

MAINE STATE LEGISLATURE

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L.D. 281

Date: 6/6/2013

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INLAND FISHERIES AND WILDLIFE

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STATE OF MAINE

SENATE

126TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 114, L.D. 281, Bill, "An Act To Clarify Provisions of the Whitewater Rafting Laws"

Amend the bill by striking out the title and substituting the following:

'An Act To Reform Maine's Whitewater Rafting Laws'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 12 MRSA §12901, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 2. 12 MRSA §12901, sub-§2, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §320 and affected by §422, is repealed.

Sec. 3. 12 MRSA §12907, sub-§2-A is enacted to read:

2-A. Number of licenses. A commercial whitewater outfitter is allowed to possess up to 3 commercial whitewater outfitter's licenses on allocated rivers.

Sec. 4. 12 MRSA §12907, sub-§8, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 5. 12 MRSA §12912, sub-§3, ¶A, as enacted by PL 2003, c. 655, Pt. B, §336 and affected by §422, is amended to read:

A. Except as provided in this subsection, an outfitter may not carry:

(1) On any unallocated rapidly flowing river more than ~~92~~ 120 passengers per day; or

(2) On any allocated rapidly flowing river more than ~~92~~ 120 passengers per day ~~or more than the allocations for that outfitter's largest single day on that river, whichever number is greater~~ except on allocated days when a licensed outfitter may carry only up to the number of allocations the outfitter has been allocated.

On allocated days, that limit may be exceeded only as provided in section 12913,

1 subsection 2, paragraph A, subparagraph 4. On unallocated days, an outfitter
2 may occasionally carry up to 4 additional passengers to accommodate problems
3 in booking. Abuse of the privilege to carry 4 additional passengers results in its
4 loss for a period to be determined by the commissioner.

5 **Sec. 6. 12 MRSA §12913, sub-§2**, as amended by PL 2011, c. 68, §1, is further
6 amended to read:

7 **2. Allocation required.** This subsection governs commercial whitewater trips on
8 rivers subject to allocation requirements.

9 A. Except as provided in this paragraph, a person may not operate a commercial
10 whitewater trip on the Kennebec River between Harris Station and West Forks or on
11 the West Branch Penobscot River between McKay Station and Pockwockamus Falls
12 without an allocation or in excess of an allocation on any day for which allocations
13 are established under this subsection or by the department by rule.

14 (1) Allocations are not established and are not required for other rivers or for
15 other stretches of the Kennebec River or the West Branch Penobscot River.

16 (2) Allocations are required for Saturdays on the Kennebec River between Harris
17 Station and West Forks for the period of July 1st to August 31st. Allocations are
18 required for Saturdays on the West Branch Penobscot River between McKay
19 Station and Pockwockamus Falls for the period of July 1st to August 31st. The
20 commissioner may adopt rules establishing allocations for Sundays for the period
21 of July 1st to August 31st. If the department determines that the recreational use
22 limit will be reached on other days, the department shall provide by rule for
23 allocations. Rules adopted under this subparagraph are routine technical rules as
24 defined in Title 5, chapter 375, subchapter 2-A.

25 (3-A) Under extenuating circumstances as determined by the commissioner, the
26 commissioner may allow the emergency transfer of a commercial whitewater
27 rafting trip from a rapidly flowing river to another rapidly flowing river as long
28 as sufficient water is available in the river to which the commercial whitewater
29 rafting trip is to be transferred. Notwithstanding subsection 3, the commissioner
30 may allow the recreational use limits to be exceeded pursuant to this
31 subparagraph. Under no circumstances is a transfer of a whitewater rafting trip
32 allowed to the West Branch Penobscot River. The department shall report
33 annually to the joint standing committee of the Legislature having jurisdiction
34 over inland fisheries and wildlife matters regarding the implementation of this
35 subparagraph. A transfer authorized under this subparagraph is not restricted to
36 an outfitter holding an allocation.

37 (4) An outfitter may occasionally exceed the allocation by 2 passengers on a trip
38 of up to 40 passengers, or 4 passengers on a trip of more than 40 passengers, to
39 accommodate problems in booking, as long as the average of the number of
40 passengers carried on an outfitter's 10 best allocated days for each river and for
41 each allocated day of the week does not exceed the outfitter's allocation for that
42 river and day. Abuse by an outfitter of the privilege to carry additional
43 passengers results in the loss of the privilege for a period to be determined by the
44 commissioner.

- 1 (6) The following penalties apply to violations of this paragraph.
- 2 (a) A person who violates this paragraph commits a civil violation for which
- 3 a fine of not less than \$100 nor more than \$500 may be adjudged.
- 4 (b) A person who violates this paragraph after having been adjudicated as
- 5 having committed 3 or more civil violations under this Part within the
- 6 previous 5-year period commits a Class E crime.

7 ~~B. Not more than one member of an affiliated group may conduct whitewater trips~~

8 ~~on any river or stretch of river for which a specific allocation is required, including~~

9 ~~on days for which an allocation is not required. The following penalties apply to~~

10 ~~violations of this paragraph.~~

11 ~~(1) A person who violates this paragraph commits a civil violation for which a~~

12 ~~fine of not less than \$100 nor more than \$500 may be adjudged.~~

13 ~~(2) A person who violates this paragraph after having been adjudicated as having~~

14 ~~committed 3 or more civil violations under this Part within the previous 5 year~~

15 ~~period commits a Class E crime.~~

16 ~~C. Three or more years after the period of affiliation, the department may, in its~~

17 ~~discretion, consider requests by any former member of an affiliated group to run~~

18 ~~passengers on allocated rivers. The burden rests on the former member of an~~

19 ~~affiliated group to demonstrate that the reasons for any finding of affiliation have so~~

20 ~~diminished in effect that the public interest will be served by considering the former~~

21 ~~member's request to run passengers on an allocated river.'~~

22 **SUMMARY**

23 This amendment changes the bill's title and strikes and replaces the bill but retains the

24 bill's change clarifying that allocations may be transferred to any licensed outfitter. It

25 provides that a commercial whitewater outfitter is allowed to carry up to 120 passengers

26 on unallocated days. It also repeals all language related to affiliated outfitters and limits

27 to 3 the number of licenses that an outfitter may possess on allocated rivers.

FISCAL NOTE REQUIRED
(See attached)



126th MAINE LEGISLATURE

LD 281

LR 476(02)

An Act To Clarify Provisions of the Whitewater Rafting Laws

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Inland Fisheries and Wildlife

Fiscal Note Required: Yes

A" (S-230)

Fiscal Note

Minor revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

This legislation increases white water rafting allocations and would result in increased Other Special Revenue Funds revenue to the Department of Inland Fisheries and Wildlife in minor amounts not requiring any change to the budget.