

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 281

S.P. 114

In Senate, February 7, 2013

### An Act To Clarify Provisions of the Whitewater Rafting Laws

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Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.  
Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator DUTREMBLE of York.  
Cosponsored by Representative SHAW of Standish and  
Senator: BURNS of Washington, Representatives: BRIGGS of Mexico, CRAFTS of Lisbon,  
DAVIS of Sangerville, EVANGELOS of Friendship, KUSIAK of Fairfield, MARKS of  
Pittston, SHORT of Pittsfield.

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

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

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

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

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

20 (3-A) Under extenuating circumstances as determined by the commissioner, the  
21 commissioner may allow the emergency transfer of a commercial whitewater  
22 rafting trip from a rapidly flowing river to another rapidly flowing river as long  
23 as sufficient water is available in the river to which the commercial whitewater  
24 rafting trip is to be transferred. Notwithstanding subsection 3, the commissioner  
25 may allow the recreational use limits to be exceeded pursuant to this  
26 subparagraph. Under no circumstances is a transfer of a whitewater rafting trip  
27 allowed to the West Branch Penobscot River. The department shall report  
28 annually to the joint standing committee of the Legislature having jurisdiction  
29 over inland fisheries and wildlife matters regarding the implementation of this  
30 subparagraph. A transfer authorized under this subparagraph is not restricted to  
31 an outfitter holding an allocation.

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

40 (6) The following penalties apply to violations of this paragraph.

41 (a) A person who violates this paragraph commits a civil violation for which  
42 a fine of not less than \$100 nor more than \$500 may be adjudged.

1 (b) A person who violates this paragraph after having been adjudicated as  
2 having committed 3 or more civil violations under this Part within the  
3 previous 5-year period commits a Class E crime.

4 **SUMMARY**

5 This bill clarifies that allocations may be transferred to any licensed outfitter, not  
6 only companies with allocations.