

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1529

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H.P. 1082

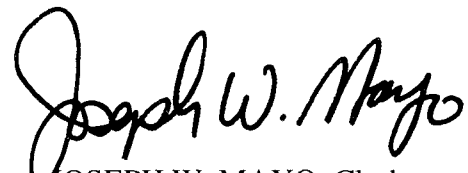
House of Representatives, February 25, 1999

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**An Act Regarding the Affiliation Definition Test for Rafting Companies.**

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Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative DUNLAP of Old Town.

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

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4       **Sec. 1. 12 MRSA §7363, sub-§2**, as amended by PL 1997, c. 730,  
§2 and affected by §22, is further amended to read:

6           **2. Affiliated outfitter.** "Affiliated outfitter" means:

8           A. Any An outfitter who operates a whitewater trip on a  
10 river and owns directly, indirectly or through a chain of  
12 successive ownership 10% or more of the financial interest  
in any other outfitter who operates a whitewater trip on  
that river;

14          B. Any An outfitter who operates a whitewater trip on a  
16 river, 10% or more of whose financial interests are owned  
18 directly or indirectly or through a chain of successive  
ownership by any other outfitter who operates a whitewater  
trip on that river;

20          C. Any An outfitter who operates a whitewater trip on a  
22 river, 10% or more of whose financial interests are owned  
24 directly or indirectly or through a chain of successive  
interest in another outfitter who operates a whitewater trip  
on that river; or

26          D. Any An outfitter who, ~~in the year 1982 or thereafter~~  
28 operates a whitewater trip on a river and:

30               (1) Purchases, leases, borrows, accepts, receives or  
32 otherwise obtains on a nonarms-length basis from  
34 another whitewater outfitter who operates a whitewater  
trip on that river, either directly or indirectly, more  
than 1/2 of its real or personal property; or

36               (2) Receives from another outfitter who operates a  
38 whitewater trip on that river on a nonarms-length basis  
40 more than 1/2 of the ordinary services related to the  
42 business of whitewater outfitting, including, but not  
limited to, mail, telephone, reservations, repair,  
maintenance, personnel training and management.

44       A person may not be found to be an affiliated outfitter solely  
46 because of blood relationship, marriage or previous employment.  
48 An outfitter who purchases the business of another outfitter  
50 whose license has been returned to the department as provided in  
section 7365, subsection 6, has 60 days from the date of sale to  
submit an affidavit applying for the selling outfitter's  
allocation, assuring that the level and quality of services of  
the selling outfitter will be maintained. If the department

2 transfers the selling outfitter's allocation to the buying  
outfitter or outfitters, these transferred allocations must be  
4 added to the buyer's allocations and may not be considered as  
affiliated. An outfitter may not receive more than the maximum  
6 allocations allowed under section 7369, subsection 3.

8 **Sec. 2. 12 MRSA §7369, sub-§2**, as amended by PL 1989, c. 883,  
§11, is further amended to read:

10 **2. Allocation required; affiliated outfitters restricted.**

12 Except as provided in subsection 10, operation of a commercial  
whitewater trip on the Kennebec River between Harris Station and  
14 West Forks or on the West Branch Penobscot River between McKay  
Station and Pockwockamus Falls without an allocation or in excess  
of an allocation is prohibited. An allocation is not required  
16 for other rivers or for other stretches of those rivers. Not  
more than one member of an affiliated group may conduct  
18 whitewater trips on ~~any a river or stretch of river~~ for which a  
specific allocation is required, or on any stretch of that river,  
20 even on days for which an allocation is not required.

22 Three or more years after the period of affiliation, the  
department may, in its discretion, consider requests by any  
24 former member of an affiliated group to run passengers on  
allocated rivers. The burden rests on the former member of an  
26 affiliated group to demonstrate that the reasons for any finding  
of affiliation have been so diminished in effect that the public  
28 interest will be served by considering the former member's  
request to run passengers on an allocated river.  
30

32 **SUMMARY**

34 This bill limits the application of the term "affiliated  
outfitter" under the whitewater rafting laws to commercial  
36 whitewater rafting outfitters who operate on the same river.  
Under current law, the term applies to all commercial whitewater  
38 outfitters, regardless of the river upon which they conduct  
business.