

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 2098

6  
7 S.P. 779

In Senate, February 21, 1984

8 Reference to the Joint Select Committee on Whitewater Rafting is  
9 suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

10 Presented by Senator Pearson of Penobscot.

Cosponsors: Representative McGowan of Pittsfield, Senator Usher of  
Cumberland and Representative Jacques of Waterville.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FOUR  
16

17 AN ACT to Amend the Laws Concerning  
18 Commercial Whitewater Rafting.  
19

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

22 Sec. 1. 12 MRSA §7365, sub-§7, as enacted by PL  
23 1983, c. 502, §4, is amended to read:

24 7. Affiliated outfitters. Affiliated outfitters  
25 may be licensed, but are subject to additional allo-  
26 cation restrictions. ~~License applications~~ Applica-  
27 tions for allocations shall contain a declaration of  
28 the extent of affiliation, as defined in section  
29 7363, subsection 2, or a declaration of  
30 nonaffiliation, and a statement disclosing any rela-  
31 tionship with other licensed outfitters, including  
32 the giving or receipt of equipment, materials or oth-  
33 er assistance. The department may require submission  
34 of any books, memoranda, papers or accounts it rea-

1 sonably believes necessary to determine whether a  
2 person seeking a ~~license~~ an allocation is an affili-  
3 ated outfitter. These shall be confidential and made  
4 available only to persons involved in determining af-  
5 filiation and only for that purpose, unless they are  
6 submitted for another purpose.

7 Sec. 2. 12 MRSA §7367, sub-§1, ¶B, as enacted by  
8 PL 1983, c. 502, §4, is amended to read:

9 B. Outfitters shall ensure that each ~~person~~  
10 passenger participating on a whitewater trip  
11 wears a securely fastened type I or type V per-  
12 sonal flotation device.

13 Sec. 3. 12 MRSA §7369, sub-§§5 and 6, as enacted  
14 by PL 1983, c. 502, §4, is amended to read:

15 5. Term of allocation; abandonment of alloca-  
16 tion. All allocations shall be awarded for a ~~one-~~  
17 year period based on the calendar year period not  
18 exceed 3 years. The department may determine by rule  
19 the period for which allocations will be awarded.  
20 Any outfitter may abandon all or part of an alloca-  
21 tion at any time by giving the department 30 days  
22 written notice. In the event that the department  
23 reissues an abandoned allocation, any duplicate por-  
24 tion of the allocation fee shall be refunded.

25 6. Allocation procedure. Except for the initial  
26 allocation in 1983, which shall be governed by sub-  
27 section 4, the department shall award allocations to  
28 licensed outfitters on the basis of the criteria es-  
29 tablished in this section. Any outfitter desiring an  
30 allocation shall submit a proposal to the department  
31 in the year preceding the year for which the alloca-  
32 tion is desired, on or before a date specified by  
33 rule. Allocations shall be awarded on or before De-  
34 cember 1st, but, if any open allocation remains, it  
35 may be awarded at any time. Allocations shall be  
36 promulgated by rule awarded in accordance with the  
37 Maine Administrative Procedure Act, Title 5, chapter  
38 375, subchapter V with a public hearing required on  
39 the proposed rule in the vicinity of the river in  
40 question. The department shall hold at least one  
41 public hearing prior to final issuance of  
42 allocations. The department shall promulgate rules

1 as necessary to facilitate the allocation process.

2 Based on the demand for noncommercial public use, the  
3 department shall set aside up to 10% of the recrea-  
4 tional use limit on any particular rapidly flowing  
5 river for noncommercial public use of whitewater  
6 craft.

7 Sec. 4. 12 MRSA §7369, sub-§7, as enacted by PL  
8 1983, c. 502, §4, is repealed and the following en-  
9 acted in its place:

10 7. Whitewater rafting allocation criteria. The  
11 department shall review proposals and award alloca-  
12 tions so that, taken as a whole, they satisfy the al-  
13 location system goals of this section and contribute  
14 to meeting the river management objectives of section  
15 7364.

16 A. Individual proposals shall be evaluated ac-  
17 ording to the following specific criteria:

18 (1) The experience of the outfitter and any  
19 employee in providing whitewater trips on  
20 the river or rivers for which the allocation  
21 is sought, including, but not limited to,  
22 such factors as the number of trips and pas-  
23 sengers carried, length of time as an  
24 outfitter, safety record and experience of  
25 guides and staff. The company experience of  
26 only one company within an affiliated group  
27 at the time of that experience may be  
28 counted as company experience for purposes  
29 of allocation;

30 (2) The experience of the outfitter and any  
31 employee in providing whitewater trips on  
32 rivers other than those for which the allo-  
33 cation is sought, including, but not limited  
34 to, such factors as the number of trips and  
35 passengers carried, length of time as an  
36 outfitter, safety record and experience of  
37 guides and staff. The company experience of  
38 only one company within an affiliated group  
39 at the time of that experience may be  
40 counted as company experience for purposes  
41 of allocation;

1           (3) The safety record of the outfitter and  
2           any employee in whitewater outfitting or  
3           similar enterprises;

4           (4) The financial investment of the  
5           outfitter in equipment, training, insurance,  
6           facilities and services directly related to  
7           commercial whitewater rafting trips;

8           (5) Ability of the outfitter to serve the  
9           interests of the State by providing safe,  
10           economical, environmentally sound commercial  
11           whitewater trips on the particular river or  
12           ivers;

13           (6) Ability of the outfitter to serve the  
14           interests of the consuming public by provid-  
15           ing a type of trip experience that is in the  
16           public interest as determined by the depart-  
17           ment;

18           (7) When allocations are considered for  
19           subsequent years, the performance of the  
20           outfitter in providing the services proposed  
21           for the previous allocations and compliance  
22           with the terms of the allocations; and

23           (8) Other matters which in the judgment of  
24           the department relate to orderly business  
25           development, including growth, new entry or  
26           extreme hardship on the part of an appli-  
27           cant.

28           B. The department may require a surety bond in  
29           an amount sufficient to cover deposits of customers,  
30           and may require sufficient evidence of financial sta-  
31           bility prior to granting an allocation, including,  
32           but not limited to, financial statements and refer-  
33           ences from financial institutions.

34           (1) The department shall hold all financial  
35           information submitted under this section as  
36           confidential, except that information may be  
37           made available to attorneys for a party  
38           challenging a decision by the department.

39           Sec. 5. 12 MRSA §7370-A, as enacted by PL 1983,  
40           c. 502, §4, is amended to read:

