

# MAINE STATE LEGISLATURE

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RdS

L.D. 1301

DATE: June 23, 1995 (Filing No. S- 331)

**TRANSPORTATION**

Reported by: Senator STEVENS of Androscoggin for the Committee.

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**STATE OF MAINE  
SENATE  
117TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 477, L.D. 1301, Bill, "An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State"

Amend the bill in section 2 in the first paragraph in the 15th line (page 1, line 41 in L.D.) by striking out the following: "Licensing" and inserting in its place the following: 'Licensure'

Further amend the bill in section 6 in that part designated "**§8703.**" by striking out all of the first line (page 2, line 42 in L.D.) and inserting in its place the following: '**§8703. Driver education teachers**'

Further amend the bill in section 6 in that part designated "**§8703.**" in the first paragraph (page 2, line 44 in L.D.) by striking out the following: "Instructors shall" and inserting in its place the following: '~~Instructors shall~~ A driver education teacher'

Further amend the bill in section 6 in that part designated "**§8703.**" by striking out all of subsection 2 (page 3, lines 10 to 16 in L.D.) and inserting in its place the following:

**'2. Temporary license.** If a ~~certified-instructor~~ licensed driver education teacher is not available to teach driver education and the school board, cooperative board or private school requests, the ~~commissioner~~ Secretary of State shall grant a temporary ~~certificate~~ license to any person who holds a Class A instructor's license issued by the ~~Board of Commercial Driver Education pursuant to Title 32, section 9601, subsection 2 and section 9603~~ Secretary of State in accordance with Title 29-A, section 1354.'

**COMMITTEE AMENDMENT**

2 Further amend the bill by striking out all of section 10 and  
inserting in its place the following:

4  
6 'Sec. 10. 23 MRSA §4208, 2nd ¶, as enacted by PL 1989, c. 721,  
§2, is amended to read:

8 The course must include ~~the instruction described in Title~~  
9 ~~32, section 9602, subsection 6~~ instruction in the existence and  
10 the practical purpose of parking laws and ordinances for persons  
11 with disabilities.

12  
13 Further amend the bill in section 11 in paragraph F in the  
14 last 2 lines (page 4, lines 29 and 30 in L.D.) by striking out  
15 the following: "unless the permittee is licensed by the Secretary  
16 of State under chapter 11, subchapter III" and inserting in its  
17 place the following: 'licensed by the Secretary of State under  
18 subchapter III'

20 Further amend the bill in section 12 in subsection 2 in the  
21 2nd line (page 4, line 36 in L.D.) by striking out the following:  
22 "\$15" and inserting in its place the following: '\$12'

24 Further amend the bill by inserting after section 12 the  
following:

26  
28 'Sec. 13. 29-A MRSA §1351, sub-§2, ¶D, as enacted by PL 1993,  
c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

30 D. Person licensed by the ~~Board of Commercial Driver~~  
31 ~~Educatien~~ Secretary of State.

32  
34 'Sec. 14. 29-A MRSA §1351, sub-§3, as enacted by PL 1993, c.  
683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

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

42  
44 'Sec. 15. 29-A MRSA §1352, sub-§3, ¶C, as enacted by PL 1993,  
c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.'

46 Further amend the bill by striking out all of section 13 and  
inserting in its place the following:

48 'Sec. 13. 29-A MRSA §1354 is enacted to read:

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2 **§1354. Driver education programs**

4 **1. Definitions.** As used in this section, unless the  
6 context otherwise indicates, the following terms have the  
following meanings.

8 A. "Applicant," as applied to a firm, partnership or  
10 association, includes the members of the firm, partnership  
or association and, as applied to a corporation, includes  
12 the officers and directors of the corporation.

14 B. "Commercial driver education school" means a person  
engaged in teaching driver education for remuneration.  
16 Commercial driver education school does not include a  
noncommercial driver education school as defined in  
18 paragraph G.

20 C. "Driver education" means any type of instruction or  
tutoring given to a person in the driving of a motor vehicle  
22 or in preparing for a driver examination in exchange for  
remuneration or course credit.

24 D. "Driver education school" means a commercial driver  
education school or a noncommercial driver education school.

26 E. "Driver education teacher" means a person certified as a  
28 teacher by the Commissioner of the Department of Education  
and employed by a public secondary school, approved private  
30 secondary school, applied technology center, applied  
32 technology region or adult education program, conducted  
pursuant to Title 20-A, chapter 315 and licensed by the  
34 Secretary of State to teach driver education.

36 F. "Instructor" means a person engaged in teaching driver  
education in a commercial driver education school.

38 G. "Noncommercial driver education school" means a public  
secondary school, an approved private secondary school,  
40 applied technology center, applied technology region or  
adult education program conducted pursuant to Title 20-A,  
42 chapter 315 that offers driver education.

44 H. "Person" means an individual or individuals, firm,  
partnership, association or corporation. When used in any  
46 provision of this chapter that prescribes or imposes a fine  
or imprisonment, or both, "person," as applied to a  
48 corporation, includes the officers of the corporation. A  
firm, partnership, association or corporation may be  
50 subjected, as an entity, to the payment of a fine.

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2           2. Licenses required. A person may not operate a driver  
education school, conduct driver education or act as an  
4           instructor or driver education teacher unless licensed by the  
Secretary of State.

6           A. A Class A driver education school license may be issued  
8           to a driver education school that employs Class A or Class B  
instructors or driver education teachers and that is  
10           authorized to teach both the classroom and behind-the-wheel  
phases of driver education.

12           B. A Class A instructor or driver education teacher license  
14           authorizes the holder to teach both the classroom and  
behind-the-wheel phases of driver education as an employee  
16           or affiliate of a licensed driver education school.

18           C. A Class B instructor or driver education teacher license  
20           authorizes the holder to teach only the behind-the-wheel  
phase of driver education as an employee or affiliate of a  
22           licensed driver education school.

24           3. Commercial driver education school license  
requirements. With assistance from the Technical Review Panel  
26           established in subsection 6, the Secretary of State shall adopt  
rules governing the curriculum, facilities, operations, including  
28           record-keeping requirements and issuance and renewal of licenses  
for noncommercial driver education schools and commercial driver  
30           education schools and for driver education teachers and  
instructors.

32           A. The Secretary of State may not issue a license for a  
driver education school until the applicant has filed with  
34           the Secretary of State a certificate showing that the  
applicant is covered by an automobile bodily injury and  
36           property damage liability insurance policy insuring against  
any legal liability in accordance with the terms of the  
38           policy for personal injury or death of any one person in the  
sum of \$100,000 and for any number of persons in the sum of  
40           \$300,000 and against property damage in the sum of \$100,000  
arising from the operation of any vehicle being used in a  
42           commercial driver education school. In lieu of that  
insurance, the applicant may file with the Secretary of  
44           State a bond or bonds issued by a surety company authorized  
to do business in the State in the amount of at least  
46           \$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  
48           person, of at least \$300,000 on account of any one accident  
resulting in injury to or death of more than one person and  
50           of at least \$100,000 for damage to property of others.

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2 Failure to comply with this subsection is grounds for  
suspension or revocation of a driver education school  
license.

4  
6 B. A vehicle used as a training vehicle must be maintained  
in safe mechanical condition at all times. Each vehicle  
must be equipped with dual-control foot brakes and, if the  
8 vehicle is not equipped with an automatic transmission,  
dual-control clutch pedals. While being used in actual  
10 instruction, a vehicle must be equipped with an  
identification sign listing the name of the school and a  
12 student driver sign.

14 The following vehicles are exempt from this subsection, if  
they are equipped with dual controls as required in this  
16 paragraph and comply with any other applicable requirements:

18 (1) A vehicle that is being used to instruct a person  
with a disability and is specially equipped for use by  
20 a person with a disability; and

22 (2) A vehicle that is being used to instruct a person  
in possession of a valid Maine driver's license or  
24 instruction permit not provided by the driver education  
school.

26  
28 4. Driver education teacher and instructor license  
requirements. With assistance from the Technical Review Panel  
established in subsection 6, the Secretary of State shall adopt  
30 rules governing the issuance and renewal of driver education  
teacher and instructor licenses. In addition to the requirements  
32 established by rule, each applicant must meet the following  
requirements:

34  
36 A. The applicant must be at least 21 years of age and have  
a high school diploma or its equivalent;

38 B. The applicant must have at least 4 years of driver  
experience as a licensed operator;

40  
42 C. The applicant may not have had a license revoked  
pursuant to chapter 23, subchapter V within the preceding  
6-year period;

44  
46 D. The applicant may not have had an OUI as defined in  
section 2401, subsection 8 within the preceding 6-year  
period;

48  
50 E. The applicant must pass an examination consisting of a  
knowledge, vision and road test in the type of vehicle for

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2 which the license is to be used as prescribed by the  
3 Secretary of State; and

4 F. The applicant must complete an educational program  
5 prescribed by the Secretary of State.

6 5. License fees. License fees must be paid to the  
7 Secretary of State and deposited into the Highway Fund. The  
8 following fees apply.

10 A. The fee for a driver education school license is \$125.

12 B. The fee for a driver education teacher or instructor  
14 license is \$80.

16 C. Each license issued pursuant to this section expires one  
17 year from the date of issuance. The fee for the renewal of  
18 a driver education school license is \$125. The fee for the  
19 renewal of a driver education teacher or instructor license  
20 is \$80.

22 D. A noncommercial driver education school that offers  
23 driver education for course credit and does not charge a fee  
24 for driver education is exempt from the license fees  
25 required in this subsection. A driver education teacher  
26 employed by and providing driver education only in a school  
27 exempt from license fees in accordance with this paragraph  
28 is also exempt from license fees required in this subsection.

30 6. Secretary of State duties. The Secretary of State has  
31 the following duties.

32 A. The Secretary of State shall establish the Technical  
33 Review Panel that includes representatives from the  
34 Department of Education, the Department of Public Safety,  
35 the American Automobile Association, the Maine Highway  
36 Safety Commission, law enforcement agencies, the insurance  
37 industry and a driver education teacher and instructor. The  
38 Technical Review Panel shall assist the Secretary of State  
39 in developing curriculum and teacher and instructor training  
40 and certification.

42 B. The Secretary of State shall develop and implement a  
43 standardized driver education curriculum that establishes  
44 minimum standards for instructional goals and learning  
45 objectives.

48 C. The Secretary of State shall develop and implement  
49 training programs for the licensing and relicensing of  
50 driver education teachers and instructors.

2           D. The Secretary of State shall monitor classroom and  
4           behind-the-wheel instruction for compliance with statutory  
          and regulatory requirements.

6           E. The Secretary of State shall develop and implement a  
8           system to monitor the driving records of individuals who  
10          complete a driver education program to assist in the  
          evaluation of the effectiveness of driver education  
          instruction and curriculum.

12          F. The Secretary of State shall inspect driver education  
14          schools to review records, facilities, operating procedures,  
          quality of instruction and compliance with statutory and  
16          regulatory requirements.

18          G. The Secretary of State shall investigate written  
20          complaints regarding the activities of driver education  
          schools and driver education teachers and instructors.

22          7. Penalties. A person who conducts driver education,  
24          operates a driver education school or acts as a driver education  
26          teacher or instructor without a license is guilty of a Class E  
28          crime. The State may bring an action in Superior Court to enjoin  
          any person from violating this chapter, regardless of whether  
          proceedings have been or may be instituted in the Administrative  
          Court or whether criminal proceedings have been or may be  
          instituted.

30          8. Suspension or revocation of license; hearings. The  
32          Secretary of State may suspend, revoke or refuse to issue or  
34          renew a driver education school or driver education teacher or  
36          instructor license for noncompliance with statutory and  
          regulatory requirements. A person refused a license or whose  
          license is suspended or revoked may request a hearing with the  
          Secretary of State. A requested hearing must be conducted  
          pursuant to chapter 23, subchapter II, article 3.

38          9. Insurance for graduates. Rating bureaus or independent  
40          insurers as recognized by the Superintendent of Insurance may  
42          grant an automobile insurance discount for driver education  
          school graduates.'

44          Further amend the bill by inserting after section 14 the  
46          following:

48          'Sec. 15. Driver education programs; impact on licenses;  
50          certifications in effect. All licenses or certifications issued  
          pursuant to the authority in the Maine Revised Statutes, Title  
          20-A, chapter 316 or Title 32, chapter 95 that are in effect on



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2 the effective date of this Act continue to be valid under the  
terms of issuance until the licenses or certifications expire or  
4 are rescinded, amended, revised or revoked by the proper  
authority.

6 **Sec. 16. Driver education programs; transition provisions.** All  
existing rules, regulations and procedures in effect, in  
8 operation or promulgated by the Department of Education regarding  
the administration of driver education programs in public  
10 secondary schools, approved private secondary schools, applied  
technology centers, applied technology regions and adult  
12 education programs conducted pursuant to the Maine Revised  
Statutes, Title 20-A, chapter 316 are in effect and continue in  
14 effect until rescinded, revised or amended by the proper  
authority.

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

22 All records or copies of records regarding the  
24 administration and operation of driver education programs in  
public secondary schools, approved private secondary schools,  
26 applied technology centers, applied technology regions and adult  
education programs conducted pursuant to the Maine Revised  
28 Statutes, Title 20-A, chapter 316 within the jurisdiction of the  
Department of Education must be transferred to the Secretary of  
30 State on or before the effective date of this Act.

32 The Secretary of State is the successor in every way to the  
powers, duties and functions of the former Board of Commercial  
34 Driver Education within the Department of Professional and  
Financial Regulation.

36 All existing rules, regulations and procedures in effect, in  
38 operation or adopted in or by the Board of Commercial Driver  
Education within the Department of Professional and Financial  
40 Regulation or any of its administrative units or officers, remain  
in effect and continue in effect until rescinded, revised or  
42 amended by the Secretary of State.

44 All existing contracts, agreements and compacts in effect on  
the effective date of this Act in the Board of Commercial Driver  
46 Education within the Department of Professional and Financial  
Regulation continue to be valid under the terms of issuance until  
48 those existing contracts, agreements and compacts expire or are  
rescinded, amended, revised or revoked by the proper authority.

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2 All records, property and equipment previously belonging to  
or allocated for the use of the former Board of Commercial Driver  
4 Education within the Department of Professional and Financial  
Regulation become on the effective date of this Act part of the  
property of the Secretary of State.

6 All accrued expenditures, assets, liabilities, balances of  
8 funds, transfers, revenues or other available funds of the former  
Board of Commercial Driver Education must be reallocated to the  
10 Secretary of State.

12 **Sec. 17. Allocation.** The following funds are allocated from  
the Highway Fund to carry out the purposes of this Act.

14 **1995-96** **1996-97**

16 **SECRETARY OF STATE, DEPARTMENT OF**

18 **Administration-Motor Vehicles**

20			
22	Positions - Legislative Count	(2.0)	(2.0)
	Personal Services	\$31,790	\$63,580
	All Other	5,198	10,397
24	Capital Expenditures	9,500	

26 Provides funds for one Driver  
License Examiner position,  
28 one Clerk IV position and  
general operating expenses  
30 required to administer the  
driver education programs.

32 **DEPARTMENT OF THE SECRETARY**  
34 **OF STATE**  
36 **TOTAL**

\$46,488 \$73,977

38 **Sec. 18. Allocation.** The following funds are allocated from  
Other Special Revenue funds to carry out the purposes of this Act.

40 **1995-96** **1996-97**

42 **PROFESSIONAL AND FINANCIAL**  
44 **REGULATION, DEPARTMENT OF**

46 **Board of Commercial Driver**  
**Education**

48	Personal Services	(\$315)	(\$420)
50	All Other	(5,477)	(7,490)

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2 Deallocates funds to reflect  
the transfer of regulatory  
4 responsibility for commercial  
driver education to the  
6 Secretary of State.

8	<b>DEPARTMENT OF PROFESSIONAL AND</b>	
	<b>FINANCIAL REGULATION</b>	
	<b>TOTAL</b>	
	(\$5,792)	(\$7,910)

10 Further amend the bill by relettering or renumbering any  
12 nonconsecutive Part letter or section number to read  
consecutively.

14 Further amend the bill by inserting at the end before the  
16 statement of fact the following:

18 **FISCAL NOTE**

20		<b>1995-96</b>	<b>1996-97</b>
22	<b>APPROPRIATIONS/ALLOCATIONS</b>		
24	Highway Fund	\$46,488	\$73,977
26	Other Funds	(5,792)	(7,910)
28	<b>REVENUES</b>		
30	Highway Fund	\$66,542	\$133,405
32	Other Funds	(52,930)	(52,930)

34 Transferring the Commercial Driver Education Program to the  
Secretary of State will require additional Highway Fund  
36 allocations to the Bureau of Motor Vehicles of \$46,488 and  
\$73,977 in fiscal years 1995-96 and 1996-97, respectively. These  
38 allocations will provide funds for a Driver License Examiner  
position, a Clerk IV position and general operating expenses  
required to administer the program.

40 This bill includes an increase in the driver education  
42 license fee of \$2 and establishes a driver education license fee  
for schools and school-based instructors who charge for their  
44 services. The additional collection of this revenue along with  
the transfer of commercial driver education license fees to the  
46 Department of the Secretary of State will increase Highway Fund  
revenue by \$66,542 and \$133,405 in fiscal years 1995-96 and  
48 1996-97, respectively.

**COMMITTEE AMENDMENT**

2 Repeal of the Board of Commercial Driver Education will  
3 require deallocations of \$5,792 and \$7,910 in fiscal years  
4 1995-96 and 1996-97, respectively. In addition, repeal of the  
5 board will result in an annual loss of \$52,930 in dedicated  
6 revenue beginning in fiscal year 1995-96.

7 Repealing the Board of Commercial Driver Education will also  
8 result in the redistribution of the board's current share of  
9 fixed administrative and support service costs among the  
10 remaining agencies in the Department of Professional and  
11 Financial Regulation. The redistribution of these costs will  
12 result in increase costs of \$49,819 and \$47,491 of funds to be  
13 transferred from the remaining agencies on a pro rata basis, for  
14 fiscal years 1995-96 and 1996-97, respectively. A number of  
15 these agencies may not have adequate revenues to cover their  
16 increased share of fixed administrative and support services  
17 costs.

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

22 This bill may increase prosecutions for Class E crimes. If  
23 a jail sentence is imposed, the additional costs to the counties  
24 are estimated to be \$83.22 per day per prisoner. These costs are  
25 not reimbursed by the State. The number of prosecutions that may  
26 result in a jail sentence and the resulting costs to the county  
27 jail system are expected to be insignificant.

28 The additional workload and administrative costs associated  
29 with the minimal number of new cases filed in the court system  
30 can be absorbed within the budgeted resources of the Judicial  
31 Department. The collection of additional fines may increase  
32 General Fund revenue by minor amounts.'

### 36 38 STATEMENT OF FACT

39 This amendment makes several technical changes to the bill.  
40 It clarifies the distinction between commercial driver education  
41 school and noncommercial driver education school. It clarifies  
42 that a licensed driver education teacher or instructor is  
43 authorized to teach driver education as an employee or affiliate  
44 of a licensed driver education school. It reduces the proposed  
45 examination fee for a Class C operator's license examination from  
46 \$15 to \$12. Currently, a Class C license exam is \$10. This  
47 amendment also adds transition provisions, allocation sections  
48 and a fiscal note to the bill.