

MAINE STATE LEGISLATURE

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L.D. 1683

Date: 3/21/2018

(Filing No. S-396)

INLAND FISHERIES AND WILDLIFE

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

128TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 619, L.D. 1683, Bill, "An Act To Amend the Registered Maine Guide Background Check Requirement"

Amend the bill by striking out the title and substituting the following:

'An Act To Extend the Term of Guide Licenses and Amend the License Revocation Laws'

Amend the bill by striking out everything after the title and before the summary and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the current background check requirement for guides and applicants for guide licenses is costly and burdensome; and

Whereas, immediately implementing a penalty for failing to report behavior that is the basis for denial, suspension or revocation of a guide license will ensure that guides are adequately responsible for the safety of their clients; and

Whereas, the changes implemented by this legislation need to go into effect before spring and summer tourism and recreation begin; and

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

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

Sec. 1. 12 MRSA §10908, sub-§1, as amended by PL 2017, c. 204, §1, is further amended to read:

1. Conditions for revocation, suspension, denial. The commissioner may suspend or revoke a guide license pursuant to this subchapter and Title 5, section 10004. The

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COMMITTEE AMENDMENT "A" to S.P. 619, L.D. 1683

1 commissioner may revoke, suspend, refuse to issue or refuse to renew a guide license or
2 the District Court may revoke or suspend a guide license in the following circumstances:

3 A. If the guide fails to meet the standards of competency established pursuant to
4 section 12851;

5 B. If the guide fails to meet the qualifications for a guide license, including, but not
6 limited to, failure to pass a reexamination conducted pursuant to section 12855,
7 subsection 4;

8 C. If the guide is found to be incompetent, negligent or neglectful in the conduct of
9 guiding activities, including, but not limited to, entering into a contractual agreement
10 with a client to provide services and then failing, without just cause, to provide the
11 services as agreed; or

12 D. If the guide or an applicant for a guide license has been convicted of committing a
13 crime in the State or any other jurisdiction that is punishable by imprisonment for a
14 term of one year or more or has been found not criminally responsible by reason of
15 insanity of committing a crime in the State or any other jurisdiction that is punishable
16 by imprisonment for a term of one year or more.

17 (1) A person whose license is revoked, suspended or denied under this paragraph
18 may request a hearing before the commissioner. Following the hearing, the
19 commissioner may issue a guide license or reinstate a guide license that has been
20 revoked, suspended or denied if the commissioner determines that the applicant
21 has been sufficiently rehabilitated from the conviction to warrant the public trust
22 or the nature of the conviction or the circumstances surrounding it do not warrant
23 disqualification from licensure. The request for a hearing under this paragraph
24 must be made within 30 days of receipt of the revocation, suspension or denial of
25 the guide license; or

26 ~~(2) An applicant for a guide license or the holder of a guide license must notify~~
27 ~~the department of a conviction or a finding of not criminally responsible that is~~
28 ~~grounds under this paragraph for the revocation, suspension or denial of a guide~~
29 ~~license within 30 days of the conviction or finding. Failure to notify the~~
30 ~~department is grounds for a permanent denial or revocation of a guide license.~~

31 E. If the guide or applicant for a guide license fails to notify the department as
32 required under subsection 3. Failure to notify as required under subsection 3 is
33 grounds for a permanent denial or revocation of a guide license.

34 **Sec. 2. 12 MRSA §10908, sub-§3** is enacted to read:

35 **3. Mandatory notification.** An applicant for a guide license or a holder of a guide
36 license must notify the department of a conviction or a finding of not criminally
37 responsible that is grounds under subsection 1, paragraph D for the revocation,
38 suspension or denial of a guide license within 30 days of the conviction or finding.
39 Failure to notify the department is grounds for a permanent denial or revocation of a
40 guide license. A person who violates this subsection commits a Class E crime.

41 **Sec. 3. 12 MRSA §12853, sub-§5**, as amended by PL 2005, c. 12, Pt. III, §30, is
42 further amended to read:

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1 **5. Fee.** The fee for a ~~3-year~~ guide license is \$81 \$135.

2 **Sec. 4. 12 MRSA §12853, sub-§6**, as enacted by PL 2003, c. 414, Pt. A, §2 and
3 affected by c. 614, §9, is repealed and the following enacted in its place:

4 **6. Term of license.** A guide license issued under this section expires on December
5 31st of the 4th complete year after the date of issuance.

6 **Sec. 5. Effective date.** Those sections of this Act that amend the Maine Revised
7 Statutes, Title 12, section 12853, subsections 5 and 6 take effect January 1, 2019.

8 **Emergency clause.** In view of the emergency cited in the preamble, this
9 legislation takes effect when approved.'

10

SUMMARY

11 This amendment replaces the bill, which creates an exception to the background
12 check requirement for certain applicants for guide licenses. Like the bill, the amendment
13 extends the term of a guide license from 3 years to 5 years, and it correspondingly
14 increases the fee for a guide license from \$81 to \$135; however, unlike the bill, those
15 changes take effect January 1, 2019. The amendment establishes a Class E crime for
16 failing to notify the Department of Inland Fisheries and Wildlife of a conviction or a
17 finding of not criminally responsible that is grounds for the revocation, suspension or
18 denial of a guide license within 30 days of the conviction or finding and provides that
19 failure to notify is grounds for permanent revocation or denial of a guide license.

20

FISCAL NOTE REQUIRED

21

(See attached)



Approved: 02/16/18 *MAC*

128th MAINE LEGISLATURE

LD 1683

LR 2646(02)

An Act To Amend the Registered Maine Guide Background Check Requirement

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-396)
Committee: Inland Fisheries and Wildlife
Fiscal Note Required: Yes

Fiscal Note

Current biennium revenue increase - General Fund
Future biennium revenue decrease - General Fund
Minor cost increase - General Fund

Correctional and Judicial Impact Statements

Establishes new Class E crimes; the collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This bill extends the term of a guide license from 3 years to 5 years and increases the license fee to compensate for lost revenue from less frequent renewal. In the first 3 years after implementation, all existing licenses will expire and be renewed at the higher fee and General Fund revenue will be increased. In the fourth and fifth years (future biennium) after implementation there will be no licenses renewed at all, eliminating all renewal revenue credited to the General Fund in those two years. Over the entire 5 year period, there will be no net impact to revenue. This phase-in effect will occur in subsequent 5-year periods but will be diminished over time as new guides are added and old ones are removed and renewals randomly become more evenly distributed.

Any additional costs to the Department of Inland Fisheries and Wildlife as a result of changes to its authority to revoke a guide license under certain circumstances will be minor and can be absorbed within existing budgeted resources.