



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 281

S.P. 114

In Senate, February 7, 2013

An Act To Clarify Provisions of the Whitewater Rafting Laws

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.