

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 1089 - L.D. 1474

An Act To Promote Outdoor Recreational Opportunities for Maine Students

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

Whereas, this legislation provides a clear and safe regulatory structure for educational institutions to conduct recreational trips, and this structure needs to be in place as soon as possible for the summer recreational season; and

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

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

Sec. 1. 12 MRSA §1806, sub-§4, ¶H, as amended by PL 2009, c. 211, Pt. B, §3, is further amended to read:

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

Sec. 2. 12 MRSA §1806, sub-§4, ¶I, as enacted by PL 2001, c. 604, §6, is amended to read:

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

Sec. 3. 12 MRSA §1806, sub-§4, ¶J is enacted to read:

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

Sec. 4. 12 MRSA c. 927 title is amended to read:

CHAPTER 927

GUIDES ~~AND~~, YOUTH CAMP TRIP LEADERS AND EDUCATIONAL TRIP LEADERS

Sec. 5. 12 MRSA §12852, as amended by PL 2009, c. 211, Pt. B, §§8 to 10, is further amended to read:

§12852. Rule violations; licensed guides and trip leaders

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

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

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

Sec. 6. 12 MRSA §12853, as amended by PL 2017, c. 441, §§1 and 2 and affected by §3, is further amended by amending the section headnote to read:

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

Sec. 7. 12 MRSA §12853, sub-§3, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

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

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

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

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

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

Sec. 8. 12 MRSA §12853, sub-§7, as amended by PL 2009, c. 211, Pt. B, §11, is repealed and the following enacted in its place:

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

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

B. A person holding an educational trip leader permit under section 12863 may, without a guide license, conduct outdoor educational trips in accordance with section 12863.

C. Notwithstanding section 12863, an employee or a student of an educational institution may, without a guide license, conduct outdoor educational trips as part of

the educational institution's programming as long as the educational institution's programming prior to the effective date of this paragraph included conducting outdoor educational trips.

This paragraph is repealed October 1, 2022.

For purposes of this subsection, "educational institution" and "outdoor educational trip" have the same meanings as in section 12863, subsection 1.

Sec. 9. 12 MRSA §12863 is enacted to read:

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

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Educational institution" means a public school or private school, as those terms are defined in Title 20-A, section 1, a postsecondary educational institution or any other educational institution defined by the commissioner by rule under subsection 6.

B. "Outdoor educational trip" means an educational or recreational outdoor trip conducted by an educational institution that includes nonmotorized boating or camping at a primitive camping area but does not include fishing, hunting, trapping or the use of snowmobiles, motorboats or all-terrain vehicles.

2. Permit required. An educational institution conducting an outdoor educational trip shall provide for every 12 trip participants at least one educational trip leader who holds a permit under this section and who is associated with the educational institution or a person who holds a guide license issued under this chapter.

3. Prohibition. A person who does not hold a guide license issued under this chapter may not conduct an outdoor educational trip under subsection 2 without an educational trip leader permit issued under this section. Each day a person violates this subsection, that person commits a civil violation for which a fine of \$50 and an amount equal to twice the applicable license or permit fee may be adjudged.

4. Issuance of permit. The commissioner may issue or reissue an educational trip leader permit to a person who meets the qualifications established by the commissioner by rule under subsection 6 and who pays the fee established under subsection 5.

5. Fee. The initial qualifying fee for a 5-year educational trip leader permit is \$20. The permit may be renewed upon payment of \$20 if the requirements of this section, including requirements in rules adopted under subsection 6, are met.

6. Rules. The commissioner shall adopt rules to implement this section, including but not limited to rules establishing:

A. An advisory committee made up of persons with relevant expertise to advise the commissioner in the implementation of this section;

B. Qualifications for a person seeking to obtain an educational trip leader permit, including appropriate preparatory training and any exceptions to such training based on a person's experience;

C. Qualifications and other necessary standards or requirements relating to persons or entities providing preparatory training in accordance with paragraph B;

D. Procedures for reviewing and addressing complaints against persons or entities providing preparatory training to persons seeking to obtain educational trip leader permits as well as complaints against educational trip leader permit holders; and

E. Any other standards, conditions or procedures necessary for the effective implementation and enforcement of this section.

Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

7. **Enforcement.** Wardens of the department and the rangers of the Department of Agriculture, Conservation and Forestry, Bureau of Forestry and Bureau of Parks and Lands may enforce this section and may terminate any trip that is considered unsafe or in violation of this section. The commissioner, who shall take into consideration the advice of the advisory committee established in accordance with subsection 6, paragraph A, shall establish standards for what is considered an unsafe trip and shall consider previous violations of this section when issuing or reissuing educational trip leader permits.

Sec. 10. 12 MRSA §12904, as amended by PL 2011, c. 253, §35, is further amended to read:

§12904. Exceptions

This chapter does not apply to the operation of canoes or kayaks. This chapter does not apply to guides or youth camp trip leaders or educational trip leaders licensed under chapter 927 or motorboat operators licensed under chapter 935, unless those persons are in the business of conducting commercial whitewater trips.

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