

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "**A**" to H.P. 1648, L.D. 2281, Bill, "An Act to Amend the Laws Relating to Whitewater Rafting"

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this bill affects the whitewater rafting industry, which operates primarily during the spring, summer and fall seasons; and

Whereas, this bill should be in effect before the start of the whitewater rafting season to allow these provisions to be implemented uniformly throughout the entire rafting season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Further amend the bill by inserting after the enacting clause the following:

'Sec. 1. 12 MRSA §7363, sub-§2, as amended by PL 1985, c. 571, §1, is further amended to read:

2. Affiliated outfitter. "Affiliated outfitter" means:

A. Any outfitter who owns directly, indirectly or through a chain of successive ownership 10% or more of the financial interest in any other outfitter;

COMMITTEE AMENDMENT "A" to H.P. 1648, L.D. 2281

2 B. Any outfitter, 10% or more of whose financial interests
are owned directly or indirectly or through a chain of
4 successive ownership by any other outfitter;

6 C. Any outfitter, 10% or more of whose financial interests
are owned directly or indirectly or through a chain of
8 successive ownership by a person who owns 10% or more of the
financial interest in another outfitter; or

10 D. Any outfitter who, in the year 1982 or thereafter:

12 (1) Purchases, leases, borrows, accepts, receives or
14 otherwise obtains on a nonarms-length basis from
another whitewater outfitter, either directly or
16 indirectly, more than 1/2 of its real or personal
property; or

18 (2) Receives from another outfitter on a
20 nonarms-length basis more than 1/2 of the ordinary
services related to the business of whitewater
22 outfitting, including, but not limited to, mail,
telephone, reservations, repair, maintenance, personnel
24 training and management.

26 A person shall ~~may~~ not be found to be an affiliated outfitter
solely because of blood relationship, marriage or previous
28 employment. An outfitter who purchases the business of another
outfitter whose license has been returned to the department as
30 provided in section 7365, subsection 6, shall ~~have~~ has 60 days
from ~~license-reissue~~ the date of sale to submit an affidavit
32 applying for the selling outfitter's allocation, assuring that
the level and quality of services of the selling outfitter will
34 be maintained. If the department transfers the selling
outfitter's allocation to the buying outfitter or outfitters,
these transferred allocations shall ~~may~~ must be added to the buyer's
36 allocations and shall ~~may~~ not be considered as affiliated. No
outfitter may receive more than the maximum allocation of 80
38 passengers a day.'

40 Further amend the bill by inserting after section 1 the
42 following:

44 'Sec. 2. 12 MRSA §7365, sub-§6, as enacted by PL 1983, c. 502,
§4, is amended to read:

46 6. Sale of business. When a licensed whitewater
outfitter's business is sold, the license shall ~~may~~ must be returned
48 to the department. On application, the license shall ~~may~~ must be
reissued to the purchaser, provided that the purchaser meets the
50 licensing requirements of the department and pays the license
fee. Profit on the return and reissuance of the license itself
52 is prohibited, but nothing in this subchapter may be construed to

COMMITTEE AMENDMENT "A" to H.P. 1648, L.D. 2281

2 prohibit profit on the sale of any of the assets of a business.
3 The license is not an asset. The department may require an
4 affidavit from the purchaser to aid in enforcement of this
5 provision. Allocations may be transferred, pursuant to this
6 chapter, from a selling outfitter to one or more buying
7 outfitters only if the license of the selling outfitter is
8 returned to the department.

9
10 **Sec. 3. 12 MRSA §7367, sub-§1**, as amended by PL 1983, c. 786,
11 §2, is repealed and the following enacted in its place:

12 **1. Whitewater trip safety restrictions.** The commissioner
13 shall by rule establish safety restrictions for whitewater trips.'
14

15 Further amend the bill by inserting after section 2 the
16 following:

17 **'Sec. 3. 12 MRSA §7367, sub-§3**, as enacted by PL 1983, c. 502,
18 §4, is amended to read:

19
20 **3. Safety reports.** Each commercial outfitter shall submit
21 ~~a complete monthly safety report~~ reports on forms provided by the
22 commissioner ~~containing the following~~ as follows:

23
24 A. A written report of any accident occurring in connection
25 with a whitewater trip conducted by that outfitter and which
26 results in the death of a person, a person's losing
27 consciousness or receiving medical treatment, a person's
28 becoming disabled for more than 24 hours, a person's
29 disappearance from a whitewater craft under circumstances
30 indicating death or injury, or damage to the whitewater
31 craft or other property of more than \$100. ~~A summary of the~~
32 ~~watercraft accident reports required by section 7801,~~
33 ~~subsection 19 may be used to satisfy this requirement; and~~

34
35 B. A written report of such other dangerous accidents and
36 occurrences as the department may, by rule, require.'

37
38 Further amend the bill in section 3 in that part designated
39 "~~7368-A.~~" in the first line (page 1, line 52 in L.D.) by striking
40 out the following: "~~7368-A.~~" and inserting in its place the
41 following: '~~§7368-A.~~'

42
43 Further amend the bill in section 3 in that part designated
44 "~~7368-A.~~" in subsection 3 by striking out all of paragraph B.

45
46 Further amend the bill by striking out all of section 6.
47
48

COMMITTEE AMENDMENT "A" to H.P. 1648, L.D. 2281

2 Further amend the bill in section 9 by striking out all of
paragraph A and inserting in its place the following:

4 'A. Allocations are required for Saturdays for the period
6 June 8th to August 31st. Allocations are required for
8 Sundays on the Penobscot River for the period June 8th to
10 August 31st. If the department determines that the
12 recreational use limit will be reached other days, the
14 department shall provide by rule for allocations.'

16 Further amend the bill by striking out all of sections 11
18 and 12.

20 Further amend the bill by renumbering the sections to read
22 consecutively.

24 Further amend the bill by inserting at the end before the
26 statement of fact the following:

28 **'Emergency clause.** In view of the emergency cited in the
30 preamble, this Act takes effect when approved.

32 **FISCAL NOTE**

34 Any additional costs associated with this bill would be
36 absorbed by the Department of Inland Fisheries and Wildlife
38 utilizing existing budgeted resources.'

40 **STATEMENT OF FACT**

42 This amendment adds an emergency preamble and emergency
44 clause. The amendment further amends the original bill by
46 deleting: the increase in passenger allocation; the elimination
of the Sunday allocation on the Penobscot River; and the
provision allowing rafters to keep their entire allocation if
they have a listing of allocations that was at least 75% of the
industry average. It amends the provisions of current law
concerning transfers of allocations in regard to the sale of a
whitewater rafting business, allows the Commissioner of Inland
Fisheries and Wildlife to set the whitewater rafting safety
restrictions and deletes a redundant rafting report. This
amendment also deletes from the original bill the requirement
that the counties and municipalities certify that they have
appropriately spent their share of the Whitewater Rafting Fund.
The amendment also adds a fiscal note.

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