~ camp trip leader exception**

25 **1. Prohibition.** Except as provided in subsection 7, a person may not act as a guide  
26 without a valid license issued under this chapter.

27 **2. Penalty.** A person who violates subsection 1 commits a Class D crime for which  
28 the court shall impose a sentencing alternative involving a term of imprisonment of 3  
29 days, none of which may be suspended. The court shall also impose a fine of \$1,000,  
30 none of which may be suspended. A person violates subsection 1 each day that person  
31 acts as a guide without a valid license issued under this chapter.

32 **3. New applications.** A person ~~wishing~~ seeking to be licensed as a guide shall  
33 submit an application to the commissioner.

34 A. The commissioner shall provide application forms that request all relevant  
35 information the commissioner considers necessary.

1 B. Failure or refusal to satisfactorily answer any question in the application is a basis  
2 for the commissioner not to accept the application.

3 C. The commissioner shall decide whether the application is acceptable within 5  
4 working days of receipt.

5 D. The commissioner shall notify each applicant at least 2 weeks prior to the  
6 examination required under section 12855.

7 **4. Qualifications.** In order to qualify for a guide license, a person must:

8 A. Be at least 18 years of age;

9 B. Pass the guide examination in accordance with section 12855;

10 C. If a first-time applicant, be currently certified in first aid through completion of  
11 any standard first aid course that meets the criteria established by rule of the  
12 commissioner;

13 D. If not a first-time applicant, submit satisfactory evidence, as determined by the  
14 commissioner, of having held a guide license in this State; and

15 E. Meet all requirements established by rules of the commissioner.

16 For purposes of this subsection, "first-time applicant" means an applicant who has not  
17 previously been issued a guide license in this State.

18 **4-A. Background check.** The commissioner shall request a background check for  
19 each person who applies for a guide license under this section. The background check  
20 must include criminal history record information obtained from the Maine Criminal  
21 Justice Information System established in Title 16, section 631 and the Federal Bureau of  
22 Investigation.

23 A. The criminal history record information must be obtained and used as follows.

24 (1) The criminal history record information obtained from the Maine Criminal  
25 Justice Information System must include a record of public criminal history  
26 record information as defined in Title 16, section 703, subsection 8.

27 (2) The criminal history record information obtained from the Federal Bureau of  
28 Investigation must include other state and national criminal history record  
29 information.

30 (3) An applicant who is the subject of a Federal Bureau of Investigation criminal  
31 history record check may obtain a copy of the criminal history record check by  
32 following the procedures outlined in 28 Code of Federal Regulations, Sections  
33 16.32 and 16.33. An applicant who is the subject of a state criminal history  
34 record check may inspect and review the criminal history record information  
35 pursuant to Title 16, section 709.

36 (4) State and federal criminal history record information may be used by the  
37 department for the purpose of screening each applicant.

38 B. The Commissioner of Public Safety shall assess a fee set annually by the  
39 commissioner for each initial criminal history record check and a fee set annually by

1 the commissioner for each renewal criminal history record check required by this  
2 section.

3 C. An applicant shall submit to having fingerprints taken. The State Police, upon  
4 payment of the fee required under paragraph B by the applicant, shall take or cause to  
5 be taken the applicant's fingerprints and shall forward the fingerprints to the  
6 Department of Public Safety, State Bureau of Identification so that the bureau can  
7 conduct state and national criminal history record checks. Except for the portion of  
8 the payment, if any, that constitutes the processing fee charged by the Federal Bureau  
9 of Investigation, all money received by the State Police for purposes of this paragraph  
10 must be paid over to the Treasurer of State. The money must be applied to the  
11 expenses of administration incurred by the Department of Public Safety.

12 D. Information obtained pursuant to this subsection is confidential. The results of  
13 background checks received by the department are for official use only and may not  
14 be disclosed to any other person or entity.

15 E. A person whose guide license has expired and who has not applied for renewal  
16 may request in writing that the Department of Public Safety, State Bureau of  
17 Identification remove the person's fingerprints from the bureau's fingerprint file. In  
18 response to a written request, the bureau shall remove the person's fingerprints from  
19 the fingerprint file and provide written confirmation of that removal to the requester.  
20 The Commissioner of Public Safety may, without notice to a person, remove  
21 fingerprints from the fingerprint file maintained by the bureau if the person has not  
22 held a guide license for 7 years or more.

23 **5. Fee.** The fee for a guide license is \$135.

24 **6. Term of license.** A guide license issued under this section expires on December  
25 31st of the 4th complete year after the date of issuance.

26 **7. Exception.** A person holding a ~~youth~~ camp trip leader permit under section 12860  
27 may, without a guide license, conduct trips including adults under the auspices of the  
28 youth camp, private school or postsecondary educational institution that employs those  
29 adults, subject to all the requirements of section 12860.

30 **Sec. 5. 12 MRSA §12860**, as amended by PL 2009, c. 652, Pt. A, §16, PL 2011, c.  
31 657, Pt. W, §§5 and 7 and PL 2013, c. 405, Pt. A, §§23 and 24, is further amended to  
32 read:

33 **§12860. ~~Youth camp~~ Camp trip leader permit for youth camps, private schools and**  
34 **postsecondary educational institutions**

35 **1. When permit required.** Youth camps licensed by the Department of Health and  
36 Human Services under Title 22, section 2495, or located in another state and licensed in a  
37 similar manner, if the laws of the other state so require; private schools; and public and  
38 private postsecondary educational institutions in the State conducting trip camping shall:

39 A. Provide at least one staff member over 18 years of age for each 6 campers; and

1 B. Ensure that the staff member in charge of the trip holds a valid youth camp trip  
2 leader permit.

3 For the purposes of this subsection, "private school" has the same meaning as in Title  
4 20-A, section 1, subsection 22.

5 **1-A. Prohibition.** A person may not conduct trip camping under subsection 1  
6 without a youth camp trip leader permit issued under this section. Each day a person  
7 violates this subsection, that person commits a Class E crime for which a minimum fine  
8 of \$50 and an amount equal to twice the applicable license fee must be imposed.

9 **2. Application.** A person wishing seeking a youth camp trip leader permit must  
10 submit an application on forms provided by the commissioner and pay the application  
11 fee.

12 **3. Qualifications.** To qualify initially for a youth camp trip leader permit, an  
13 applicant must:

14 A. Show successful completion of an approved youth camp trip leader safety course  
15 or complete an application provided by the commissioner outlining in detail the  
16 applicant's experience and training as a youth camp trip leader; and

17 B. Meet any other requirements established by rule by the commissioner.

18 **4. Special waiver.** Waiver of the course requirement by the commissioner on the  
19 basis of the applicant's experience and payment of the application fee qualifies the  
20 applicant for a youth camp trip leader permit.

21 **5. Curriculum.** The commissioner shall review and adopt a youth camp trip leader  
22 safety course curriculum that includes, but is not limited to:

23 A. Training in first aid;

24 B. Training in water safety, including lifesaving techniques as appropriate; and

25 C. ~~Youth camp~~ Camp trip leader qualifications and required experience for the  
26 special waiver procedure in subsection 4.

27 The commissioner shall publish the curriculum and a current list of courses, with the  
28 approved curriculum, by name and address.

29 **6. Fee.** The initial qualifying fee for a youth camp trip leader permit is \$20. The  
30 permit may be renewed upon payment of \$15 if requirements of the department are met.

31 **7. Enforcement.** Wardens of the department, the rangers of the Bureau of Forestry  
32 and rangers of the Department of Agriculture, Conservation and Forestry, Bureau of  
33 Parks and Lands may enforce this section and may terminate any trip that is considered  
34 unsafe or in violation of this section. The commissioner shall adopt standards for what is  
35 considered an unsafe trip. The commissioner shall consider previous violations of this  
36 section when issuing or reissuing youth camp trip leader permits.

37 **Sec. 6. 12 MRSA §12904**, as amended by PL 2011, c. 253, §35, is further  
38 amended to read:

1       **§12904. Exceptions**

2             This chapter does not apply to the operation of canoes or kayaks. This chapter does  
3             not apply to guides or youth camp trip leaders licensed under chapter 927 or motorboat  
4             operators licensed under chapter 935, unless those persons are in the business of  
5             conducting commercial whitewater trips.

6   **SUMMARY**

7             This bill allows private elementary and secondary schools and public and private  
8             postsecondary educational institutions in the State to, without a guide license, conduct  
9             camping trips for students and adults associated with those institutions. The bill requires  
10            the staff member in charge of such a trip to obtain a camp trip leader permit.