§12908. Noncommercial organization that collects dues or fees

Notwithstanding section 12901, subsection 5, an organization that collects dues or fees may conduct rafting trips on rapidly flowing rivers without obtaining a commercial whitewater outfitter's license if the commissioner determines under this section that the organization is a noncommercial organization. [PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §328 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

1. Tax-exempt nonprofit corporation formed before March 1, 1996. An organization is a "noncommercial organization" if the commissioner determines that the organization is a nonprofit corporation incorporated before March 1, 1996, including any council, troop or other organized local group affiliated with the corporation, that collects dues or fees from its members and for which conducting whitewater rafting is incidental to the purpose of the corporation. The organization wishing to conduct a rafting trip on a rapidly flowing river without a commercial whitewater outfitter's license under this subsection shall file a written request with the commissioner at least 15 days before conducting that trip. The request must include the name of the organization conducting the trip and the time, location and number of persons participating in the trip. The commissioner may request any additional information from the organization necessary to make a determination under this subsection.

A. Notwithstanding any other provision of this section, a council, troop or other organized local group affiliated with the corporation may not conduct more than 2 whitewater rafting trips in any one calendar year without obtaining a commercial whitewater outfitter's license.

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

(2) A person who violates this paragraph 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. [PL 2003, c. 655, Pt. B, §328 (NEW); PL 2003, c. 655, Pt. B, §422 (AFF).]

[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §328 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

2. Noncommercial whitewater rafting club. An organization is a "noncommercial organization" if the commissioner determines that the organization is a qualifying noncommercial whitewater rafting club. A "qualifying noncommercial whitewater rafting club" is a group that collects dues or fees from its members and that the commissioner determines to be organized solely to provide noncommercial whitewater rafting opportunities to its members. To be considered under this subsection, a club must provide to the commissioner the following information before January 1st of each year:

A. A list that includes the name, legal residence and home telephone number of each dues-paying member of the club. That list must identify a member as the president of the club and must identify any other officers or board members of the club. A commercial whitewater outfitter or a licensed whitewater guide is ineligible to be an officer or a board member of the club. The commissioner may not accept more than one amended membership list from a club between April 1st and November 1st; [PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §328 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

B. A statement signed by all board members, if any, and all officers of the club swearing that:

(1) The sole purpose of the club is to provide noncommercial whitewater rafting opportunities to its members;

(2) No member of the club, including officers and board members, receives any form of compensation from the club at any time, either while a member of the club or afterwards;

(3) The club will use its own rafting equipment, and all fees or dues collected from club members are used only to provide insurance and to purchase and maintain rafting equipment for use solely by the club; and

(4) The club will not employ or otherwise compensate any person for any service relating to rafting or accept any gifts of products or services from any commercial whitewater outfitter or licensed whitewater guide; and [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

C. Any other information the commissioner determines necessary. If the club is an incorporated entity, the commissioner shall require the club to submit a copy of the club's articles of incorporation. The commissioner may not consider any incorporated entity other than a tax-exempt, nonprofit corporation as a noncommercial whitewater rafting club. [PL 2003, c. 414, Pt. A, §2 (NEW); PL 2003, c. 614, §9 (AFF).]

[PL 2003, c. 614, §9 (AFF); PL 2003, c. 655, Pt. B, §328 (AMD); PL 2003, c. 655, Pt. B, §422 (AFF).]

3. Limits placed by commissioner. When authorizing a noncommercial organization under this section to conduct whitewater rafting trips without a commercial license, the commissioner shall, when the commissioner determines necessary, place limits on that organization's whitewater rafting activities, including limits on the time and location of rafting activities, the number of persons that may participate in those rafting activities and the safety equipment required for rafting trips.

A. A person who violates limits imposed under this subsection commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged. [PL 2003, c. 655, Pt. B, §328 (NEW); PL 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates limits imposed under this subsection 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. [PL 2003, c. 655, Pt. B, §328 (NEW); PL 2003, c. 655, Pt. B, §422 (AFF).]

[PL 2003, c. 655, Pt. B, §328 (NEW); PL 2003, c. 655, Pt. B, §422 (AFF).]

4. Rejection of request. The commissioner may reject a request under this section if the commissioner determines that granting the request would conflict with the river management objectives set forth in section 12903.

[PL 2003, c. 655, Pt. B, §328 (NEW); PL 2003, c. 655, Pt. B, §422 (AFF).]

SECTION HISTORY

PL 2003, c. 414, §A2 (NEW). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF). PL 2003, c. 655, §B328 (AMD). PL 2003, c. 655, §B422 (AFF).

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