



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 378

H.P. 304

House of Representatives, February 8, 2011

**An Act To Allow the Transfer of Whitewater Rafting Allocations
When Water Levels in a River Are Not Suitable for Whitewater
Rafting**

(EMERGENCY)

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative McCABE of Skowhegan.
Cosponsored by Senator SCHNEIDER of Penobscot and
Representatives: BLACK of Wilton, CLARK of Millinocket, DUNPHY of Embden, FOSTER
of Augusta.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the efficient use of the limited whitewater rafting resources is vital to the
4 local economies; and

5 **Whereas,** this Act must take effect before the short whitewater rafting season begins
6 in early spring; and

7 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
8 the meaning of the Constitution of Maine and require the following legislation as
9 immediately necessary for the preservation of the public peace, health and safety; now,
10 therefore,

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

12 **Sec. 1. 12 MRSA §12913, sub-§2, ¶A,** as amended by PL 2009, c. 340, §17, is
13 further amended to read:

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

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

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

30 (3) Under high-water or low-water conditions on the West Branch Penobscot
31 River, or the Kennebec River or on the Dead River on the several days in the
32 months of April and May when special water releases are scheduled to be made
33 from the Flagstaff Dam to permit whitewater rafting on the Dead River, an
34 emergency swap of an allocation may be made to the Kennebec River, the West
35 Branch Penobscot River or the Dead River, as long as sufficient water is
36 available ~~there~~ in the river to which the allocation is to be transferred. ~~Under no~~
37 ~~circumstances is a transfer of an allocation allowed from the Kennebec River to~~
38 ~~the West Branch Penobscot River.~~

39 (4) An outfitter may occasionally exceed the allocation by 2 passengers on a trip
40 of up to 40 passengers, or 4 passengers on a trip of more than 40 passengers, to

1 accommodate problems in booking, as long as the average of the number of
2 passengers carried on an outfitter's 10 best allocated days for each river and for
3 each allocated day of the week does not exceed the outfitter's allocation for that
4 river and day. Abuse by an outfitter of the privilege to carry additional
5 passengers results in the loss of the privilege for a period to be determined by the
6 commissioner.

7 ~~(5) On the several days in the months of April and May when special water~~
8 ~~releases are scheduled to be made from the Flagstaff Dam to permit whitewater~~
9 ~~rafting on the Dead River, commercial whitewater rafting trips may be~~
10 ~~transferred from the Dead River to the Kennebec River whenever high water or~~
11 ~~low water conditions render use of the Dead River unsafe or inappropriate for~~
12 ~~commercial whitewater rafting trips.~~

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

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

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

19 **Emergency clause.** In view of the emergency cited in the preamble, this
20 legislation takes effect when approved.

21 SUMMARY

22 This bill allows the swap of a whitewater rafting allocation between the West Branch
23 Penobscot River, the Kennebec River and the Dead River whenever high-water or low-
24 water conditions prevent whitewater rafting on any of the 3 rivers.