

# MAINE STATE LEGISLATURE

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1 (After Deadline)  
2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 1976

7  
8 S.P. 786

In Senate, February 7, 1986

9 Approved for introduction by a majority of the Legislative Council  
10 pursuant to Joint Rule 27.

Reference to the Committee on Business and Commerce suggested and  
ordered printed.

11 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Trafton of Androscoggin.

Cosponsored by Representative Aliberti of Lewiston and Representative  
Masterman of Milo.

12  
13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-SIX  
17

18 AN ACT to Set Standards for Care in  
19 Whitewater Rafting.  
20

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

23 12 MRSA §7370-B is enacted to read:

24 §7370-B. Responsibility for injuries arising from  
25 whitewater rafting

26 1. Assumption of risk; legal responsibility. It  
27 is recognized that whitewater rafting as a recrea-  
28 tional sport may be hazardous to participants, re-  
29 gardless of all feasible safety measures which can be  
30 taken. Every person who participates in the sport of  
31 whitewater rafting with a commercial whitewater  
32 outfitter subject to this chapter shall be deemed to  
33 have assumed the risk of the dangers inherent in the  
34 sport and assumed the legal responsibility for any  
35 injury to his person or property arising out of his

1 participation in the sport of whitewater rafting, un-  
2 less the injury or death was actually caused by the  
3 negligent maintenance of the rafting equipment owned  
4 or utilized by the commercial whitewater outfitter.

5 2. Compliance with safety requirements; rebut-  
6 table presumption. Compliance by the commercial  
7 whitewater outfitter with section 7367 and the safety  
8 requirements promulgated by the commissioner in ac-  
9 cordance with section 7367 creates a rebuttable pre-  
10 sumption that the commercial whitewater outfitter ex-  
11 ercised reasonable care in the maintenance and use of  
12 rafting equipment.

13 3. Limitation on remedy. This section is the  
14 exclusive remedy for any person injured during the  
15 course of a whitewater rafting trip with a commercial  
16 whitewater outfitter.

17 STATEMENT OF FACT

18 The sport of whitewater rafting, like skiing and  
19 other outdoor recreational sports in Maine, involves  
20 inherent risks of personal injury. In order to pre-  
21 serve the sport and clarify the liability of commer-  
22 cial whitewater outfitters in the face of dramatic  
23 increases in liability insurance costs, this bill  
24 clarifies that, first, the only liability for a com-  
25 mercial whitewater outfitter for an injury occurring  
26 on a trip shall be for a failure to maintain rafting  
27 equipment in a safe and reasonable manner, and 2nd,  
28 that this law sets forth the exclusive remedy for any  
29 individual injured on a whitewater rafting trip.

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