

§12853. License, fees and requirements; youth camp trip leader and educational trip leader exceptions

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Prohibition. Except as provided in subsection 7, a person may not act as a guide without a valid license issued under this chapter.

[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §316 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

2. Penalty. A person who violates subsection 1 commits a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment of 3 days, none of which may be suspended. The court shall also impose a fine of \$1,000, none of which may be suspended. A person violates subsection 1 each day that person acts as a guide without a valid license issued under this chapter.

[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §316 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

3. New applications. A person seeking to be licensed as a guide shall submit an application to the commissioner.

A. The commissioner shall provide application forms that request all relevant information the commissioner considers necessary. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

B. Failure or refusal to satisfactorily answer any question in the application is a basis for the commissioner not to accept the application. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

C. The commissioner shall decide whether the application is acceptable within 5 working days of receipt. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

D. The commissioner shall notify each applicant at least 2 weeks prior to the examination required under section 12855. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

[PL 2021, c. 162, §7 (AMD).]

4. Qualifications. In order to qualify for a guide license, a person must:

A. Be at least 18 years of age; [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

B. Pass the guide examination in accordance with section 12855; [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

C. If a first-time applicant, be currently certified in first aid through completion of any standard first aid course that meets the criteria established by rule of the commissioner; [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

D. If not a first-time applicant, submit satisfactory evidence, as determined by the commissioner, of having held a guide license in this State; and [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

E. Meet all requirements established by rules of the commissioner. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

For purposes of this subsection, "first-time applicant" means an applicant who has not previously been issued a guide license in this State.

[PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

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. [PL 2017, c. 204, §2 (NEW).]

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. [PL 2017, c. 204, §2 (NEW).]

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. [PL 2017, c. 204, §2 (NEW).]

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. [PL 2017, c. 204, §2 (NEW).]

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. [PL 2017, c. 204, §2 (NEW).]

[PL 2017, c. 204, §2 (NEW).]

5. Fee. The fee for a guide license is \$135.

[PL 2017, c. 441, §1 (AMD); PL 2017, c. 441, §3 (AFF).]

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

[PL 2017, c. 441, §2 (RPR); PL 2017, c. 441, §3 (AFF).]

7. Exceptions. The following exceptions apply to the requirement for a guide license.

A. A person holding a youth camp trip leader permit under section 12860 may, without a guide license, conduct trips including adults under the auspices of the youth camp that employs those adults, subject to all the requirements of section 12860. [PL 2021, c. 162, §8 (NEW).]

B. A person holding an educational trip leader permit under section 12863 may, without a guide license, conduct outdoor educational trips in accordance with section 12863. [PL 2021, c. 162, §8 (NEW).]

C. [PL 2021, c. 162, §8 (NEW); MRSA T. 12 §12853, sub-§7, ¶C (RP).]

D. **(TEXT EFFECTIVE UNTIL 1/15/24) (TEXT REPEALED 1/15/24)** A person who has satisfactorily completed a boater safety education course under section 13063 and is certified in first aid under subsection 4, paragraph C may, without a guide license, operate a watercraft in the course of employment with a seasonal business engaged in recreational tow-sport activities if that seasonal business was engaged in recreational tow-sport activities during the 2022 season. This paragraph is repealed January 15, 2024. [PL 2023, c. 226, §1 (NEW).]

For purposes of this subsection, "educational institution" and "outdoor educational trip" have the same meanings as in section 12863, subsection 1.

[PL 2023, c. 226, §1 (AMD).]

SECTION HISTORY

PL 2003, c. 414, §A2 (NEW). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF). PL 2003, c. 655, §B316 (AMD). PL 2003, c. 655, §B422 (AFF). PL 2005, c. 12, §III30 (AMD). PL 2009, c. 211, Pt. B, §11 (AMD). PL 2017, c. 204, §2 (AMD). PL 2017, c. 441, §§1, 2 (AMD). PL 2017, c. 441, §3 (AFF). PL 2021, c. 162, §§6-8 (AMD). PL 2023, c. 226, §1 (AMD).

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