

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 446

H.P. 325

House of Representatives, February 6, 1995

An Act to Consolidate the Regulation of Driver Education.

(EMERGENCY)

Reported by Representative LEMKE for the Joint Standing Committee on Audit and Program Review of the 116th Legislature pursuant to the Maine Revised Statutes, Title 3, chapter 33.


JOSEPH W. MAYO, Clerk

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 Whereas, the consolidation of the regulation of driver
6 education is necessary to relieve the Department of Education
from unwarranted responsibilities; and

8 Whereas, these provisions are immediately necessary to
10 improve management, performance, organization, program delivery
and fiscal accountability of the Board of Commercial Driver
12 Education; and

14 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
16 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
18 safety; now, therefore,

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

22 **Sec. 1. 5 MRSA §12004-A, sub-§12,** as enacted by PL 1987, c.
786, §5, is amended to read:

24 12. Board of \$35/Day 32 MRSA §9552
26 Commercial Driver Public Mem-
Education ber

28 **Sec. 2. 20-A MRSA §4728,** as enacted by PL 1983, c. 859, Pt.
30 C, §§5, 7, is amended to read:

32 **§4728. Driver education**

34 Secondary schools may offer driver education as part of the
secondary courses of study in accordance with Title 32, chapter
36 ~~316~~ 95.

38 **Sec. 3. 20-A MRSA c. 316,** as amended, is repealed.

40 **Sec. 4. 20-A MRSA §9501, sub-§2,** as amended by PL 1983, c.
841, §2, is further amended to read:

42 2. **Exemptions.** Educational programs related to the real
44 estate professions ~~which that~~ are subject to approval under Title
32, chapter 59, ~~commercial~~ driver educational schools subject to
46 approval by the Board of ~~Commercial~~ Driver Education under Title
32, chapter 95, educational programs offered by any Maine
48 nonprofit corporation, any educational programs offered by any
professional or trade association primarily for the benefit of
50 its own members and any educational institution authorized by the
laws of this State to grant a degree are exempt from the
52 requirements of this chapter.

2 **Sec. 5. 29-A MRSA §1251, sub-§5**, as enacted by PL 1993, c.
3 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the
4 following enacted in its place:

5 **5. Age limit.** With the exception of a special restricted
6 license issued under section 1256, a person may not apply for a
7 license pursuant to section 1301 until that person has attained
8 the age of 16 years and 6 months.

9
10 **Sec. 6. 29-A MRSA §1304, sub-§1, ¶G**, as enacted by PL 1993,
11 c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

12
13 G. A person who has not yet attained the age of 17 years
14 may not apply for a license until ~~3~~ 6 months after the date
15 of issue of an instruction permit.

16
17 **Sec. 7. 29-A MRSA §1351, sub-§§2 and 3**, as enacted by PL 1993,
18 c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

19
20 **2. Approved course.** ~~An--approved~~ All driver education
21 ~~course--is--a--course~~ courses must be approved by the Board of
22 Driver Education pursuant to Title 32, chapter 95 and may be
23 given by a:

24
25 A. Public secondary school;

26
27 B. Private secondary school approved for attendance
28 purposes by the Commissioner of Education;

29
30 C. Applied technology center or an applied technology
31 region; or

32
33 D. Person licensed by the Board of ~~Commercial~~ Driver
34 Education.

35
36 **3. Certificate.** A successful course completion certificate
37 may be issued if the course meets the standards adopted by the
38 ~~Commissioner~~ Board of Driver Education or the ~~commercial~~ driver
39 education school licensing requirements under Title 32, chapter
40 95. A certificate may not be issued to a person who was not at
41 least 15 years of age when beginning the course.

42
43 **Sec. 8. 29-A MRSA §1352, sub-§2, ¶B**, as enacted by PL 1993, c.
44 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

45
46 B. The program may be offered by a public secondary school,
47 a private secondary school approved for attendance purposes
48

2 by the Commissioner of Education, an applied technology
center or applied technology region or adult education
4 program conducted under Title 20-A, chapter ~~316~~ 315.

6 **Sec. 9. 29-A MRSA §1352, sub-§3, ¶C**, as enacted by PL 1993, c.
683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

8 C. A person may conduct or sponsor a motorcycle driver
education program for remuneration without the ~~commercial~~
10 driver education school or instructor license required by
Title 32, chapter 95, as long as the program and the
12 instructors are certified by the Secretary of State.

14 **Sec. 10. 29-A MRSA §2471-A** is enacted to read:

16 **§2471-A. Juvenile first-degree provisional license**

18 **1. Licensee not yet 18 years of age.** A license issued to a
person who has not yet attained the age of 18 years is a juvenile
20 first-degree provisional license. A license issued by another
jurisdiction to a person who has not yet attained the age of 18
22 years is a juvenile first-degree provisional license for the
purpose of operating a motor vehicle within this State.

24 **2. Suspension for moving violations.** If a person who holds
a juvenile first-degree provisional license is convicted or
26 adjudicated of a moving motor vehicle violation, the Secretary of
State shall suspend that person's license until that person's
28 18th birthday, or for 30 days, whichever period of time is longer.

30 **3. Hearing.** A person whose juvenile first-degree
provisional license is suspended may request a hearing pursuant
32 to section 2483.

34 **Sec. 11. 29-A MRSA §2472**, as enacted by PL 1993, c. 683, Pt.
36 A, §2 and affected by Pt. B, §5, is amended by repealing and
replacing the headnote to read:

38 **§2472. Juvenile 2nd-degree provisional license**

40 **Sec. 12. 29-A MRSA §2472, sub-§§1, 2 and 3**, as enacted by PL
42 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to
read:

44 **1. Licensee at least 18 years of age but not yet 21 years**
46 **of age.** A license issued to a person who is at least 18 years
old but who has not yet attained the age of 21 years is a
48 juvenile 2nd-degree provisional license for a period of one year
following the date of issue or until the holder attains 21 years
50 of age, whichever occurs ~~last~~ first. ~~That~~ One year after the

2 date of issue, this license remains in force as a nonprovisional
3 license ~~to the next normal expiration date~~. A license issued by
4 another jurisdiction to a person who is at least 18 years old but
5 who has not yet attained the age of 21 years is a juvenile
6 2nd-degree provisional license for the purpose of operating a
motor vehicle within this State.

8 **2. Suspension terms for moving violations.** If a person who
9 ~~has not yet attained the age of 21 years~~ holds a juvenile
10 2nd-degree provisional license is convicted or adjudicated of a
11 moving motor vehicle violation ~~that occurred within the first~~
12 ~~year from the date of issue of the juvenile provisional license~~,
13 the Secretary of State shall suspend the license:

- 14
- 15 A. For 30 days on the 1st offense;
 - 16 B. For 60 days on the 2nd offense; and
 - 17 C. To the 2nd birthday following the date of issue or for
 - 18 90 days, whichever is longer, on the 3rd offense.
- 19

20 A person whose juvenile 2nd-degree provisional license is
21 suspended may request a hearing pursuant to section 2483.

22

23 **3. Suspension for OUI conviction or certain blood-alcohol**
24 **level.** The Secretary of State shall suspend for a period of at
25 least one year, without preliminary hearing, a the juvenile
26 first-degree provisional or 2nd-degree provisional license of a
27 person who:

- 28
- 29 A. Receives an OUI conviction; or
 - 30 B. Operates a motor vehicle with a blood-alcohol level of
 - 31 0.02% or more.
- 32

33 **Sec. 13. 32 MRSA c. 95, first 2 lines**, as amended, are repealed
34 and the following enacted in their place:

35

36 **CHAPTER 95**

37

38 **DRIVING INSTRUCTION**

39

40 **Sec. 14. 32 MRSA §9501**, as enacted by PL 1981, c. 456, Pt. A,
41 §113, is amended to read:

42

43 **§9501. Short title**

44

45 This chapter may be cited as the "Licensure Act for
46 ~~Commercial~~ Driving Instruction."

2 **§9552. Membership**

4 The Board of Commercial Driver Education, as established by
6 Title 5, section 12004-A, subsection 12, administers this chapter
8 and is composed of 5 members. The Governor shall--appoint
10 appoints 4 members, as follows: Two members must be
12 representatives of Class A schools, as defined in section 9601
14 9631; one member must be a representative--of Class B schools
16 instructor, as defined in section 9601 9631; and one member must
18 be a public representative. The 5th member is the Director of the
Bureau of Motor Vehicles or that director's designee. The term of
office of each member is 4 years, except that, of the 3 school
members on the first board appointed under this subchapter, one
is appointed for 2 years and one is appointed for 3 years. After
the initial appointments, appointments are for 4-year terms.
Appointments of members must comply with section 60. A board
member may be removed by the Governor for cause.

20 **Sec. 22. 32 MRSA §9553-A, sub-§§1, 3 and 4**, as enacted by PL
1983, c. 413, §234, are amended to read:

22 **1. Meetings.** The board shall meet at least once a year to
24 conduct its business and to elect its officers. Additional
26 meetings shall may be held as necessary to conduct the business
28 of the board and may be convened at the call of the ~~chairman~~
30 chair or a majority of the board members. Three members of the
board shall constitute a quorum for all purposes. The board
shall keep such records and minutes as are necessary to the
ordinary dispatch of its functions.

32 **3. Rules.** The board may, in accordance with the procedures
34 established by the Maine Administrative Procedure Act, Title 5,
36 chapter 375, ~~subchapter II~~, may adopt rules as ~~may be~~ reasonably
38 necessary for the proper performance of its duties and the
administration of this chapter, including rules governing the
curriculum, facilities, operations and the issuance and renewal
of licenses for instructors and each type of commercial and
noncommercial driver education school set forth in this chapter.

40 **4. Hearings.** Hearings may be conducted by the board to
42 assist with investigations, to determine whether grounds exist
44 for suspension, revocation or denial of a license, or as
otherwise ~~deemed~~ considered necessary to the fulfillment of its
responsibilities under this chapter.

46 The board shall may not refuse to renew a license for any reason
48 other than failure to pay a required fee, unless it has afforded
50 the licensee an opportunity for an adjudicatory hearing. The
board shall hold an adjudicatory hearing at the written request
of any person who is denied a license without a hearing for any

2 reason other than failure to pay a required fee, ~~provided that as~~
3 long as the request for hearing is received by the board within
4 30 days of the applicant's receipt of written notice of the
5 denial of ~~his~~ the applicant's application, the reasons for the
6 denial of ~~his~~ the applicant's application and ~~his~~ the applicant's
7 right to request a hearing. Hearings ~~shall~~ must be conducted in
8 conformity with the Maine Administrative Procedure Act, Title 5,
9 chapter 375, subchapter IV, to the extent applicable. The board
10 may subpoena witnesses, records and documents in any hearing it
11 conducts.

12 **Sec. 23. 32 MRSA §9554**, as repealed and replaced by PL 1983,
13 c. 812, §255, is amended to read:

14 **§9554. Compensation and expenses of board members**

15 Members of the board ~~shall be compensated~~ are eligible for
16 compensation according to the provisions of Title 5, chapter 379,
17 ~~except that the public members shall be compensated for no more~~
18 ~~than 4 days per calendar year.~~

19 **Sec. 24. 32 MRSA §9555**, as enacted by PL 1983, c. 413, §235,
20 is amended to read:

21 **§9555. Suspension or revocation of license**

22 The board may suspend or revoke a license pursuant to Title
23 5, section 10004. The board may refuse to issue or renew a
24 license or the Administrative Court may suspend, revoke or refuse
25 to renew the license of any commercial or noncommercial driver
26 education school or instructor who has violated any provision of
27 this chapter or any rule adopted by the board.

28 **Sec. 25. 32 MRSA §9601**, as corrected by RR 1991, c. 2, §121,
29 is repealed.

30 **Sec. 26. 32 MRSA §9602**, as corrected by RR 1991, c. 2, §122,
31 is amended to read:

32 **§9602. Driver education school license requirements**

33 ~~The board shall, with the approval of the commissioner and~~
34 ~~under the Maine Administrative Procedure Act, Title 5, chapter~~
35 ~~375, establish rules governing the curriculum, facilities,~~
36 ~~operations and the issuance and renewal of licenses for each type~~
37 ~~of commercial driver education school set forth in section 9601.~~
38 In addition, ~~all licenses shall meet the following requirements~~
39 to rules adopted pursuant to section 9553-A, subsection 3, the
40 following provisions apply.

2 **1. Insurance requirements.** The board shall ~~may~~ not issue
4 any license for a ~~commercial~~ driver education school until the
6 applicant has procured and filed with the commissioner a
8 certificate showing that the applicant is covered by an
10 automobile bodily injury and property damage liability insurance
12 policy, insuring against any legal liability in accordance with
14 the terms of the policy for personal injury or death of any one
16 person in the sum of \$100,000 and for any number of persons in
18 the sum of \$300,000, and against property damage in the sum of
20 \$100,000, which injury, death or damage may result from or have
22 been caused by the operation of any vehicle being used under this
chapter. In lieu of ~~such~~ this insurance, the applicant may file
with the commissioner a bond or bonds issued by a surety company
authorized to do business in the State in the amount of at least
\$100,000 on account of injury to or death of one person, and
subject to such limits, as respects injury to or death of one
person, of at least \$300,000 on account of any one accident
resulting in injury or death of more than one person and of at
least \$100,000 for damage to property of others. Failure to
maintain compliance with this section ~~shall--be~~ is grounds for
suspension or revocation of a ~~commercial~~ driver education school
license, as provided in section 9555.

24 **2. Maintenance of records.** Every ~~commercial~~ driver
26 education school shall keep records on such forms as the board
28 prescribes. They shall must include the name and address of each
instructor, the board license number of each instructor, the
specific type of instruction given to each enrolled student and
30 ~~such~~ other information as that the board requires. The records
shall must be open to inspection by the board at all reasonable
32 times. Failure to keep ~~such~~ these records is a Class E crime.

34 **3. Training vehicles.** Every vehicle used as a training
36 vehicle shall must be maintained in safe mechanical condition at
all times. Each Class 3 C vehicle, as defined in Title 29 29-A,
section 530 1252, shall must be equipped with dual foot brakes
and, if the vehicle is not equipped with an automatic
38 transmission, dual clutch pedals. While engaged in actual
instruction, every vehicle must be equipped with an
40 identification sign, listing the name of the school, and a
student driver sign.

42
44 The following vehicles are exempt from this subsection, provided
46 that they are equipped with dual controls as stated in this
section and comply with any other requirements of this chapter:

48 A. Any vehicle, specially equipped for use by a handicapped
50 person, ~~which~~ that is being used to instruct a handicapped
person; and

2 B. Any vehicle ~~which~~ that is being used to instruct a
4 person in possession of a valid Maine driver's license or
instruction permit not provided by the driving school.

6 **4. Curriculum at Class A schools.** The Class A school
curriculum ~~shall~~ must consist of at least 30 hours of classroom
8 instruction and at least 6 hours of ~~behind--the--wheel~~
behind-the-wheel instruction before a student may be issued a
10 course completion certificate. Classroom instruction ~~shall-be~~ is
limited to not more than 4 hours in any one 24-hour period.
12 Behind-the-wheel instruction is limited to not more than 2 hours
actual driving time per student in any single 24-hour period.
14 Instruction in motorcycle safety ~~shall~~ must conform to standards
which that are established by the board. ~~The--instructor--and~~
16 ~~students---are---required---to---use---seat---belts---during---the~~
~~behind-the-wheel-instruction.~~

18 ~~5. School contracts.~~ ~~Commercial driver education schools~~
remain ~~subject to the requirements of this chapter while~~
20 ~~providing driver education services pursuant to Title 20-A,~~
~~chapter 316 on a contract basis to a public secondary school, a~~
22 ~~private secondary school approved for attendance purposes by the~~
~~Commissioner of Education, an applied technology center, an~~
24 ~~applied technology region, an adult education program conducted~~
~~pursuant to Title 20-A, chapter 315 or a technical college.~~

26 **6. Required instruction.** Every ~~commercial~~ driver education
28 school ~~must~~ shall inform its students of the existence and the
practical purpose of handicapped parking laws and ordinances.
30

32 **7. Use of seat belts.** All instructors and students of
driver education shall use seat belts during the behind-the-wheel
instruction portion of the course.
34

36 **Sec. 27. 32 MRSA §9603**, as amended by PL 1983, c. 413, §237,
is further amended to read:

38 **§9603. Instructor license requirements**

40 The board ~~shall~~, with the approval of the commissioner,
shall establish rules governing the issuance and renewal of
42 licenses for each type of instructor set forth in section 9601
9631. In addition to requirements set forth by the board, all
44 applicants ~~shall~~ must meet the following minimum requirements.

46 **1. Age and education.** An applicant ~~shall~~ must be at least
21 years of age and have a high school diploma or its equivalent.
48

50 **2. Health.** An applicant ~~shall~~ may not be subject to
uncontrolled seizures, diabetic blackouts or any type of disease
causing momentary lapse of consciousness.

2 **3. Driving record.** An applicant shall must have at least 4
4 years of driving experience as a licensed operator and a
conviction-free motor vehicle record for one year prior to the
6 date of application.

8 **4. Examination.** An applicant shall must pass an examination
consisting of the knowledge, vision and road tests in the type of
10 vehicle for which the license is to be used, as prescribed by the
board, and tests to determine knowledge and understanding of an
12 appropriate driving textbook, which the board may prescribe, and
the State of Maine Driver License Examination Manual. The board
14 may not waive any part of the prescribed examination for a
~~eommercial~~ driver education instructor's license. An examination
16 fee may be established by the board in an amount which that is
reasonable and necessary for its purpose.

18 **5. Association with driver education school.** An applicant
shall must be employed by or associated with a ~~eommercial~~ driver
20 education school licensed by the board.

22 **6. Additional Class A requirements.** In addition, an
applicant for a Class A license shall must have satisfactorily
24 completed an educational program prescribed by the board to
assure ensure that the applicant is trained in the teaching of
26 driver education in the classroom and on the road. At a minimum,
this program shall must include a ~~college--level~~ college-level
28 course or its equivalent in the teaching of driver education and
a ~~college--level~~ college-level course or its equivalent in
30 psychology or teaching methods.

32 **Sec. 28. 32 MRSA §9604**, as enacted by PL 1981, c. 456, Pt. A,
§113, is amended to read:

34 **§9604. Display of license**

36 Each person granted a ~~eommercial~~ driver education school
38 license shall display the license conspicuously on the school
premises. Each person granted an instructor's license shall carry
40 the license in his that person's possession while engaged in
giving ~~eommercial~~ driver education instruction.

42 **Sec. 29. 32 MRSA §9605**, as amended by PL 1991, c. 509, §29,
44 is further amended to read:

46 **§9605. Licensing fees**

48 **1. Driver education school license.** Each application for a
~~eommercial~~ driver education school must be accompanied by an
50 application fee established by the board in an amount that is

2 reasonable and necessary for its purposes, which may not be
3 refunded. If the application is approved by the board, the
4 applicant, upon payment of a fee of not more than \$250, must be
5 granted a license, which is valid during the calendar year of its
6 issue unless sooner revoked as provided. The renewal fee is may
not be more than \$250.

8 **2. Instructor license.** Each application for an
9 instructor's license must be accompanied by an application fee
10 established by the board in an amount that is reasonable and
11 necessary for its purpose, which may not be refunded. If the
12 application is approved by the board, the applicant, upon payment
13 of a fee of not more than \$125, must be granted a license, which
14 is valid during the calendar year of its issue unless sooner
15 revoked. The renewal fee is may not be more than \$125.

16 **3. License renewal.** Each license issued under this chapter
17 shall ~~expire on December 31st of the year~~ expires 12 months from
18 its date of its issuance, or, if not reissued or renewed, such
19 other date as may be established by the commissioner, if not
20 renewed board. Each succeeding period of licensure commences
21 from the date of expiration of the preceding license, regardless
22 of the date upon which the succeeding license is issued. Every
23 person licensed under this chapter shall submit, on or before the
24 annual expiration day, ~~submit~~ an application for license renewal
25 together with the prescribed renewal fee. A license may be
26 renewed up to 90 days after the date of expiration upon payment
27 of a late fee of \$10 in addition to the renewal fee. Any person
28 who submits an application for renewal more than 90 days after
29 the license renewal date shall ~~be~~ is subject to all requirements
30 governing new applicants under this chapter, except that the
31 board may in its discretion, giving due consideration to the
32 protection of the public, waive examination if the renewal
33 application is made within 2 years from the date of the
34 expiration.

36 **Sec. 30. 32 MRSA §9606**, as enacted by PL 1981, c. 456, Pt. A,
37 §113, is amended to read:

38 **§9606. Disposition of fees**

39 All fees received by the board under this chapter shall must
40 be used to carry out the purposes of this chapter. Any balance of
41 these fees shall may not lapse, but shall must be carried forward
42 as a continuing account to be expended for the same purposes in
43 the following fiscal years.

44 **Sec. 31. 32 MRSA §9607**, as amended by PL 1991, c. 837, Pt. A,
45 §78, is further amended to read:

2 **§9607. Examination and investigation activities and**
3 **expenses**

4 ~~Every commercial driver education school shall be assessed~~
5 ~~for the actual expenses incurred by the board or its agents for~~
6 ~~special investigations or enforcement activities undertaken under~~
7 ~~this chapter.~~

8 **1. Frequency of inspections.** ~~These activities shall include~~
9 ~~at least~~ The board may conduct an annual on-site visit to the
10 ~~main office of each commercial~~ a driver school for the purpose of
11 reviewing records, facilities and operating procedures, but need
12 not inspect a school on an annual or otherwise periodic basis.
13 The cost of one on-site inspection of a school ~~shall be deemed to~~
14 ~~be covered by~~ is included in the school's annual license fee.

15 **2. Agents.** The board may contract with the Bureau of Motor
16 Vehicles in the Department of the Secretary of State to serve as
17 an agent for the purposes of this section.

18 **3. Assessment and payment procedures.** The assessment shall
19 must include the proportionate part of the salaries of the
20 board's agents while engaged in these activities and related
21 travel expenses. The commissioner shall make the assessment shall
22 ~~be made by the commissioner~~ as soon as feasible after the close
23 of each inspection or investigation and ~~sent~~ send the assessment
24 to the licensee. The amount of assessment shall must be paid to
25 the Treasurer of State within 30 days following receipt by the
26 licensee. The licensee shall must receive a copy of the findings
27 which that result from each inspection or investigation no more
28 than 45 days after the findings are filed with the board.

29 **Sec. 32. 32 MRSA §9608, first ¶,** as amended by PL 1983, c. 413,
30 §239, is further amended to read:

31 Any person who operates a ~~commercial~~ driver education school
32 or acts as a ~~commercial~~ an instructor without a license is guilty
33 of a Class E crime.

34 **Sec. 33. 32 MRSA §9609,** as enacted by PL 1981, c. 456, Pt. A,
35 §113, is amended to read:

36 **§9609. Insurance for graduates**

37 Rating bureaus or independent insurers as recognized by the
38 Insurance Superintendent may grant an automobile insurance
39 discount for commercial and noncommercial driver education school
40 graduates ~~on the same basis as is granted for public school~~
41 ~~driver education graduates,~~ provided that the graduate is
42 certified by a commercial or noncommercial driver education

2 school, and the commercial or noncommercial school is approved in
accordance with this chapter.

4 **Sec. 34. 32 MRSA c. 95, sub-cc. IV and V** are enacted to read:

6 **SUBCHAPTER IV**
8 **NONCOMMERCIAL DRIVER EDUCATION SCHOOLS**

10 **§9621. Driver education**

12 Public secondary schools, approved private secondary
14 schools, applied technology centers, applied technology regions
16 and adult education programs conducted pursuant to Title 20-A,
chapter 315 constitute noncommercial settings for the purposes of
this chapter and may offer courses in driver education.

18 **§9622. License required**

20 A person may not operate a driver education school in a
22 noncommercial setting or act as an instructor in a noncommercial
setting without first being licensed under this chapter.

24 **§9623. Requirements**

26 Board rules prescribed for the conduct and operation of
28 driver education courses in noncommercial settings pursuant to
section 9553-A, subsection 3 must be functionally equivalent to
any similar requirements prescribed by statute or rule for driver
education delivered in commercial settings.

30 A state subsidy, a state reimbursement for expenditures on
32 adult education programs or a state reimbursement for adult
34 vocational education programs may not be paid with respect to any
36 driver education course offered in a noncommercial setting that
has not been approved by the board.

38 **§9624. Instructors**

40 Instructors of driver education in noncommercial settings
must be licensed in accordance with section 9631, subsection 2.

42 **§9625. Contracts**

44 A public secondary school, an approved private secondary
46 school, an applied technology center, an applied technology
48 region or an adult education program conducted pursuant to Title
20-A, chapter 315 may contract with a commercial driver education
school to provide driver education as part of the secondary
school curriculum. Commercial driver education schools remain

2 subject to the requirements of this chapter while providing
3 driver education services on a contract basis to a public
4 secondary school, a private secondary school approved for
5 attendance purposes by the Commissioner of Education, an applied
6 technology center, an applied technology region, an adult
7 education program conducted pursuant to Title 20-A, chapter 315
8 or a technical college.

9 **§9626. Fee charged**

10 A public secondary school may provide driver education after
11 the regular school day during the school year as part of its
12 secondary course of study and may charge a fee based upon per
13 pupil costs, but may not allow credit toward a high school
14 diploma for that paid instruction.

15 **SUBCHAPTER V**
16 **COMMERCIAL DRIVER EDUCATION SCHOOLS**

17 **§9631. License required**

18 A person may not operate a commercial driver education
19 school or act as an instructor without first being licensed under
20 this chapter.

21 **1. Commercial driver education school licenses.** The
22 following types of commercial driver education school licenses
23 may be issued by the board.

24 **A.** A Class A school license must be granted to a commercial
25 driver education school that employs Class A instructors, as
26 defined in this section, and is authorized to teach both the
27 classroom and the behind-the-wheel or road phases of driver
28 education.

29 **B.** A Class B school license must be granted to a commercial
30 driver education school that employs Class B instructors, as
31 defined in this section, and is authorized to teach only the
32 behind-the-wheel or road phases of driver education to
33 persons holding a State of Maine instruction permit.

34 **C.** A truck training supplement license may be granted only
35 to a Class A school that is authorized to provide driver
36 education for Class A or B vehicles, as defined in Title
37 29-A, section 1252.

38 **2. Instructors' licenses.** The following types of
39 instructors' licenses may be issued by the board.

2 A. A Class A instructor's license entitles the holder to
4 teach both the classroom and the behind-the-wheel or road
 phases of driver education for Class C vehicles, as defined
 in Title 29-A, section 1252.

6 B. A Class B instructor's license entitles the holder to
8 teach only the behind-the-wheel or road phases of driver
 education for Class C vehicles, as defined in Title 29-A,
 section 1252.

10 C. A truck training supplemental instructor's license
12 entitles the holder to teach both the classroom and the
14 behind-the-wheel or road phases of driver education for
 Class A or B vehicles, as defined in Title 29-A, section
 1252.

16 **Sec. 35. Driver education programs; impact on licenses; certifications**
18 **in effect.** All licenses or certifications issued pursuant to the
20 authority in the Maine Revised Statutes, Title 20-A, chapter 316
22 or Title 32, chapter 95 that are in effect on the effective date
 of this Act continue to be valid under the terms of issuance
 until they expire or are rescinded, amended, revised or revoked
 by the proper authority.

24 **Sec. 36. Driver education programs; transition provisions.** All
26 existing rules, regulations and procedures in effect, in
28 operation or promulgated by the Department of Education regarding
 the administration of driver education programs in public
30 secondary schools, approved private secondary schools, applied
 technology centers, applied technology regions and adult
32 education programs conducted pursuant to the Maine Revised
 Statutes, Title 20-A, chapter 315 are in effect and continue in
34 effect until rescinded, revised or amended by the proper
 authority.

36 All existing contracts, agreements, compacts, leases,
38 authorizations, notes or bonds that had been in effect on the
 effective date of this Act continue to be valid under the terms
40 of issuance until they expire or are rescinded, amended, revised
 or revoked by the proper authority.

42 Any positions or parts of positions authorized and allocated
44 within the Department of Education or the Department of
 Professional and Financial Regulation regarding driver education
46 may continue to be authorized.

48 All records or copies of records regarding the
50 administration and operation of driver education programs in
 public secondary schools, approved private secondary schools,
 applied technology centers, applied technology regions and adult

2 education programs conducted pursuant to the Maine Revised
3 Statutes, Title 20-A, chapter 315 within the jurisdiction of the
4 Department of Education must be transferred to the Department of
5 Professional and Financial Regulation within a reasonable time
6 period following the effective date of this Act.

7 The consolidation of regulatory authority over both
8 commercial and noncommercial driver education programs with the
9 Board of Commercial Driver Education does not affect the terms of
10 current board members. All current regulations of the board
11 continue in effect until rescinded, amended or changed by the
12 board.

13 The member of the board serving as a representative of Class
14 B schools may continue to serve until the scheduled expiration of
15 that member's term.

16 The Board of Driver Education within the Department of
17 Professional and Financial Regulation is the successor in every
18 way to the powers, duties and functions of the former Board of
19 Commercial Driver Education within the Department of Professional
20 and Financial Regulation.

21 All existing rules, regulations and procedures in effect, in
22 operation or adopted in or by the Board of Commercial Driver
23 Education within the Department of Professional and Financial
24 Regulation or any of its administrative units or officers, remain
25 in effect and continue in effect until rescinded, revised or
26 amended by the proper authority.

27 All existing contracts, agreements and compacts in effect on
28 the effective date of this Act in the Board of Commercial Driver
29 Education within the Department of Professional and Financial
30 Regulation continue in effect.

31 All records, property and equipment previously belonging to
32 or allocated for the use of the former Board of Commercial Driver
33 Education within the Department of Professional and Financial
34 Regulation become on the effective date of this Act part of the
35 property of the Board of Driver Education within the Department
36 of Professional and Financial Regulation.

37 All existing forms, licenses, letterheads and similar items
38 bearing the name of or referring to the "Board of Commercial
39 Driver Education" within the Department of Professional and
40 Financial Regulation may be used by the Board of Driver Education
41 within the Department of Professional and Financial Regulation
42 until existing supplies of those items are exhausted.

2 All accrued expenditures, assets, liabilities, balances of
funds, transfers, revenues or other available funds of the former
4 Board of Commercial Driver Education must be reallocated to the
Board of Driver Education.

6 **Sec. 37. Revision clause.** Wherever in the Maine Revised
Statutes the words "Board of Commercial Driver Education" appear
8 or reference is made to those words, they are amended to read and
mean "Board of Driver Education" and the Revisor of Statutes
10 shall implement these revisions when updating, publishing or
republishing the statutes.

12 **Emergency clause.** In view of the emergency cited in the
14 preamble, this Act takes effect when approved.

16 **FISCAL NOTE**

18

	1995-96	1996-97
20 REVENUES		
22 Highway Fund	(\$139,780)	\$21,200

24 The increasing of the motor vehicle operator license age and
26 the extension of the waiting period before the road test will
result in a one-time reduction of Highway Fund revenue of
28 \$160,980 in fiscal year 1995-96.

30 Establishing Juvenile First and Second Degree operator
licenses will increase Highway Fund revenue by \$21,200 annually
32 beginning in fiscal year 1995-96 from the collection of
additional reinstatement fees after provisional license
34 suspensions.

36 Removing the jurisdiction for the regulation of the
provision of driver education in school settings from the
38 Department of Education will result in minor administrative
savings to the department's Division of School Business Services.

40 The Board of Commercial Driver Education will incur some
42 minor additional costs to administer new statutory provisions and
requirements. These costs can be absorbed within the board's
44 existing budgeted resources.

46 **STATEMENT OF FACT**

48 Section 1 changes the name of the Board of Commercial
50 Driver Education to the Board of Driver Education.

2 Sections 2 to 4, 7 to 9, 13 to 20, 22, 24, 25, 27, 28 and 30
to 34 relieve the Department of Education of its responsibility
4 to regulate the provision of driver education in school settings
and broaden the jurisdiction of the Board of Commercial Driver
6 Education to regulate the provision of driver education not only
in private and commercial settings but in public school settings
as well.

8
10 Section 5 prohibits a person from applying for an operator's
license until that person is at least 16 years and 6 months old.

12 Section 6 requires that a person less than 17 years old must
hold an instructional permit for at least 6 months prior to
14 licensure, rather than the current 3 months.

16 Sections 10 to 12 differentiate a first-degree from a
2nd-degree provisional license and set certain penalties,
18 respectively, for operators in each category who are convicted or
adjudicated of a moving motor vehicle violation.

20
22 Section 21 changes the membership of the Board of Commercial
Driver Education.

24 Section 23 repeals the provision limiting compensation for
the public member of the Board of Commercial Driver Education to
26 no more than 4 days per calendar year.

28 Section 26 clarifies that the behind-the-wheel instruction
for driver education students may be delivered in no more than
30 2-hour increments within a 24-hour period and makes changes in
compliance with drafting standards.

32
34 Section 29 establishes a cap for licensure fees for the
Board of Commercial Driver Education and mandates that all
licenses are active for 12 months from the date of issuance.

36
38 Section 31 clarifies when a school may be assessed for
investigation expenses, repeals a provision requiring the board
to conduct an annual on-site inspection and makes changes in
40 compliance with drafting standards.

42 Section 35 clarifies the application of the law governing
licenses or certification issued pursuant to the regulation of
44 driver education programs.

46 Section 36 sets out the transition provisions for driver
education programs.

48

2 Section 37 is the revision clause changing the name of the
Board of Commercial Driver Education to the Board of Driver
Education.