

MAINE STATE LEGISLATURE

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STATE OF MAINE
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SECRETARY OF STATE

CHARLES E. SUMMERS, JR.
SECRETARY OF STATE

March 1, 2012

Honorable Ronald Collins
Chair, Committee on Transportation
100 State House Station
Augusta, Maine 04333-0100

Honorable Richard Cebra
Chair, Committee on Transportation
100 State House Station
Augusta, Maine 04333-0100

Dear Senator Collins, Representative Cebra and Members of the Committee:

Your letter of June 2, 2011 asked me to provide follow-up information regarding LD 748, "An Act to Improve Driver Education Licensing." The legislation, passed as amended, increased the duration of a driver education instructor license from one year to two years and changed the fee from \$80 annually to \$100 semiannually.

During the public hearing and work session, there was discussion of the Bureau of Motor Vehicles current policy requiring an annual state criminal background check of all renewing instructors prior to license renewal. Also expressed during the deliberations was the feasibility of conducting fingerprinting of instructors in conjunction with the criminal background check, thus allowing the checks to be conducted less frequently, in hopes of reducing costs for individual instructors and teachers.

Part of the function of the Driver Education Section within the Bureau of Motor Vehicles is to review and verify information contained on new and renewal applications for driver education instructor licenses. Questions asked on both types of applications include but are not limited to: personal information; licensing status and driver history; completion of education and continuing education courses; medical fitness to operate a motor vehicle; and potential criminal violations.

As the Bureau of Motor Vehicles is the repository for driver licensing history, information provided on applications pertaining to a driver license can be verified at no

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additional cost to the instructor. To verify criminal history, however, a background check must be completed by the State Bureau of Identification (SBI).

When the Secretary of State received regulatory responsibility of driver education, state criminal background checks were done through SBI at no fee to this office. SBI subsequently determined that because driving schools are for-profit businesses, a fee should be assessed to complete the background check. Initially, there was a \$15 fee for the check; in 2009 the fee was raised to \$21. The Bureau of Motor Vehicles passed this fee on to the instructors as part of the licensing cost.

While researching information to fulfill the committee's request, an SBI official stated that in order to complete a fingerprint check, a federal background check must be conducted. This would be an additional cost of \$19.25. Logistically, gathering fingerprints could be problematic as they are done through municipal police departments, who can charge an additional fee for the service. SBI is attempting to hire a contractor to complete this process at various locations throughout the state, but the service is still in negotiation and they are hoping to have something in place in the near future. Drivers of commercial vehicles holding a Hazardous Materials endorsement are required by federal regulations to submit to fingerprinting and a criminal background check upon each license renewal. Fingerprinting and initiation of the background check are conducted by a third party that currently charges \$84.75 for the service. Results of the check are sent to BMV electronically.

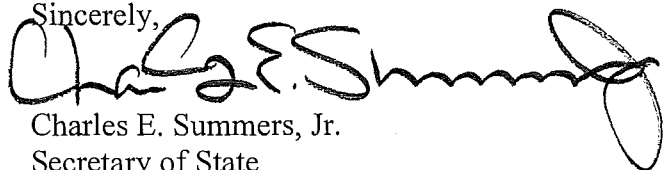
A federal criminal background check can be done without fingerprinting, but including fingerprinting as part of the federal background check would yield more accurate results. SBI strongly recommends at least annual checks of criminal history because the information contained in the check is only accurate as of the date it is performed. Any violations that occur after the check would not appear until the next background check. According to the SBI, in order to add fingerprinting as part of the background check, legislation mandating the practice would be needed and this legislation would also determine how long fingerprints are kept on file.

In August of 2009 the National Highway Traffic Safety Administration (NHTSA) released the National Driver Education Standards Project which included Novice Teen Driver Education and Training Administrative Standards. The standards were developed by representatives from the driver education profession with the assistance of NHTSA. This document is meant to serve as a guideline and best practices for states to administer driver education programs in a standard format throughout the country. To be in compliance with this document, some legislative and administrative rules would need to be amended. In the document under Section 3.0 Instructor Qualifications, 3.1c it is recommended that prior to instructors receiving certification or recertification, they must pass a federal and state criminal background check; there is no mention of fingerprinting in the recommendations.

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Legislation previously deliberated in the United States Congress, known as HP 1515 Safe Teen and Novice Driver Protection Act (STANDUP Act), has been rolled into S. 1449 Motor Vehicle and Highway Safety Improvement Act (Mariah's Act) and, if passed, will standardize graduated driver licensing in all 50 states. Maine is already in compliance with several of the areas of concern but would need to make legislative and driver education rule changes. This federal legislation would give the United States Secretary of Transportation authority to promulgate regulations to implement the law. It is unknown at this time if the regulation would specify driver education instructor qualifications and any associated criminal background check requirements. If passed, States would be afforded a period of time to comply with the new law and associated regulations.

I look forward to working with you as you consider this report. As always, if I can be of any assistance to you, please do not hesitate to call on me.

Sincerely,

Charles E. Summers, Jr.
Secretary of State