

MAINE STATE LEGISLATURE

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STATE OF MAINE
113TH LEGISLATURE
SECOND REGULAR SESSION

FINAL REPORT
OF THE SECOND
COMMISSION TO REVIEW
THE LAWS RELATING TO
REGISTERED MAINE GUIDES

OCTOBER 1988

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I. INTRODUCTION

In the Second Regular Session of the 114th Legislature, Chapter 105, Resolves 1987 was passed to reconstitute the Commission to Review the Laws Relating to Maine Guides. The Resolve charges the Commission with:

1. Discussing the issues to be considered in developing a system for licensing or registering outfitters in the State;
2. Exploring the need to develop a system for assistant guides to aid licensed Maine guides and train inexperienced guides; and
3. Recommending any changes in legislation pursuant to these findings.

This report and the appended proposed bill are a product of that review.

II. FINDINGS

The Commission met throughout the summer of 1988 to discuss the issues behind licensing outfitters, apprentices and assistant guides. Three public hearings were held throughout the State. The following sections detail their findings.

1. OUTFITTERS

After considerable discussion over a proposed registration strategy, the Commission voted not to pursue state licensing or registration of outfitters at this time. The Commission felt that present concerns about public safety or ethical outfitting practices did not warrant instituting a cumbersome system. Also, it was felt that Maine's recreation industry was not currently structured for outfitter licensing although this may change in the future. Conditions that necessitate outfitters in the whitewater industry (limited resources, allocations and intensive equipment needs) are currently not major factors in Maine's other outdoor recreation activities.

2. APPRENTICE GUIDES

It is extremely difficult for would-be guides to get training in the field for handling clients. They cannot be compensated for any work until they are licensed. The Commission spent considerable time developing a system for apprentice guides that would best serve the "sport" and the industry. A copy of the proposed system is found in appendix B.

The issue of supervision in the apprentice proposal could not be resolved by the Commission. It was felt that if a guide took on an apprentice, they would have to closely supervise them to avoid abusing the system. Supervision also allows the apprentice to learn from the guide through on the job training. However, it is difficult to define a workable degree of supervision. The commission's proposal incorporates the accompaniment standard from the Inland Fisheries and Wildlife statutes, requiring voice and visual contact. From a practical standpoint, many guides felt this was an unworkable requirement. An extra person would create too much noise in a hunting party, would be too much extra weight to fly in to a remote pond and would not be an asset.

While the Commission felt strongly that training for guides was needed, they felt that apprentice guides was not the answer.

3. ASSISTANT GUIDES

The definition of guide in the Inland Fisheries and Wildlife laws is very broad, encompassing any assistance for which a person receives remuneration while in the fields, forests, or on the waters. The Commission was charged with examining a means to allow guides to hire unlicensed people to assist them.

A category of assistant guides was proposed. It would have allowed assistant guides to undertake camp-related or nonguiding functions without being licensed. The proposal is included in appendix C. However, the Commission felt that by specifying certain activities, the waters would be muddied for those activities not included. There also was concern that by opening up the activities that don't require a guide's license, you may put guides out of work.

Convicting persons of guiding without a license is very difficult and has been successful only with flagrant violations. In light of this, the Commission voted against proposing an assistant guide classification.

III. RECOMMENDATIONS

Although the Commission voted not to institute an outfitters license or an apprenticeship program, two issues surfaced during the study that the Commission addressed through the following recommendations. The proposed bill in appendix A addresses these recommendations.

1. GUIDES CURRICULUM

It is very difficult for a guide applicant to study and review for their written and oral exams--the areas covered by the exams are very broad. Vocational-technical institutes and adult education programs have been offered in Calais, Skowhegan and Millinocket to help prepare applicants for their exams.

The Commission felt that the most effective tool for training guides was to have the Department develop and approve a curriculum that would be available to sporting organizations, vocational-technical institutes, and adult education programs. The curriculum would include a review of the pertinent laws, identification, map reading and practical skills such as fire-building and cooking.

However, the Commission strongly felt that this curriculum should not be a requirement for obtaining a guide's license.

2. TESTING LOCATIONS

One concern raised during the public hearings was that the Advisory Board for the Licensing of Maine Guides seldom examined applicants outside of Augusta. It was felt that this further discouraged guide applicants.

The Advisory Board is a seven member board that administers guide examinations. Oral exams are given by three members. The Commission felt that it would be helpful to applicants if the Board periodically held exams in the seven Inland Fisheries and Wildlife regions. The Board can generally examine ten guides per day. The proposed bill requires the Board to hold oral exams in a region if at least ten applicants are from the region.

SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY SEVEN

AN ACT to Amend the Laws Relating to Licensed
Maine Guides

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

Sec. 1. 12 MRSA, section 7011 is amended to read:

§7011. Department established

There is established the Department of Inland Fisheries and Wildlife to preserve, protect and enhance the inland fisheries and wildlife resources of the State; to encourage the wise use of these resources; to ensure coordinated planning for the future use and preservation of these resources; and to provide for effective management of these resources.

The department shall consist of a Commissioner of Inland Fisheries and Wildlife, deputy commissioner, Bureau of Administrative Services, Bureau of Resource Management and Bureau of Warden Service. It shall also include the ~~Board of Examiners for the Licensing of Guides~~, Advisory Board for the Licensing of Guides, the Junior Maine Guides and Trip Leaders Curriculum Board and whatever state agencies which shall be designated. The department shall be under the control and supervision of the commissioner.

Sec. 2. 12 MRSA, section 7313 is amended as follows:

§7313. Examination

1. **Requirement.** A person who has not previously held a guide license must pass an examination. A guide carrying passengers for hire must also be certified in the area of watercraft safety.

2. **Form.** The commissioner shall determine the form and content of the examination.

3. **Location.** The commissioner shall designate locations where the examination will be held, except that exams shall be held in one of the Inland Fisheries and Wildlife regions if at least ten applicants reside in that region.

4. **Reexamination.** The commissioner may require a guide to be examined or reexamined if the commissioner receives a written complaint and, upon investigation, believes that the guide no longer meets the guide qualifications.

5. **Fee.** The examination fee. is \$10. An applicant may retake the examination once without paying an additional fee. The fee is nonrefundable and shall be counted toward the license fee of a successful applicant.

Sec. 3. 12 MRSA, section 7313-A is enacted to read:

§7313-A. Approved curriculum for licensed Maine guides

By March 1, 1990, the commissioner shall approve a curriculum designed to prepare persons for the guide examinations. This curriculum shall cover practical skills, fisheries and wildlife laws and other aspects important for the guiding profession. The commissioner shall convene an ad hoc advisory board, as defined under 5 MRSA, section 12008, to develop the curriculum. Nonagency members shall be compensated according to 5 MRSA, chapter 379. The commissioner also shall consult with the Department of Education in developing the curriculum.

STATEMENT OF FACT

This bill is a product of a study by the Commission to Review the Laws Relating to Registered Maine Guides. The Commission was charged with examining the issues involved with developing a system for licensing outfitters and assistant guides. After considerable debate, the Commission concluded that the most effective tool to help train new guides was a training curriculum developed and approved by the Department, available to sporting groups, vocational-technical institutes and adult education programs. This curriculum is not intended to be a requirement for obtaining a guide's license.

The Commission was also charged with examining the issues surrounding licensing or registering outfitters. They felt that at this time there is no need for licensing outfitters.

Section one corrects a reference to the Advisory Board for the Licensing of Guides.

Section two requires the department to hold guide examinations at regional headquarters when ten or more applicants reside in that region. This is another recommendation of the Commission.

Section three requires the Department to approve a curriculum for training Maine guides by March 1, 1990. The curriculum is to be developed by an advisory group consisting of all the interests that are involved in guiding or may be affected.

Appendix B -- APPRENTICESHIP PROPOSAL CONSIDERED

Purpose: A voluntary program to give experience to persons who want to become licensed Maine guides.

Age Requirement: At least 16 years old.

Requirements: -Preliminary application to department.
-Must take written exam and pass first aid course within 60 days.
-Must be sponsored by licensed guide. A guide can only sponsor one apprentice at a time.

Additional Requirements: Commissioner will set by rule.

Fees: \$10

Time Limit: Can only be an apprentice for 2 consecutive seasons for each of the activities for which the apprentice is licensed. A fishing season and hunting season would not count as two seasons. An apprentice may apply to the Department for an extension.

Supervision: The apprentice must be accompanied by a guide; within visual and voice contact without the aid of a radio or binoculars.

Wages: The apprentice must be paid by the sponsoring guide or a sporting camp, not by the client.

Revocation: The apprentice license would be automatically revoked under the following circumstances:

- * The apprentice has been found to be providing guiding services for remuneration without the supervision of a guide;
- * The apprentice is convicted of knowingly assisting a client or licensed Maine guide in violating IF&W laws;
- * The apprentice is an habitual violator (3 or more IF&W convictions within 3 years); or
- * The apprentice did not fulfill the first aid requirements within the specified time periods;

The apprentice may request an administrative hearing to show cause why their license should not be revoked.

Testing:

Testing will be done at IF&W Regional Headquarters. A written exam will be given that is less rigorous than the exam for licensed Maine guides.

Definition

Apprentice guide. "Apprentice guide" means any person who holds a valid license and receives any form of remuneration from a licensed Maine guide or a sporting camp for assisting a licensed Maine guide in providing services for a client. An apprentice guide must always be in the presence of a licensed Maine guide unaided by visual or audio enhancement devices including binoculars and Citizen Band radios.

Appendix C -- ASSISTANT GUIDES PROPOSAL CONSIDERED
(Note boldface print at bottom)

§7311. License required

1. Requirement. No person may act as a guide without a valid license under this subchapter. A license entitles a person to act as a guide for 3 years from the date of issue.

2. Qualifications. In order to qualify for a guide license, a person must:

- A. Be at least 18;
- B. Pass the guide exam;
- C. If a first-time applicant and beginning January 1, 1990, for applicants for license renewal, be certified by the Red Cross in standard first aid; and
- D. Meet all requirements established by rules of the commissioner.

3. Fee. The fee for a 3-year guide license is as follows:

- A. Resident.....\$ 75
- B. Nonresident.....\$300
- C. Alien.....\$600

3-A. Transitional fees. In 1988, fees shall be \$40 for residents, \$142 for nonresidents and \$167 for aliens. The licenses shall carry hunting and fishing privileges. After December 31, 1988, and before January 1, 1990, guide licenses shall not carry hunting and fishing privileges and may be purchased to cover a one-year, 2-year or 3-year period at the following rates:

- A. Resident.....\$25 per year
- B. Nonresident.....\$100 per year
- C. Alien.....\$200 per year

4. Exception. A person holding a camp trip leader permit under section 7322 may conduct trips containing adults under the auspices of the boys and girls camp where they are employed without being required to obtain a guide license. Those trips shall be subject to all the requirements of section 7322.

5. Assistants. A licensed Maine Guide may hire unlicensed assistants to help in certain camp-related tasks. These tasks include but are not limited to food preparation, setting up camp, cleaning fish or transporting equipment. Constructing or tending stands or blinds is not included.