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Legislative Document

No. 1474

H.P. 1089

House of Representatives, April 14, 2021

An Act To Promote Outdoor Recreational Opportunities for Maine Students

Received by the Clerk of the House on April 12, 2021. Referred to the Committee on Inland Fisheries and Wildlife pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DUNPHY of Old Town.
Cosponsored by Representatives: FAY of Raymond, HEPLER of Woolwich, MARTIN of Sinclair, ORDWAY of Standish, Senator: DILL of Penobscot.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§49-D** is enacted to read:

3 **49-D.**

4 Inland Advisory Committee for Educational Not Authorized 12 MRSA
5 Fisheries and Trip Leader Permits §12864
6 Wildlife

7 **Sec. 2. 12 MRSA §1806, sub-§4, ¶H**, as amended by PL 2009, c. 211, Pt. B, §3,
8 is further amended to read:

9 H. Violates the requirements for a youth camp trip leader permit issued under section
10 12860; ~~or~~

11 **Sec. 3. 12 MRSA §1806, sub-§4, ¶I**, as enacted by PL 2001, c. 604, §6, is amended
12 to read:

13 I. Enters land or waters to which access has been restricted under section 1804-; or

14 **Sec. 4. 12 MRSA §1806, sub-§4, ¶J** is enacted to read:

15 J. Violates the requirements for an educational trip leader permit issued under section
16 12863.

17 **Sec. 5. 12 MRSA c. 927 title** is amended to read:

18 **CHAPTER 927**

19 **GUIDES AND, YOUTH CAMP TRIP LEADERS AND EDUCATIONAL TRIP**
20 **LEADERS**

21 **Sec. 6. 12 MRSA §12852**, as amended by PL 2009, c. 211, Pt. B, §§8 to 10, is
22 further amended to read:

23 **§12852. Rule violations; licensed guides and trip leaders**

24 The following penalties apply to violations of rules regulating licensed guides ~~or~~, youth
25 camp trip leaders, educational trip leaders and course instructor certificates.

26 **1. Civil.** Notwithstanding section 10650, a person who violates a rule regulating
27 licensed guides ~~or~~, youth camp trip leaders ~~and~~, educational trip leaders or course instructor
28 certificates commits a civil violation for which a fine of not less than \$100 nor more than
29 \$500 may be adjudged.

30 **2. Criminal.** A person who violates a rule regulating licensed guides ~~or~~, youth camp
31 trip leaders, educational trip leaders and course instructor certificates after having been
32 adjudicated as having committed 3 or more civil violations under this Part within the
33 previous 5-year period commits a Class E crime.

34 **Sec. 7. 12 MRSA §12853**, as amended by PL 2017, c. 441, §§1 and 2 and affected
35 by §3, is further amended by amending the section headnote to read:

36 **§12853. License, fees and requirements; youth camp trip leader ~~exception~~ and**
37 **educational trip leader exceptions**

1 **Sec. 8. 12 MRSA §12853, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and
2 affected by c. 614, §9, is amended to read:

3 **3. New applications.** A person ~~wishing~~ seeking to be licensed as a guide shall submit
4 an application to the commissioner.

5 A. The commissioner shall provide application forms that request all relevant
6 information the commissioner considers necessary.

7 B. Failure or refusal to satisfactorily answer any question in the application is a basis
8 for the commissioner not to accept the application.

9 C. The commissioner shall decide whether the application is acceptable within 5
10 working days of receipt.

11 D. The commissioner shall notify each applicant at least 2 weeks prior to the
12 examination required under section 12855.

13 **Sec. 9. 12 MRSA §12853, sub-§7**, as amended by PL 2009, c. 211, Pt. B, §11, is
14 repealed and the following enacted in its place:

15 **7. Exceptions.** The following exceptions apply to the requirement for a guide license.

16 A. A person holding a youth camp trip leader permit under section 12860 may, without
17 a guide license, conduct trips including adults under the auspices of the youth camp
18 that employs those adults, subject to all the requirements of section 12860.

19 B. A person holding an educational trip leader permit under section 12863 may,
20 without a guide license, conduct trips including adults under the auspices of the
21 educational institution that employs those adults, subject to the requirements of section
22 12863.

23 C. Notwithstanding section 12863, subsection 2, an employee or a student of an
24 educational institution in this State may, without a guide license, conduct outdoor
25 recreation trips as part of the educational institution's programming as long as:

26 (1) The educational institution's programming prior to the effective date of this
27 paragraph included conducting outdoor recreation trips; and

28 (2) Any outdoor recreation trip conducted by the educational institution does not
29 include fishing, hunting, trapping, whitewater rafting or the use of snowmobiles,
30 motorboats or all-terrain vehicles.

31 This paragraph is repealed October 1, 2022.

32 For purposes of this subsection, "educational institution" means a public school or private
33 school, as those terms are defined in Title 20-A, section 1, or a postsecondary educational
34 institution.

35 **Sec. 10. 12 MRSA §12863** is enacted to read:

36 **§12863. Educational trip leader permit for schools and postsecondary educational**
37 **institutions**

38 **1. When permit required.** An educational institution conducting overnight camping
39 in a primitive camping area in the State shall provide for every 12 trip participants at least
40 one educational trip leader permitted pursuant to this section who is associated with the
41 educational institution or a person who holds a guide license issued under this chapter. For

1 purposes of this subsection, "educational institution" means a public school or private
2 school, as those terms are defined in Title 20-A, section 1, or a postsecondary educational
3 institution.

4 **2. Prohibition.** A person who does not hold a guide license issued under this chapter
5 may not conduct overnight camping under subsection 1 without an educational trip leader
6 permit issued under this section. Each day a person violates this subsection, that person
7 commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice
8 the applicable license fee must be imposed.

9 **3. Application.** A person seeking an educational trip leader permit must submit an
10 application on forms provided by the commissioner and pay the application fee.

11 **4. Qualifications.** To qualify for an educational trip leader permit, an applicant must:

12 A. Be at least 18 years of age;

13 B. Show successful completion of an approved educational trip leader course created
14 pursuant to a curriculum adopted pursuant to subsection 6 or complete an application
15 provided by the commissioner outlining in detail the applicant's experience and training
16 that qualifies that person to become an educational trip leader; and

17 C. Meet any other requirements established by the commissioner. The commissioner,
18 in establishing requirements pursuant to this paragraph, shall take into consideration
19 the advice of the Advisory Committee for Educational Trip Leader Permits pursuant to
20 section 12864, subsection 2.

21 **5. Special waiver.** The commissioner, who shall take into consideration the
22 recommendations of the Advisory Committee for Educational Trip Leader Permits under
23 section 12864, subsection 2, may grant a waiver of the course requirement under subsection
24 4, paragraph B on the basis of the applicant's experience after payment of the application
25 fee under subsection 7.

26 **6. Curriculum.** The commissioner, who shall take into consideration the advice of
27 the Advisory Committee for Educational Trip Leader Permits pursuant to section 12864,
28 subsection 2, shall adopt an educational trip leader course curriculum and examinations.
29 The educational trip leader course curriculum must include at a minimum instruction in the
30 following areas:

31 A. Wilderness first aid;

32 B. Water safety, including lifesaving techniques, as appropriate, and cardiopulmonary
33 resuscitation;

34 C. Group management and facilitation;

35 D. Risk management;

36 E. Wilderness traveling and camping;

37 F. Camping, including practice in related activities; and

38 G. The State's outdoor industry.

39 The commissioner shall publish the curriculum and a current list of courses, with the
40 approved curriculum, by course name and address where the course is offered.

1 7. Fee. The initial qualifying fee for a 5-year educational trip leader permit is \$20.
2 The permit may be renewed upon payment of \$15 if requirements of the department are
3 met.

4 8. Enforcement. Wardens of the department, the rangers of the Bureau of Forestry
5 and rangers of the Department of Agriculture, Conservation and Forestry, Bureau of Parks
6 and Lands may enforce this section and may terminate any trip that is considered unsafe or
7 in violation of this section. The commissioner, who shall take into consideration the advice
8 of the Advisory Committee for Educational Trip Leader Permits under section 12864,
9 subsection 2, shall establish standards for what is considered an unsafe trip and shall
10 consider previous violations of this section when issuing or reissuing educational trip leader
11 permits.

12 **Sec. 11. 12 MRSA §12864** is enacted to read:

13 **§12864. Advisory Committee for Educational Trip Leader Permits**

14 **1. Committee established.** The Advisory Committee for Educational Trip Leader
15 Permits, referred to in this section as "the committee," is established.

16 A. The committee consists of 7 members appointed by the commissioner:

17 (1) One employee of the department;

18 (2) One person with a guide license issued pursuant to this chapter with
19 educational trip leader experience;

20 (3) One educational trip leader course instructor representing public postsecondary
21 educational institutions;

22 (4) One educational trip leader course instructor representing private nonprofit
23 postsecondary educational institutions;

24 (5) One educational trip leader course instructor representing kindergarten to grade
25 12 public schools;

26 (6) One educational trip leader course instructor representing kindergarten to grade
27 12 private schools; and

28 (7) One educational trip leader course instructor representing a camp trip leader
29 permit committee.

30 B. The committee shall elect a chair and secretary from among its members.

31 C. Members of the committee serve for 5 years. A member continues serving until a
32 successor is duly appointed. A member may not serve more than 2 consecutive 5-year
33 terms. In the case of a vacancy, the commissioner shall fill the vacancy by appointing
34 a member representing the same interest as the member who vacated the committee
35 and that member serves for the remainder of the term.

36 D. Five members of the committee constitute a quorum.

37 E. The committee shall meet at least twice each year.

38 **2. Committee responsibilities.** This subsection governs the responsibilities of the
39 committee.

40 A. The committee shall provide advice to the commissioner and shall:

1 institutions by establishing an educational trip leader permit in the laws governing guides
2 and youth camp trip leaders, using the youth camp trip leader permit as a model. Schools
3 currently conducting these trips as part of their programming have until October 1, 2022 to
4 comply with the new permit process. It requires camping trips to be led by persons who
5 have obtained educational trip leader permits. It also establishes the Advisory Committee
6 for Educational Trip Leader Permits to provide advice to the Commissioner of Inland
7 Fisheries and Wildlife regarding the permit and to regulate educational trip leader
8 instructors.