

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

SECOND REGULAR SESSION-2018

Legislative Document

No. 1683

S.P. 619

In Senate, December 22, 2017

An Act To Amend the Registered Maine Guide Background Check Requirement

(EMERGENCY)

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

Received by the Secretary of the Senate on December 19, 2017. Referred to the Committee on Inland Fisheries and Wildlife pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator DAVIS of Piscataquis.
Cosponsored by Representative TUELL of East Machias and
Senators: BELLOWS of Kennebec, CYRWAY of Kennebec, JACKSON of Aroostook,
MAKER of Washington, MIRAMANT of Knox, Representatives: ESPLING of New
Gloucester, NADEAU of Winslow, VACHON of Scarborough.

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

3 **Whereas,** current law subjects certain registered Maine guide applicants and
4 registered Maine guides to duplicative background check requirements; and

5 **Whereas,** multiple background checks are onerous for guide applicants and guides
6 and are not necessary to ensure public safety; and

7 **Whereas,** this legislation must take effect before the end of the 90-day period so that
8 it is in effect for the spring and summer tourism season; and

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

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

14 **Sec. 1. 12 MRSA §12853, sub-§4-A,** as enacted by PL 2017, c. 204, §2, is
15 amended to read:

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

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

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

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

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

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

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

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

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

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

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

23 **Sec. 2. 12 MRSA §12853, sub-§4-B** is enacted to read:

24 **4-B. Exception to background check requirement.** The commissioner may not
25 require a background check conducted pursuant to subsection 4-A of an applicant for a
26 guide license that is within a classification adopted by rule pursuant to section 12851,
27 subsection 5 if passage of a criminal history record check conducted by the Federal
28 Bureau of Investigation is a prerequisite for any credential required to obtain that
29 classification of guide license.

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

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

33 **Sec. 4. 12 MRSA §12853, sub-§6**, as enacted by PL 2003, c. 414, Pt. A, §2 and
34 affected by c. 614, §9, is amended to read:

35 **6. Term of license.** A guide license entitles a person to act as a guide through
36 December 31st of the ~~2nd~~ 4th complete year following the year of issuance.

37 **Emergency clause.** In view of the emergency cited in the preamble, this
38 legislation takes effect when approved.

SUMMARY

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This bill establishes an exception to the requirement that a registered Maine guide applicant and a Maine guide licensed by the Department of Inland Fisheries and Wildlife submit to a background check when the applicant or guide holds or seeks to hold a guide license of the type for which passage of a background check is a prerequisite for any credential required to obtain that type of guide license. The bill also extends the term of a guide license from up to 3 years to up to 5 years.