

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1094

S. P. 348

In Senate, March 9, 1979

Referred to the Committee on Fisheries and Wildlife. Sent down for concurrence and ordered printed.

Presented by Senator Redmond of Somerset.

Cosponsor: Senator Ault of Kennebec.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Regulate Commercial Whitewater Outfitters.

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

Sec. 1. 12 MRSA § 2061, sub-§ 17-A is enacted to read:

17-A. Watercraft carrying passengers for hire. "Watercraft carrying passengers for hire" means a watercraft used for the purpose of carrying any person or persons as passengers for valuable consideration, whether directly or indirectly flowing to the owner, charterer, agent or any other person interested in the watercraft.

Sec. 2. 12 MRSA c. 308, sub-c. III is enacted to read:

SUBCHAPTER III

COMMERCIAL WHITEWATER OUTFITTERS

§ 2085. Legislative findings

The Legislature finds that:

1. Popular sport. The recreational use of watercraft upon so-called whitewater and other highly turbulent and hazardous sections of rivers and streams in this State is becoming an increasingly popular sport;

2. **Risks.** This sport may pose significant risks, particularly to those members of the public not skilled and knowledgeable in the same;

3. **Organized trips.** Many watercraft trips are organized and conducted by commercial operators who hold themselves out as possessing the skills and equipment necessary to navigate the waters with reasonable safety; and

4. **Safe equipment.** Accordingly, the public interest requires that commercial operators who conduct these trips utilize watercraft and equipment which is reasonably safe for these purposes and have sufficient training and skill in the operation of the watercraft and equipment in order to insure the safety of the public.

§ 2086. Rules

For the purpose of insuring the safety of the public, the commissioner shall adopt and may amend rules, which are not inconsistent with this chapter or with any applicable federal law or regulation, covering the following subjects:

1. **Hazards.** Rules designating those sections of the rivers and streams in the State which, because of the presence of dangerous turbulence, swiftness or other dangerous condition, are considered to pose potentially significant hazards to passengers of watercraft. Operators of watercraft carrying passengers for hire upon any river or stream section so designated shall obtain a license for these purposes under section 2087;

2. **Imposed restrictions.** Rules governing conditions and restrictions which may be imposed by or under licenses issued pursuant to section 2087;

3. **Qualifications.** Rules governing training, examinations and other qualifications which shall be required of persons to be licensed under section 2087;

4. **Operation of watercraft.** Rules governing the use and operation of watercraft carrying passengers for hire upon river or stream sections designated pursuant to subsection 1, including, without limitation, rules restricting certain sections of these rivers and streams to be used by only certain types and designs of watercraft and rules prohibiting any such use during periods of particularly high risk;

5. **Safety equipment.** Rules governing the type, quality and quantity of safety equipment which shall be required for watercraft carrying passengers for hire upon river or stream sections designated pursuant to subsection 1; and

6. **Established procedures.** Rules to further establish administrative procedures under this subchapter.

All rules shall be adopted or amended pursuant to the procedures required in Title 5, chapter 375. Any rules made pursuant to this section shall be in addition to any other applicable rules and requirements imposed under this chapter or otherwise by law.

§ 2087. Licenses

1. Application. Every operator of a watercraft carrying passengers for hire shall obtain a license from the commissioner as provided in this section before operating watercraft for these purposes upon any river or stream section designated pursuant to section 2086, subsection 1. The operator shall make written application for the license on forms provided by the commissioner. The application shall specify those sections of rivers or streams, designated pursuant to section 2086, subsection 1, upon which the applicant intends to operate a watercraft carrying passengers for hire.

2. Examination. The commissioner shall cause operators applying for a license for the first time, or applying for a license following revocation thereof, to demonstrate their qualifications, including by means of an examination, for operating watercraft carrying passengers for hire upon those river and stream sections for which the application is made.

3. Issuance. The commissioner shall issue licenses to applicants who have satisfactorily demonstrated that they possess the knowledge, training and other qualifications necessary to safely operate watercraft carrying passengers for hire upon those sections of rivers and streams for which the license application is made.

4. Restrictions. The commissioner may incorporate into licenses issued under this section those restrictions and conditions which he deems necessary in order to protect the safety of the public. Any license issued shall be restricted to operation of watercraft carrying passengers for hire only upon those sections of rivers and streams with respect to which the licensee has satisfactorily demonstrated his qualifications under subsections 2 and 3.

5. Possession. The licensee shall have a copy of his license with him at all times while operating watercraft carrying passengers for hire upon any sections of rivers or streams designated pursuant to section 2086, subsection 1. This license shall be shown to any representative of the department or any law enforcement officer upon request.

6. Fee. The annual fee for a license issued under this section shall be \$1.

7. Renewal. The commissioner may grant a renewal of a license issued under this section upon written application and payment of the \$1 fee.

8. Expiration. Every license issued under this section shall expire on December 31st of the year for which issued.

9. Suspension and revocation. The commissioner may initiate proceedings in the Administrative Court to suspend any license issued under this section under the following circumstances:

A. It is found that a license under this section is operating or has operated a watercraft carrying passengers for hire which is not safe or which does not otherwise comply with this chapter or with any rule or license restriction issued hereunder;

B. There is satisfactory evidence of the licensee's incompetence or inability to safely operate a watercraft carrying passengers for hire on river or stream sections designated under section 2086, subsection 1; or

C. There is satisfactory evidence of a material misrepresentation made by the licensee in connection with his application for a license hereunder.

The commissioner, acting in accordance with Title 5, section 10004, may himself revoke, suspend or refuse to renew any license issued under this section.

§ 2088. Inspection

The commissioner, acting through his agents, may cause the inspection of any watercraft carrying passengers for hire upon sections of rivers or streams designated under section 2086, subsection 1. Any such inspection shall be for the purpose of discerning whether the watercraft and its equipment are safe and otherwise in compliance with the requirements of law.

§ 2089. Violations

Any person who violates the requirements of this subchapter, or of any rule promulgated hereunder, or of any license condition or restriction imposed by the commissioner pursuant to this subchapter, shall be guilty of a Class E crime.

Sec. 3. Effective date. This act shall become effective on January 1, 1980, except that the commissioner may adopt rules under section 2086 at any time following 90 days after adjournment.

STATEMENT OF FACT

As reflected in its statement of legislative findings, the purpose of this bill is to require the licensing and regulation of operators of watercraft carrying passengers for hire upon sections of rivers and streams which, because of the existence of hazardous conditions, are considered to pose significant dangers to passengers of the watercraft.