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Legislativ	ve Docume	nt					No. 111
H.P. 91			House	e of Rep	resentativ	es, Janu	ary 22, 1985
to Joint R	ence to the	-			d Wildlife	e suggeste	ed and
Cospe	by Represer onsored by I nd and Sena	Representa	tive Jacq	ues of V	n.		ERT, Clerk
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1 the Constitution of Maine and require the following 2 legislation as immediately necessary for the preser-3 vation of the public peace, health and safety; now, 4 therefore,

5 Be it enacted by the People of the State of Maine as 6 follows:

7 Sec. 1. 12 MRSA §7301, sub-§6, as repealed and 8 replaced by PL 1979, c. 543, §26, is amended to read:

9 6. <u>Classification</u>. The commissioner shall estab-10 lish classifications of guide licenses, including 11 general guides, whitewater guides and other special-12 ized categories he may designate.

13 Sec. 2. 12 MRSA §7363, sub-§12, as enacted by PL 14 1983, c. 504, §4, is amended to read:

Whitewater guide. "Whitewater guide" means 15 12. a person who receives any remuneration for accompany-16 17 ing, assisting or instructing passengers on the river 18 on whitewater trips, and who holds а current 19 quide's license whitewater in the whitewater 20 elassification.

21 Sec. 3. 12 MRSA §7366, as enacted by PL 1983, c.
22 502, §4, is repealed and the following enacted in its
23 place:

24 §7366. Whitewater guide license

25 1. Eligibility. No person may act as a
 26 whitewater guide until he is 18 years of age or older
 27 and has procured a license from the commissioner pur 28 suant to this section.

29 <u>2. Rules. The commissioner shall by rule estab-</u> 30 <u>lish the requirements for a whitewater guide's li-</u> 31 cense.

32 <u>3. Examination. All initial applicants for a</u> 33 whitewater guide's license shall be required to pass 34 an examination developed and administered by the com-35 missioner. 1 4. Fee. The annual fee for a whitewater guide's 2 license shall be \$25. All license fees shall be 3 credited to the department and used in accordance 4 with section 7074.

5 5. Renewal. A whitewater guide whose license is 6 not suspended or revoked may renew that license annu-7 ally upon the payment of the annual fee. Completion 8 and passage of the whitewater guide's examination is 9 not a requirement for renewal.

10 **Emergency clause.** In view of the emergency cited 11 in the preamble, this Act shall take effect when ap-12 proved.

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## STATEMENT OF FACT

14 This bill amends existing law to establish a uni-15 form annual fee for the issuance of a whitewater 16 guide's license. Under existing law, a person may 17 obtain a license pursuant to the Revised Statutes, Title 12, section 7301, which license allows the re-18 19 cipient to hunt and fish as well as to engage in one 20 of various classes of guiding activities as estab-21 lished by the Commissioner of Inland Fisheries and 22 Wildlife. In addition, the guide's license fee is 23 different for residents, nonresidents and aliens. 24 Whitewater guides do not necessarily engage in hunting and fishing, and a substantial proportion of them 25 26 are nonresidents. One such quide has brought a law-27 suit challenging the constitutionality of both the 28 requirement that such guides be required to pay for the right to hunt and fish as a precondition to ob-29 30 taining a whitewater guide's license and the require-31 ment that nonresident applicants pay a higher fee. 32 This suit is currently pending in the United States 33 District Court for the District of Maine. Fischer v. 34 Manuel, Civil Docket No. 84-0147-P. This bill, 35 which eliminates the requirement that whitewater 36 guides be licensed to hunt and fish and establishes a 37 flat license fee, will render that suit moot and 38 thereby limit the state's exposure to any award of attorney's fees which might be made pursuant to Sec-39 40 tion 1988 of the Federal Civil Rights Act, 42 U.S.C. 41 Section 1983 et seq. The Department of Inland Fish1 eries and Wildlife estimates that this bill will have 2 no substantial effect upon its revenues.

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