

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE

FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

or permit issued shall remain restricted until the amount of time the license or permit was actually suspended plus the amount of time the restricted license or permit has been issued equals a minimum of 90 days.

Effective September 23, 1983.

CHAPTER 502

S.P. 625 - L.D. 1763

AN ACT to Regulate Commercial Whitewater Rafting.

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

Whereas, the 1983 whitewater rafting season begins in June; and

Whereas, in accordance with the findings and objectives detailed in this Act, it is important to establish for the 1983 season safety standards for whitewater rafting and recreational use limits for the Kennebec River and the West Branch Penobscot River to ensure consumer protection, prevent environmental degradation and protect navigation; 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,

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

Sec. 1. 12 MRSA c. 707, sub-c. X-A, first 2 lines, as enacted by PL 1979, c. 723, §14, are repealed and the following enacted in their place:

SUBCHAPTER X-A

COMMERCIAL WHITEWATER RAFTING

Sec. 2. 12 MRSA §7361, as enacted by PL 1979, c. 723, §14, is repealed and the following enacted in its place:

§7361. Legislative findings

The Legislature finds that the recreational use of watercraft on rapidly flowing rivers in this State has become an increasingly popular sport. Many members of the public rely on commercial whitewater outfitters to provide safe and enjoyable trips on these rivers. This sport may pose significant risks to the users of these rivers if outfitters are not skilled and knowledgeable in the navigation of those rivers and are not properly regulated.

The Legislature further finds that increased use of the state's rapidly flowing rivers has increased the environmental, physical and social burdens on that resource.

The Legislature further finds that it is in the public interest for the State, as trustee of the public waters, to regulate commercial whitewater rafting, pursuant to: The state's authority to protect the health, safety and welfare of its citizens; the state's authority to protect its natural resources or rapidly flowing rivers; and the state's authority over the care, supervision and protection of navigation.

The Legislature further finds that, in exercising this authority, it is in the public interest for the State to adopt measures to ensure the competence of commercial whitewater outfitters; to adopt recreational use limits; and to allocate the privilege of commercial use where necessary to meet the objectives and goals of this subchapter.

The Legislature further finds that it is in the public interest to allow stable, well qualified outfitters who are providing excellent service and meeting the conditions of their allocations to continue to do so, subject to periodic review when allocations are reviewed.

Sec. 3. 12 MRSA §7362, as enacted by PL 1979, c. 723, §14, is repealed.

Sec. 4. 12 MRSA §§7363 to 7370-A are enacted to read:

§7363. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Affiliated group. "Affiliated group" means one or more affiliated outfitters and the outfitter or outfitters with which they are affiliated.

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;

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

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

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

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

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

Provided, that a person shall not be found to be an affiliated outfitter solely because of blood relationship, marriage or previous employment.

3. Allocation. "Allocation" means the privilege of taking a specified number of passengers per day on whitewater trips on a particular river, as specified annually.

4. Bureau. "Bureau" means the Bureau of Parks and Recreation in the Department of Conservation.

5. Commercial. "Commercial" means for financial compensation or other remuneration.

6. Commercial whitewater outfitter; outfitter. "Commercial whitewater outfitter" or "outfitter" means a person who conducts commercial whitewater trips.

7. Demonstrated use. "Demonstrated use" means for a given outfitter, for a given river, the average number of passengers carried on the 10 Saturdays or Sundays with greatest use during the year.

8. Financial interest. "Financial interest" means any voting or nonvoting security, partnership interest whether limited or general, trust interest, joint venture interest or any other beneficial interest in any form of business association.

9. Person. "Person" means an individual, corporation, business trust, estate, trust, partnership or association, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

10. Rapidly flowing river. "Rapidly flowing river" means a river or stretch of a river with rapids classified as class IV or higher by the department according to the International River Classification System, or a river or stretch of a river designated by the department by rule on the basis of public safety, including, but not limited to, the Kennebec River between Harris Station and West Forks, and the West Branch Penobscot River between McKay Station and Pockwockamus Falls.

11. Whitewater craft. "Whitewater craft" means any raft, dory, bateau or similar watercraft which is used to transport passengers along rapidly flowing rivers, but does not include canoes or kayaks.

12. Whitewater guide. "Whitewater guide" means a person who receives any remuneration for accompanying, assisting or instructing passengers on the river on whitewater trips, and who holds a current guide's license in the whitewater classification.

13. Whitewater trip. "Whitewater trip" means any commercial effort to transport passengers by means of a whitewater craft on rapidly flowing rivers.

§7364. River management objectives

The following objectives are established for management of rapidly flowing rivers for the benefit of the people of the State:

1. Safety and health requirements. To assure that safety and health requirements are met by all river users;

2. Minimize environmental impact. To minimize environmental impact on the rivers and the river cor-

ridors, including access roads;

3. Recreational use. To allow a reasonable level of recreational use;

4. Quality wilderness experience. To maintain a quality wilderness experience on the rivers;

5. Multiple uses. To minimize conflicts between different uses of the rivers in order to allow for multiple use;

6. Diversity of whitewater experiences and services. To encourage a diversity of whitewater trip experiences and services;

7. River use and impact. To monitor river use and its impact;

8. Communication. To encourage open communication with all river users, both groups and individuals, on river management matters; and

9. System of allocating river use. To provide a system of allocating river use that is simple and fair, and that meets the specific goals of section 7369.

§7365. Commercial whitewater outfitters' licenses

1. Requirement. A commercial whitewater outfitter's license is required for all commercial whitewater outfitters. Operation of a commercial whitewater trip by an outfitter without a license is prohibited, and is subject to penalty under section 7370-A.

2. Issuance; term. The commissioner may issue a license to conduct commercial whitewater trips. Licenses shall be issued for the calendar year.

3. Fee. The annual basic fee for a commercial whitewater license shall be set by the department and adjusted biennially by rule to reflect the actual cost of administering the license program. The fee for 1983-84 shall be \$250. The fee for reissuance of a license shall be equal to the annual basic fee for a license. These fees shall be credited directly to the department and used in accordance with section 7074.

4. Exceptions. Nothing in this subchapter applies to the operation of canoes or kayaks. This subchapter does not apply to guides or camp trip leaders licensed under subchapter VIII, or motorboat operators licensed under chapter 715, subchapter I, unless those persons are in the business of conducting commercial whitewater trips.

5. Nonrenewal, suspension or revocation. Licenses are subject to nonrenewal, suspension or revocation for good cause shown, including, but not limited to, unsafe practices, falsifications of reports, or serious or continued violation of this subchapter, subject to the Maine Administrative Procedure Act, Title 5, chapter 375.

6. Sale of business. When a licensed whitewater outfitter's business is sold, the license shall be returned to the department. On application, the license shall be reissued to the purchaser, provided that the purchaser meets the licensing requirements of the department and pays the license fee. Profit on the return and reissuance of the license itself is prohibited, but nothing in this subchapter may be construed to prohibit profit on the sale of any of the assets of a business. The license is not an asset. The department may require an affidavit from the purchaser to aid in enforcement of this provision.

7. Affiliated outfitters. Affiliated outfitters may be licensed, but are subject to additional allocation restrictions. License applications shall contain a declaration of the extent of affiliation, as defined in section 7363, subsection 2, or a declaration of nonaffiliation, and a statement disclosing any relationship with other licensed outfitters, including the giving or receipt of equipment, materials or other assistance. The department may require submission of any books, memoranda, papers or accounts it reasonably believes necessary to determine whether a person seeking a license is an affiliated outfitter. These shall be confidential and made available only to persons involved in determining affiliation and only for that purpose, unless they are submitted for another purpose.

8. Limitation. Nothing in this subchapter may be construed as revoking any right of passage or access created by statute, contract or operation of law, or creating any such right for any whitewater outfitter or any associates or customers of any whitewater outfitter upon the project or project works of any licensee of the Federal Energy Regulatory Commission, as the terms "project" and "project works" are defined in the United States Code, Title 16, Section 786 (11) and (12), respectively.

§7366. Whitewater guide license

A whitewater guide license shall be required for all whitewater guides. The whitewater guide license shall be issued by the department only to those individuals who pass or have passed the whitewater guide

examination established by the department and who have met the other requirements of the department established by rule. Waivers of the examination are not permitted. Guide license fees shall be credited to the department and used in accordance with section 7074.

§7367. Safety

1. Whitewater trip restrictions. The following safety restrictions apply during whitewater trips.

A. There shall be at least one licensed whitewater guide in each watercraft.

B. Outfitters shall ensure that each person participating on a whitewater trip wears a securely fastened type I or type V personal flotation device.

C. Each whitewater craft shall be equipped with at least one throw line, not less than 50 feet long.

D. Each whitewater craft shall be equipped with an adequate first aid kit.

E. Each whitewater craft used by a licensed outfitter for a whitewater trip shall be plainly marked with a number, as assigned by the department, in lettering at least 6 inches high, so as to be easily readable from the river bank.

2. Whitewater Safety Committee. The Whitewater Safety Committee is established. The committee shall advise the commissioner in establishing and reviewing safety requirements for whitewater trips, developing a safety information program and reviewing the safety record of whitewater guides and outfitters. The committee shall submit a written report annually on each outfitter's safety record to the Whitewater Advisory Committee, while the advisory committee remains in existence.

A. The Whitewater Safety Committee shall be composed of 8 members: Two members of the whitewater guides board designated by the board; 2 commercial whitewater outfitters and 2 whitewater guides designated by the Governor; and 2 members from the general public, one designated by the President of the Senate and one designated by the Speaker of the House of Representatives.

B. Terms of members of the Whitewater Safety Committee shall be for 2 years, expiring on December 31st, except that initially the members

shall draw lots for a one-year or a 2-year term. Terms shall be staggered so that the term of one member in each category expires each year. Members shall serve until their successors are nominated and qualified. Members appointed to fill a vacancy created by the resignation, death or incapacity of a member shall complete the term of the vacancy and be eligible for reappointment. Members shall serve without compensation, except for per diem and reimbursement for travel and actual expenses for up to 4 meetings per year.

3. Safety reports. Each commercial outfitter shall submit a complete monthly safety report on forms provided by the commissioner containing the following:

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

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

4. Safety information. The department shall implement a public information program on whitewater trip safety. In developing the program, the department shall consult with the Whitewater Safety Committee. The department may also require outfitters and guides to provide safety information to passengers on whitewater raft trips.

5. Order of launch. Launch order of commercial outfitters on a particular river or portion of river may be determined and enforced by the department to protect public health and safety. The department shall provide for the outfitters to choose, in the order of their first documented dates of continuous commercial operation on the particular river or portion of river, their preferred launch positions. The department shall establish and publish the launch schedule by February 1st annually, except that the launch schedule for 1983 shall be promulgated within 30 days after the effective date of this subchapter. To facilitate that determination, each outfitter shall submit a sworn affidavit to the department

stating their dates of continuous commercial operation. For 1983, in order to expedite promulgation of the launch order, the notice and hearing provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, may be modified, to the minimum extent necessary in the judgment of the department to meet the promulgation date.

§7368. Recreational use limits

1. Findings and goals. Increased use has resulted in increased environmental impact on the Kennebec and West Branch Penobscot Rivers, as well as on their valleys, nearby roads and the social structure of the areas. Recreational use limits are necessary to allow for rafting use and other competing uses, such as fishing, camping and canoeing, while minimizing detrimental impacts and maintaining the opportunity for a quality wilderness experience for rafters and for other users.

2. Kennebec River. Recreational use limits for the Kennebec River are set as follows.

A. On the Kennebec River, only enough rafts for 600 to 800 passengers can be physically launched in an hour. In years with normal water flow, water releases average 4 to 7 hours on weekdays, one or 2 hours on Saturdays and never on Sundays. Saturday use has increased to a level which places a burden on the physical launching facilities.

B. There is little competing use of the stretch of the Kennebec River where rafting occurs, between Harris Station and West Forks, because of its inaccessibility.

C. The recreational use limit on the Kennebec River between Harris Station and West Forks is specified as follows. Noncommercial recreational use is not limited. The commercial limits are:

(1) Saturdays: 800 commercial passengers;

(2) Sundays: No water released; no limit set; and

(3) Weekdays: 1,000 commercial passengers.

3. West Branch Penobscot River. Recreational use limits for the West Branch Penobscot River are set as follows.

A. On the West Branch Penobscot River, water releases are typically continuous from McKay Sta-

tion every day, except a few days a year when the mill at Millinocket is shut down; however, the rapids are dangerous and rafts can get pinned in the cribwork at low water. The department has estimated that an average interval of 5 minutes between rafts at the cribwork is needed for safety. Rafts ordinarily carry 8 to 10 passengers.

B. It is found that use of the river is shared, especially with salmon fishing. Whitewater craft shall only be allowed on the West Branch Penobscot River between McKay Station and Pockwockamus Falls between 8:30 a.m. and 5 p.m., in order to allow free time for other uses.

C. The recreational use limit of the West Branch Penobscot River between McKay Station and Pockwockamus Falls is specified as follows. Non-commercial recreational use is not limited. The commercial limit is 560 commercial passengers per day, any day.

§7369. Allocation system

1. Goals. The goals of the allocation system are:

A. To encourage a wide diversity of whitewater trip experiences and services;

B. To provide a fair distribution of river use among existing and future users;

C. To maximize competition within the recreational use limits;

D. To allow for reasonable business stability for outfitters by allowing stable, well-qualified outfitters who are providing excellent service and meeting the conditions of their allocations to continue to do so, subject to periodic review when allocations are reviewed;

E. To encourage efficient use of the allocation system;

F. To be flexible enough to adapt to changes in river use or river conditions;

G. To prevent evasion of the system; and

H. To provide opportunity for public access.

2. Allocation required; 80 passenger limit on

any river; affiliated outfitters restricted. Except as provided in subsection 10, operation of a commercial whitewater trip on the Kennebec River between Harris Station and West Forks or on the West Branch Penobscot River between McKay Station and Pockwockamus Falls on weekends or legal holidays or other days specified by the department by rule under subsection 10, paragraph A, without an allocation is prohibited. No allocation is required for other rivers nor for other stretches of those rivers, but no outfitter may carry more than 80 passengers per day on any rapidly flowing river within the State. Not more than one member of an affiliated group may conduct whitewater trips on any river or stretch of river for which a specific allocation is required, even on days for which an allocation is not required.

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

3. Allocations, maximum, minimum. The department shall allocate the right to conduct whitewater trips to licensed outfitters. The maximum allocation for an outfitter is 80 passengers per day. The minimum allocation to be awarded is 20 passengers per day on the Kennebec River and 16 passengers per day on the West Branch Penobscot, except that an outfitter may request fewer passengers.

4. Allocation for 1983. The department shall award initial allocations to licensed outfitters for 1983 within 30 days after the effective date of this subchapter on the following basis.

A. Any licensed outfitter desiring an allocation shall submit a request to the department, accompanied by a sworn affidavit stating the number of passengers carried by that outfitter on the river in question on each Saturday and Sunday in 1982. The outfitter may also submit other information relevant to the allocation criteria.

B. The basic allocation awarded to any outfitter that receives an allocation shall be equal to the larger of his demonstrated use in 1982 or the minimum allocation as specified in subsection 3.

C. Subject to the 80 passenger per day maximum

and the minimum allocations specified in subsection 3, additional allocations may be awarded in accordance with the criteria of subsection 7. These additional allocations shall be awarded to allow for competition in the industry, including growth of outfitters with demonstrated use in 1982 and for entry of new outfitters, especially when a substantial business commitment directly related to whitewater rafting was made prior to June 15, 1983.

D. In order to expedite allocation for the 1983 season, the notice and hearing provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, may be modified to the minimum extent necessary in the judgment of the department to meet the required allocation date.

E. In determining the initial allocation for 1983, the passengers carried on a given river by any outfitters which were in an affiliated group may be counted by only one of the outfitters of that group for purposes of calculating demonstrated use.

5. Term of allocation; abandonment of allocation. All allocations shall be awarded for a one-year period based on the calendar year. Any outfitter may abandon all or part of an allocation at any time by giving the department 30 days written notice. In the event that the department reissues an abandoned allocation, any duplicate portion of the allocation fee shall be refunded.

6. Allocation procedure. Except for the initial allocation in 1983, which shall be governed by subsection 4, the department shall award allocations to licensed outfitters on the basis of the criteria established in this section. Any outfitter desiring an allocation shall submit a proposal to the department in the year preceding the year for which the allocation is desired, on or before a date specified by rule. Allocations shall be awarded on or before December 1st, but, if any open allocation remains, it may be awarded at any time. Allocations shall be promulgated by rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, with a public hearing required on the proposed rule in the vicinity of the river in question. The department shall promulgate rules as necessary to facilitate the allocation process.

Based on the demand for noncommercial public use, the department shall set aside up to 10% of the recreational use limit on any particular rapidly flowing river for noncommercial public use of whitewater craft.

7. Whitewater rafting allocation criteria. The department shall review proposals and award allocations so that, taken as a whole, they satisfy the allocation system goals of this section and contribute to meeting the river management objectives of section 7364. Individual proposals shall be evaluated according to the following specific criteria:

A. The experience of the outfitter and any employee in providing whitewater trips on the river or rivers for which the allocation is sought, including, but not limited to, such factors as the number of trips and passengers carried, length of time as an outfitter, safety record and experience of guides and staff. The company experience of only one company within an affiliated group at the time of that experience may be counted as company experience for purposes of allocation;

B. The experience of the outfitter and any employee in providing whitewater trips on rivers other than those for which the allocation is sought, including, but not limited to, such factors as the number of trips and passengers carried, length of time as an outfitter, safety record and experience of guides and staff. The company experience of only one company within an affiliated group at the time of that experience may be counted as company experience for purposes of allocation;

C. The safety record of the outfitter and any employee in whitewater outfitting or similar enterprises;

D. The financial stability of the outfitter, including the ability to provide service as advertised and as reserved by customers;

E. The financial investment of the outfitter in equipment, training, insurance, facilities and services directly related to commercial whitewater rafting trips;

F. Ability of the outfitter to serve the interests of the State by providing safe, economical, environmentally sound commercial whitewater trips on the particular river or rivers;

G. Ability of the outfitter to serve the interests of the consuming public by providing a type of trip experience that is in the public interest as determined by the department;

H. When allocations are considered for subse-

quent years, the performance of the outfitter in providing the services proposed for the previous allocations and compliance with the terms of the allocations; and

I. Other matters which in the judgment of the department relate to orderly business development, including growth, new entry or extreme hardship on the part of an applicant.

8. Allocation fee; user fee. Outfitters shall pay the department the following fees:

A. An allocation fee, for either river for which allocations are required, of \$250 per unit of 20 passengers or fraction thereof allocated per day on either river in excess of a single unit on a single river. This may be in quarterly payments, beginning 30 days after the allocation is awarded. The maximum allocation fee is \$1,750 for the privilege of carrying 80 passengers per day on both rivers; and

B. A user fee of \$1 per passenger, excluding guides, carried by any outfitter on any rapidly flowing river. This fee shall be paid by the 10th day following the month in which the passengers were carried.

9. Reporting. Each outfitter shall report monthly to the department the number of passengers carried each day on each river. Inaccurate reporting or failure to report may subject the outfitter to the penalties in section 7370-A.

10. Exceptions. The following exceptions shall apply to allocations.

A. Nonholiday weekday use does not require an allocation. If the recreational use limit of a river is reached on weekdays, the department shall provide by rule for allocations. For purposes of this subchapter, the legal holidays are Memorial Day, July 4th and Labor Day.

B. Under low-water conditions, an emergency swap of an allocation may be made from one river to the other, provided that water is available, if the receiving river is the Kennebec River; or that the recreational use limit is not exceeded, if the receiving river is the Penobscot. The department shall promulgate rules for emergency swap.

C. An outfitter may occasionally exceed the allocation by 2 passengers on a trip of up to 40

passengers, or 4 passengers on a trip of up to 80 passengers, to accommodate unexpected friends of passengers. Abuse of this privilege will result in its loss.

§7369-A. Whitewater Advisory Committee

The Whitewater Advisory Committee is established to advise the department and report to the Legislature on the implementation of the allocation process and other aspects of the operation of the industry which relate to the purposes of this subchapter.

1. Membership. The Whitewater Advisory Committee shall be composed of 6 members who shall have no financial or personal interest in the industry, including 2 members designated by the Governor, 2 legislative members designated by the President of the Senate and 2 legislative members designated by the Speaker of the House of Representatives.

2. Terms; compensation. Legislative members shall serve during their legislative terms. Members shall serve until their successors are nominated and qualified. Members shall serve without compensation, except for per diem and reimbursement for travel and actual expenses for up to 10 meetings per year.

3. Reports. The committee shall report to the Legislature annually by January 31st on the implementation of the allocation process.

4. Sunset. The Whitewater Advisory Committee shall terminate June 30, 1986.

§7370. Whitewater Rafting Fund

1. Established. There is established a Whitewater Rafting Fund to be used by the department, the bureau and the affected counties and municipalities to fund activities related to river recreation with primary emphasis on those activities which relate to whitewater trips.

2. Funding. All fees and surcharges collected shall be credited to the Whitewater Rafting Fund, except for license fees collected in accordance with sections 7365 and 7366.

3. Budget. The expenditures from the Whitewater Rafting Fund shall be subject to legislative approval in the same manner as the General Fund budgets of the department and the bureau are approved. The department and the bureau shall report annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over inland fisheries

and wildlife on its planned expenditures for the next fiscal year and the next previous year.

4. Use of the fund. The fund shall be used as follows.

A. The moneys deposited in the fund shall be credited as follows.

(1) 65% of each fee or surcharge shall be credited to the department.

(2) 25% of each fee or surcharge shall be credited to the bureau.

(3) 10% of each fee or surcharge shall be credited to the county in which the river is located for distribution among the affected municipalities and for use in the affected unorganized townships.

B. All moneys from the fund shall be expended solely for purposes related to river recreation, with primary emphasis on those activities which relate to whitewater trips, including, but not limited to, administration, regulation, safety education, enforcement, mitigation of environmental and safety problems and mitigation of any adverse effect on competing use of the river. The fund shall not be used to pay the cost of administering the whitewater outfitters' license program or the guide license program.

C. Any amount of the fund that is not expended at the end of a fiscal year shall not lapse but shall be carried forward.

§7370-A. Penalties

The penalties for failure to comply with this subchapter or for providing false information under this subchapter may include nonrenewal, revocation or suspension of an outfitters or guides license or an allocation or both, subject to the procedures of the Maine Administrative Procedure Act, Title 5, chapter 375. Operation of a commercial whitewater trip without a license or operation on the river in violation of the safety requirements of section 7367, subsection 1, shall be a Class E crime.

Sec. 5. Safety review. The Department of Inland Fisheries and Wildlife shall review the safety aspects of whitewater rafting, with the advice of the Whitewater Safety Committee and report its findings and recommendations to the Second Regular Session of the 111th Legislature.

The review shall consider, but not be limited to, the following items: Practical testing of whitewater guides; requirements for personal flotation devices for both commercial and noncommercial trips; the need for protective helmets; possible whitewater trip restrictions based on extremely high-water or low-water flow; special operating procedures for the cribwork on the West Branch Penobscot River; the adequacy of safety reporting; the need for safety rails at steep put-in points; and whitewater craft length restrictions.

Sec. 6. Recreational use limit and allocation review. The Department of Inland Fisheries and Wildlife and the Bureau of Parks and Recreation of the Department of Conservation shall jointly review the recreational use limit and allocation system established by this Act and report to the Legislature by October 1, 1985, with recommendations as appropriate.

Sec. 7. Budget allocation. The following funds are allocated from the Whitewater Rafting Fund for the fiscal years ending June 30, 1984, and June 30, 1985. In the event less or more funds are available, they shall be allocated proportionately.

	<u>1983-84</u>	<u>1984-85</u>
<u>INLAND FISHERIES AND WILDLIFE,</u> <u>DEPARTMENT OF</u>	\$29,250	\$29,250
<u>CONSERVATION, DEPARTMENT OF</u>		
Bureau of Parks and Recrea- tion	\$11,250	\$11,250
Somerset County	\$2,250	\$2,250
Piscataquis County	\$2,250	\$2,250
Total	<u>\$45,000</u>	<u>\$45,000</u>

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 27, 1983.