

## STATE OF MAINE

—  
 IN THE YEAR OF OUR LORD  
 TWO THOUSAND AND SEVENTEEN

—  
 S.P. 518 - L.D. 1489

**An Act To Authorize the Revocation, Suspension or Denial of a Guide License under Specified Circumstances**

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

**Sec. 1. 12 MRSA §10908, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is 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 commissioner may revoke, suspend, refuse to issue or refuse to renew a guide license or the District Court may revoke or suspend a guide license:

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

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

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

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

(1) A person whose license is revoked, suspended or denied under this paragraph may request a hearing before the commissioner. Following the hearing, the commissioner may issue a guide license or reinstate a guide license that has been revoked, suspended or denied if the commissioner determines that the applicant has been sufficiently rehabilitated from the conviction to warrant the public trust

or the nature of the conviction or the circumstances surrounding it do not warrant disqualification from licensure. The request for a hearing under this paragraph must be made within 30 days of receipt of the revocation, suspension or denial of the guide license.

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

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

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

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

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

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

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

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

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

C. An applicant shall submit to having fingerprints taken. The State Police, upon payment of the fee required under paragraph B by the applicant, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the Department of Public Safety, State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph

must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

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

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

**Sec. 3. 25 MRSA §1542-A, sub-§1, ¶¶K and L**, as enacted by PL 2015, c. 300, Pt. B, §3, are amended to read:

K. Who has applied for employment with the Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy and whose fingerprints have been required by the Associate Commissioner for Tax Policy pursuant to Title 36, section 194-B; ~~or~~

L. Who is assigned to provide services to the Department of Administrative and Financial Services, Bureau of Revenue Services pursuant to a contract or subcontract for services to the bureau and whose fingerprints have been required by the State Tax Assessor pursuant to Title 36, section 194-C; or

**Sec. 4. 25 MRSA §1542-A, sub-§1, ¶M** is enacted to read:

M. Who has applied for a guide license under Title 12, section 12853.

**Sec. 5. 25 MRSA §1542-A, sub-§3, ¶L** is enacted to read:

L. The State Police shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph M at the request of that person and upon payment of the expenses by that person as required by Title 12, section 12853, subsection 4-A, paragraph B.