

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1301

S.P. 477

In Senate, April 11, 1995

**An Act to Transfer Oversight of Commercial Driver Education Programs
to the Secretary of State.**

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator PENDEXTER of Cumberland.
Cosponsored by Representative BAILEY of Township 27 and
Representative: STEDMAN of Hartland.

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

2 **Sec. 1. 3 MRSA §927, sub-§6, ¶C**, as enacted by PL 1993, c. 600,
4 Pt. A, §4, is amended to read:

6 C. Independent agencies:

- 8 (1) Saco River Corridor Commission;
- 10 (2) Acupuncture Licensing Board;
- 12 (3) Board of Licensing of Auctioneers;
- 14 (4) Board of Licensing of Dietetic Practice;
- 16 ~~(5) Board of Commercial Driver Education;~~
- 18 (6) Advisory Board for the Licensing of Taxidermists;
- 20 (7) Maine Turnpike Authority; and
- 22 (8) State Board of Optometry.

24 **Sec. 2. 5 MRSA §151, first ¶**, as amended by PL 1993, c. 600, Pt.
26 B, §§20 to 22, is further amended to read:

28 All money received by the Treasurer of State from the Board
30 of Licensure in Medicine, the Board of Examiners in Physical
32 Therapy, the Board of Examiners of Psychologists, the State Board
34 of Nursing, the Board of Accountancy, the Board of Veterinary
36 Medicine, the Board of Osteopathic Licensure, the State Board of
38 Funeral Service, the State Board of Optometry, the Board of
40 Dental Examiners, the State Board of Registration for
42 Professional Engineers, the State Board of Certification for
44 Geologists and Soil Scientists, the Nursing Home Administrators
46 Licensing Board, the State Board of Licensure for Architects and
48 Landscape Architects, the Electricians' Examining Board, the Oil
50 and Solid Fuel Board, Maine State Pilotage Commission, the State
Board of Barbers, State Board of Cosmetology, State Board of
Registration for Land Surveyors, State Board of Social Worker
Registration, the Examiners Board of Podiatrists Licensing of
Podiatric Medicine, the Board of Chiropractic Licensure, the
Board of Examiners on Speech Pathology and Audiology, the Maine
Real Estate Commission, ~~the Board of Commercial Driver Education~~,
the Board of Registration of Dietetic Practice, the State Board
of Registration for Professional Foresters, the Board of Hearing
Aid Dealers and Fitters, the Manufactured Housing Board, the
Board of Occupational Therapists, Radiologic Technology Board of
Examiners, Board of Registration of Substance Abuse Counselors,
Maine Athletic Commission, Board of Underground Oil Storage Tank

2 Installers and the Board of Commissioners of the Profession of
3 Pharmacy ~~shall constitute~~ constitutes a fund, which ~~shall be~~ is
4 a continuous carrying account for the payment of the compensation
5 and expenses of the members, and the expenses of the board and
6 for executing the law relating to each board respectively, and as
7 much ~~thereof~~ of the fund as may be required is appropriated for
8 these purposes. The secretary of each board ~~shall be reimbursed~~
9 is entitled to reimbursement for all expenditures for books,
10 stationery, printing and other necessary expenses incurred in the
11 discharge of ~~his~~ the secretary's duties. All such payments shall
12 must be made from the respective funds held in the State
13 Treasury, after the approval of the State Controller. In no event
14 may these payments exceed the amounts received by the Treasurer
15 of State from the treasurer of each respective board. Any balance
16 remaining to the credit of any board at the end of any year shall
must be carried forward to the next year.

18 **Sec. 3. 5 MRSA §12004-A, sub-§12**, as enacted by PL 1987, c.
19 786, §5, is repealed.

20 **Sec. 4. 10 MRSA §8001, sub-§10**, as repealed and replaced by PL
21 1991, c. 548, Pt. B, §1, is repealed.

22 **Sec. 5. 20-A MRSA §8702**, as amended by PL 1989, c. 721, §1,
23 is repealed and the following enacted in its place:

24 **§8702. Curriculum**

25 A driver education course offered in accordance with section
26 8701 must meet the curriculum requirements prescribed by the
27 Secretary of State, include both classroom instruction and
28 practice driving and be approved by the Secretary of State. Any
29 state subsidy, state reimbursement for expenditures on adult
30 education programs or state reimbursement for adult applied
31 technology education programs may not be paid with respect to any
32 driver education course that has not been approved by the
33 Secretary of State.

34 **Sec. 6. 20-A MRSA §8703**, as corrected by RR 1991, c. 2, §65,
35 is amended to read:

36 **§8703. Instructors**

37 Instructors shall must hold certification a license to teach
38 driver education.

39 **1. Licensing.** Only a person certified licensed by the
40 ~~commissioner~~ Secretary of State as a driver education teacher may
41 be employed by a public secondary school, approved private
42 secondary school, an applied technology center, applied

2 technology region or adult education program, conducted pursuant
3 to chapter 315, to teach driver education. The ~~commissioner~~
4 Secretary of State shall establish instructor qualification
5 requirements for ~~a--person--to--obtain--certification~~ persons
6 licensed to teach ~~courses-in-preparation-for-a-Class-1-or-Class-2~~
7 license driver education. ~~These--requirements--may--be--no--less~~
8 ~~rigorous--than--any--similar--requirements--prescribed--by--the--Board--of~~
~~Commercial-Driver-Education.~~

10 **2. Temporary license.** If a certified licensed instructor
11 is not available to teach driver education and the school board,
12 cooperative board or private school requests, the ~~commissioner~~
13 Secretary of State shall grant a temporary certificate license to
14 any person who holds a Class A license issued by the ~~Board-of~~
15 ~~Commercial-Driver-Education-pursuant-to-Title-32,-section-9601,~~
16 ~~subsection-2-and-section-9603~~ Secretary of State.

18 **3. Contracts.** A public secondary school, approved private
19 secondary school, an applied technology center, applied
20 technology region or adult education program conducted pursuant
21 to chapter 315 may contract with a commercial driver education
22 school to provide driver education as part of the secondary
23 school curriculum ~~provided-that-an~~ if the instructor is properly
24 certified licensed.

26 **Sec. 7. 20-A MRSA §8705**, as corrected by RR 1993, c. 1, §49,
27 is amended to read:

28 **§8705. Departmental personnel**

29 The ~~commissioner~~ Secretary of State shall employ necessary
30 personnel, subject to the terms of the Civil Service Law, to
31 implement this chapter.

32 **Sec. 8. 20-A MRSA §8706**, as enacted by PL 1985, c. 797, §45,
33 is amended to read:

34 **§8706. Rules**

35 The ~~commissioner~~ Secretary of State shall adopt rules to
36 implement this chapter.

37 **Sec. 9. 20-A MRSA §9501, sub-§2**, as amended by PL 1983, c.
38 841, §2, is further amended to read:

39 **2. Exemptions.** Educational programs related to the real
40 estate professions ~~which~~ that are subject to approval under Title
41 32, chapter 59, commercial driver ~~educational~~ education schools
42 subject to approval by the ~~Board-of-Commercial-Driver-Education~~
43 Secretary of State under Title 32 29-A, chapter 95 11, subchapter
44

2 III, educational programs offered by any Maine nonprofit
4 corporation, any educational programs offered by any professional
6 or trade association primarily for the benefit of its own members
and any educational institution authorized by the laws of this
State to grant a degree are exempt from the requirements of this
chapter.

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

10 The course must include the instruction described in Title
12 ~~32, section 9602, subsection 6~~ 29-A, section 1354.

14 **Sec. 11. 29-A MRSA §1304, sub-§1, ¶F**, as enacted by PL 1993, c.
16 683, Pt. A, §2, and affected by Pt. B, §5, is amended to read:

18 F. The Secretary of State may issue a restricted
20 instruction permit to an applicant who is enrolled in a
driver education program that includes practice driving.
That permit is valid:

22 (1) For a school year or other specified period; and

24 (2) Only when the permittee is accompanied by an
26 ~~instructor approved by the Commissioner of Education or~~
~~a commercial driver education instructor licensed by~~
28 ~~the Board of Commercial Driver Education~~ a driver
education teacher or a commercial driver education
30 instructor, unless the permittee is licensed by the
Secretary of State under chapter 11, subchapter III.

32 **Sec. 12. 29-A MRSA §1307, sub-§2**, as enacted by PL 1993, c.
34 683, Pt. A, §2, and affected by Pt. B, §5, is amended to read:

36 2. **Class C license.** The examination fee for a Class C
license is ~~\$10~~ \$15, which includes the first road test. A
38 reexamination is \$5.

40 **Sec. 13. 29-A MRSA §1354** is enacted to read:

42 **§1354. Driver education programs**

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

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

2 B. "Commercial driver education" means any type of
4 instruction or tutoring given to a person in the driving of
 a motor vehicle or in preparing for a driver examination in
 exchange for remuneration.

6 C. "Commercial driver education school" means a person
8 engaged in teaching driver education for remuneration.

10 D. "Driver education teacher" means a person employed by a
12 public secondary school, approved private secondary school,
14 applied technology center, applied technology region or
 adult education program, conducted pursuant to Title 20-A,
 chapter 315, and licensed by the Secretary of State to teach
 driver education.

16 E. "Instructor" means a person engaged in teaching
18 commercial driver education.

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

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

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

40 B. A Class A instructor or driver education teacher license
42 authorizes the holder to teach both the classroom and
 behind-the-wheel phases of commercial driver education.

44 C. A Class B instructor or driver education teacher license
46 authorizes the holder to teach only the behind-the-wheel
 phase of commercial driver education.

48 3. Commercial driver education school license
50 requirements. The Secretary of State shall, with assistance from
 the Technical Review Panel established in subsection 6, adopt
 rules governing the curriculum, facilities, operations, including

2 record-keeping requirements, and issuance and renewal of licenses
3 for commercial driver education and commercial driver education
4 schools and for driver education teachers and instructors.

6 A. The Secretary of State may not issue a license for
7 commercial driver education or for a commercial driver
8 education school until the applicant has filed with the
9 Secretary of State a certificate showing that the applicant
10 is covered by an automobile bodily injury and property
11 damage liability insurance policy insuring against any legal
12 liability in accordance with the terms of the policy for
13 personal injury or death of any one person in the sum of
14 \$100,000 and for any number of persons in the sum of
15 \$300,000, and against property damage in the sum of \$100,000
16 arising from the operation of any vehicle being used in a
17 commercial driver education school. In lieu of such
18 insurance, the applicant may file with the Secretary of
19 State a bond or bonds issued by a surety company authorized
20 to do business in the State in the amount of at least
21 \$100,000 on account of injury to or death of one person and
22 subject to such limits as respects injury to or death of one
23 person, of at least \$300,000 on account of any one accident
24 resulting in injury to or death of more than one person and
25 of at least \$100,000 for damage to property of others.
26 Failure to comply with this subsection is grounds for
27 suspension or revocation of a commercial driver education
28 school license.

30 B. A vehicle used as a training vehicle must be maintained
31 in safe mechanical condition at all times. Each vehicle
32 must be equipped with dual-foot brakes and, if the vehicle
33 is not equipped with an automatic transmission, dual-clutch
34 pedals. While being used in actual instruction, a vehicle
35 must be equipped with an identification sign, listing the
36 name of the school, and a student driver sign.

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

42 (1) A vehicle, specially equipped for use by a
43 handicapped person, that is being used to instruct a
44 handicapped person; and

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

50 **4. Driver education teacher and instructor license**

2 requirements. The Secretary of State shall, with assistance from
3 the Technical Review Panel established in subsection 6, adopt
4 rules governing the issuance and renewal of driver education
5 teacher and instructor licenses. In addition to the requirements
6 established by rule, each applicant must meet the following
7 requirements:

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

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

12 C. The applicant may not have had a license revoked
13 pursuant to chapter 23, subchapter V within the preceding
14 6-year period;

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

18 E. The applicant must pass an examination consisting of a
19 knowledge, vision and road test in the type of vehicle for
20 which the license is to be used as prescribed by the
21 Secretary of State; and

22 F. The applicant must complete an educational program
23 prescribed by the Secretary of State.

24 5. License fees. The following fees apply.

25 A. The fee for a commercial driver education school license
26 is \$125.

27 B. The fee for a driver education teacher and instructor
28 license is \$80.

29 C. Each license issued pursuant to this section expires one
30 year from the date of issuance. The fee for the renewal of
31 a commercial driver education school license is \$125. The
32 fee for the renewal of a driver education teacher or
33 instructor license is \$80.

34 6. Secretary of State duties. The Secretary of State has
35 the following duties.

36 A. The Secretary of State shall establish the Technical
37 Review Panel which includes representatives from the
38 Department of Education, the Department of Public Safety,
39 the American Automobile Association, the Maine Highway
40 Association, the Maine State Police, the Maine State
41 Police, the Maine State Police, the Maine State
42 Police, the Maine State Police, the Maine State
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2 Safety Commission and the law enforcement and insurance
3 industry, and a driver education teacher and instructor.
4 The Technical Review Panel shall assist the Secretary of
5 State in developing curriculum and teacher and instructor
6 training and certification.

7
8 B. The Secretary of State shall develop and implement a
9 standardized driver education curriculum that establishes
10 minimum standards for instructional goals and learning
11 objectives.

12 C. The Secretary of State shall develop and implement a
13 training certification and recertification program for
14 driver education teachers and instructors.

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

18
19 E. The Secretary of State shall develop and implement a
20 system to monitor the driver records of individuals who
21 complete a commercial driver education program to assist in
22 the evaluation of the effectiveness of driver education
23 instruction and curriculum.

24
25 F. The Secretary of State shall inspect commercial driver
26 education schools to review records, facilities, operating
27 procedures, quality of instruction and compliance with
28 statutory and regulatory requirements.

29
30 G. The Secretary of State shall investigate written
31 complaints regarding the activities of commercial driver
32 education schools and driver education teachers and
33 instructors.

34
35 7. Penalties. A person who conducts commercial driver
36 education, operates a commercial driver education school or acts
37 as a driver education teacher or instructor without a license is
38 guilty of a Class E crime. The State may bring an action in
39 Superior Court to enjoin any person from violating this chapter,
40 regardless of whether proceedings have been or may be instituted
41 in the Administrative Court or whether criminal proceedings have
42 been or may be instituted.

43
44 8. Suspension or revocation of license; hearings. The
45 Secretary of State may suspend, revoke or refuse to issue or
46 renew a commercial driver education school or driver education
47 teacher and instructor license for noncompliance with statutory
48 and regulatory requirements. A person refused a license or whose
49 license is suspended or revoked may request a hearing with the
50

2 Secretary of State. A requested hearing must be conducted
pursuant to chapter 23, subchapter II, article 3.

4 9. Insurance for graduates. Rating bureaus or independent
insurers as recognized by the Superintendent of Insurance may
6 grant an automobile insurance discount for commercial driver
education school graduates.

8 **Sec. 14. 32 MRSA c. 95**, as amended, is repealed.

10 **Sec. 15. Effective date.** This Act takes effect January 1, 1996.

12
14 **STATEMENT OF FACT**

16 This bill repeals the Board of Commercial Driver Education
and transfers oversight and rule-making authority to the
18 Secretary of State.