

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

Sec. C-4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Bureau of Revenue Services

All Other \$373,333

Provides for the appropriation of funds for the lease-purchase of a tax modeling system. Funds must be expended in accordance with section C-3 of this Part. Unexpended funds do not lapse but carry forward to the following year.

Bureau of Revenue Services

All Other \$192,000

Provides for the appropriation of funds to contract for tax auditing services for businesses whose primary locations are outside of the State.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL

\$565,333

PART D

Sec. D-1. PL 1997, c. 643, Pt. HHH, §10 is amended to read:

Sec. HHH-10. Retroactivity. This Act ~~Part~~ applies retroactively to April 1, 1998.

Sec. D-2. Retroactivity. That section of this Act that amends Public Law 1997, chapter 643, Part HHH, section 10 applies retroactively to June 30, 1998.

See title page for effective date.

CHAPTER 730

S.P. 604 - L.D. 1801

An Act to Adopt Long-range Changes in the Methods by Which Whitewater Rafting Trips Are Allocated among Licensees

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

Sec. 1. 12 MRSA §7361, last ¶, as enacted by PL 1983, c. 502, §2, is amended to read:

The Legislature further finds that it is in the public interest to allow stable, ~~well-qualified~~ 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. 2. 12 MRSA §7363, sub-§2, as amended by PL 1989, c. 883, §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;
- 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.

A person may not be found to be an affiliated outfitter solely because of blood relationship, marriage or previous employment. An outfitter who purchases the business of another outfitter 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 transfers the selling outfitter's allocation to the buying outfitter or outfitters, these transferred allocations must be added to the buyer's allocations and may not be considered as affiliated. ~~No~~ An outfitter may not receive more than the maximum allocation of 80 passengers a day allocations allowed under section 7369, subsection 3.

Sec. 3. 12 MRSA §7365, sub-§6-A, as enacted by PL 1989, c. 883, §5, is amended to read:

6-A. Sale of business; allocations. When a licensed whitewater outfitter's business is sold, the selling outfitter's allocations or portions of the allocations subject to the sale must be returned to the department. On application to the department, allocations may be reissued to the purchaser, ~~provided that as long as the purchaser meets the licensing and allocation requirements of the department and pays the license and allocation fees. Profit on the return and reissuance of any allocations is prohibited, but nothing in this subchapter prohibits a profit on the sale of any of the assets of a business. The allocations are not assets of a business. The department may require an affidavit from the selling outfitter or purchaser, or both, to aid in enforcement of this provision.~~ Allocations or portions of the allocations may be transferred, pursuant to this chapter, from a selling outfitter to one or more purchasers only if the selling outfitter's allocations or portions of the allocations subject to the sale are returned to the department. When allocations are forfeited or when new allocations become available as a result of increases in the commercial use limits on an allocated river, the department shall sell those allocations at public auction to qualified recipients. Net proceeds from the sale of allocations must be paid to the General Fund and are considered revenues of the department.

Sec. 4. 12 MRSA §7367, sub-§5, as enacted by PL 1983, c. 502, §4, is amended to read:

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 the date the outfitter first began 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.~~

Sec. 5. 12 MRSA §7368, sub-§2-A, as amended by PL 1995, c. 667, Pt. B, §5, is further amended to read:

2-A. Kennebec River. The recreational use limit on the Kennebec River between Harris Station and West Forks is ~~specified as follows 1,000 commercial passengers per day.~~ Noncommercial recreational use is not limited. ~~The commercial limits are:~~

- ~~A. Saturdays: 800 commercial passengers;~~
- ~~B. Sundays: 1,000 commercial passengers; and~~
- ~~C. Weekdays: 1,000 commercial passengers.~~

Sec. 6. 12 MRSA §7368, sub-§3, as repealed and replaced by PL 1985, c. 571, §4, is amended to read:

3. West Branch Penobscot River. ~~Whitewater~~ In order to allow free time for other uses, whitewater craft shall be only allowed on the West Branch Penobscot River between McKay Station and Pockwockamus Falls between 8:30 a.m. and 5:00 p.m., in order to allow free time for other uses.

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

Sec. 7. 12 MRSA §7368-A, sub-§3, as amended by PL 1995, c. 455, §20, is further amended to read:

3. Passenger limitation. Except as provided in this subsection, an outfitter may not carry on any rapidly flowing river more than 80 92 passengers per day on any rapidly flowing river or more than the allocations for that outfitter's largest single day on that river, whichever number is greater. On allocated days, that limit may be exceeded only as provided in section 7369, subsection 10, paragraph C. On unallocated days, an outfitter may occasionally carry up to 4

additional passengers to accommodate problems in booking. Abuse of this privilege results in its loss.

Sec. 8. 12 MRSA §7369, sub-§1, ¶D, as enacted by PL 1983, c. 502, §4, is amended to read:

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;~~

Sec. 9. 12 MRSA §7369, sub-§3, as enacted by PL 1983, c. 502, §4, is amended to read:

3. Allocations, maximum, minimum. The department ~~shall~~ may allocate the right to conduct whitewater trips to licensed outfitters. The maximum allocation for an outfitter is ~~80~~ 120 passengers per day. The minimum allocation to be awarded is ~~20~~ 10 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. The total number of allocations issued for an allocated day may not exceed the use limits established in section 7368. The department may declare a day to be an allocated day when the department determines that the regular and persistent use of the river on that day from year to year may exceed the use limits for that day.~~

Sec. 10. 12 MRSA §7369, sub-§5, as repealed and replaced by PL 1989, c. 493, §26, is repealed.

Sec. 11. 12 MRSA §7369, sub-§5-A is enacted to read:

5-A. Conditions for holding allocations. Allocations are a privilege extended by the State for the use of a limited public resource. The department may suspend, revoke or reduce the number of allocations when it is advisable to do so for better management of the resource or for protection of public safety and welfare. An outfitter's allocations are subject to forfeiture or suspension by the department if the outfitter fails to maintain the conditions of its license, fails to continue using its allocations productively or fails to maintain a quality of service consistent with the public interest.

Sec. 12. 12 MRSA §7369, sub-§6, as amended by PL 1993, c. 438, §22, is repealed.

Sec. 13. 12 MRSA §7369, sub-§7, as amended by PL 1993, c. 438, §23, is repealed.

Sec. 14. 12 MRSA §7369, sub-§7-A is enacted to read:

7-A. Allocation criteria. The department may adopt rules specifying a schedule for reviewing outfitters who hold allocations and setting forth the criteria for awarding allocations. An outfitter shall submit periodic public reports to the department documenting river use for both allocated and unallocated days. If the department determines that additional allocated days are required, the allocation of trips on any such additional day must be distributed among existing licensed outfitters, upon payment of the appropriate allocation fee, in accordance with their percentage of total use averaged over the rafting season on that rapidly flowing river on that particular day, up to the limit on allocations established in subsection 3.

Sec. 15. 12 MRSA §7369, sub-§8, as amended by PL 1989, c. 883, §13, is further amended to read:

8. Allocation fee. Outfitters shall pay the department an annual allocation fee, for either river when allocations are required, of \$250 per unit of 20 passengers or less 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~~ \$2,625 for the privilege of carrying ~~80~~ 120 passengers per day on both rivers.

Sec. 16. 12 MRSA §7369, sub-§10, ¶C, as amended by PL 1985, c. 571, §7, is further amended to read:

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~~ more than 40 passengers, to accommodate problems in booking, ~~provided that~~ as long as the average of the number of passengers carried on an outfitter's 10 best allocated days for each river and for each allocated day of the week does not exceed ~~his~~ the outfitter's allocation for that river and day. Abuse of this privilege ~~will result~~ results in its loss.

Sec. 17. 12 MRSA §7369, sub-§11, as enacted by PL 1983, c. 786, §9, is repealed.

Sec. 18. 12 MRSA §7370, sub-§4, ¶D is enacted to read:

D. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this section. Those costs must be verified by the Department of Administrative and Financial Services.

Sec. 19. Distribution of 200 new allocations on the Kennebec on Saturday. The

Department of Inland Fisheries and Wildlife shall distribute 200 new Saturday allocations created by this Act on the Kennebec River equally among all whitewater outfitters who held a valid commercial whitewater outfitter's license in 1997 and conducted commercial whitewater rafting trips in that year. An outfitter eligible to receive allocations under this section shall pay the appropriate allocation fee to the department prior to receiving those allocations.

Sec. 20. Rules. The Department of Inland Fisheries and Wildlife shall adopt rules necessary to implement this Act prior to January 1, 1999. Rules adopted to implement this Act are minor technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A. The effective date of those rules is January 1, 1999.

Sec. 21. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Savings Fund Program

All Other	\$4,300
Appropriates funds to be used only to offset future fee increases.	

Sec. 22. Effective date. All sections of this Act take effect on January 1, 1999, except that section directing the Department of Inland Fisheries and Wildlife to adopt rules takes effect 90 days after adjournment of the Second Regular Session of the 118th Legislature.

Effective January 1, 1999, unless otherwise indicated.

CHAPTER 731

H.P. 882 - L.D. 1199

An Act to Ensure Adequate Nutrition and Support for Low-income Legal Immigrants

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

Sec. 1. 22 MRS §3104-A is enacted to read:

§3104-A. Food assistance for legal aliens

1. Food assistance. The department shall provide food assistance to households that would be eligible for assistance under the federal Food Stamp Act of 1977, 7 United States Code, Section 2011, et seq., but for provisions of Sections 401, 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

2. Amount of assistance. The total amount of food assistance provided under this section must equal the amount that the household would be eligible to receive under the federal Food Stamp Act of 1977, 7 United States Code, Sections 2014 and 2017, if the household were eligible for that program.

3. Administration. The department shall provide assistance under this section to eligible households on a monthly basis through a system of direct mail of coupons or electronic benefit issuance. The department is authorized to negotiate with the United States Department of Agriculture to arrange for the purchase of federal food stamps or produce its own food coupons to be used by eligible households for transactions with vendors under this program.

4. Repeal. This section is repealed June 30, 1999.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

HUMAN SERVICES, DEPARTMENT OF

Bureau of Family Independence - Central

All Other	\$279,960
Provides one-time funds for a monthly food benefit to certain legal immigrants through June 1999.	

State Supplement to Federal Supplemental Security Income

All Other	(295,724)
Deappropriates funds available due to a projected fiscal year 1997-98 balance forward.	