

Senator Wayne A. Harper proposes the following substitute bill:

OCCUPATIONAL AND PROFESSIONAL LICENSING

AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the licensing, certification, and registration requirements of certain professions.

Highlighted Provisions:

This bill:

- ▶ modifies the Court Reporter Act;
- ▶ changes the Hunting Guides and Outfitters Licensing Act to the Hunting Guides and Outfitters Registration Act;
- ▶ repeals provisions creating the Hunting Guides and Outfitters Licensing Board;
- ▶ describes the requirements for an individual to register as, and the requirements for providing the services of, a hunting guide or outfitter; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



AMENDS:

58-79-101, as enacted by Laws of Utah 2009, Chapter 52

58-79-102, as last amended by Laws of Utah 2010, Chapter 326

58-79-301, as enacted by Laws of Utah 2009, Chapter 52

58-79-302, as enacted by Laws of Utah 2009, Chapter 52

58-79-303, as enacted by Laws of Utah 2009, Chapter 52

58-79-304, as enacted by Laws of Utah 2009, Chapter 52

58-79-401, as enacted by Laws of Utah 2009, Chapter 52

58-79-501, as last amended by Laws of Utah 2010, Chapter 326

58-79-502, as enacted by Laws of Utah 2009, Chapter 52

78A-2-402, as last amended by Laws of Utah 2019, Chapter 379

78A-2-404, as last amended by Laws of Utah 2019, Chapter 379

REPEALS:

58-79-201, as last amended by Laws of Utah 2018, Chapter 318

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-79-101** is amended to read:

CHAPTER 79. HUNTING GUIDES AND OUTFITTERS REGISTRATION ACT

58-79-101. Title.

This chapter is known as the "Hunting Guides and Outfitters [~~Licensing~~] Registration Act."

Section 2. Section **58-79-102** is amended to read:

58-79-102. Definitions.

In addition to the definitions in Section **58-1-102**, as used in this chapter:

~~[(1) "Board" means the Hunting Guides and Outfitters Licensing Board created in Section **58-79-201**.]~~

~~[(2)]~~ (1) "Compensation" means anything of economic value in excess of \$100 that is paid, loaned, granted, given, donated, or transferred to a hunting guide or outfitter for or in consideration of personal services, materials, or property.

~~[(3)]~~ (2) "Hunting" means to locate, pursue, chase, catch, capture, trap, or kill wildlife.

~~[(4)]~~ (3) "Hunting guide" means an individual who:

- (a) offers or provides hunting guide services on public lands for compensation; and
(b) is retained for compensation by an outfitter.

[~~(5)~~] (4) "Hunting guide services" means to guide, lead, or assist an individual in hunting wildlife.

[~~(6)~~] (5) "Outfitter" means an individual who offers or provides outfitting or hunting guide services for compensation to another individual for hunting wildlife on public lands.

[~~(7)~~] (6) (a) "Outfitting services" means providing, for hunting wildlife on public lands:

- (i) transportation of people, equipment, supplies, or wildlife to or from a location;
- (ii) packing, protecting, or supervising services; or
- (iii) hunting guide services.

(b) "Outfitting services" does not include activities undertaken by the Division of Wildlife Resources or its employees, associates, volunteers, contractors, or agents under authority granted in Title 23, Wildlife Resources Code of Utah.

[~~(8)~~] (7) (a) "Public lands" means any lands owned by the United States, the state, or a political subdivision or independent entity of the state that are open to the public for purposes of engaging in a wildlife related activity.

(b) "Public lands" does not include lands owned by the United States, the state, or a political subdivision or independent entity of the state that are included in a cooperative wildlife management unit under Subsection 23-23-7(5) so long as the guiding and outfitting services furnished by the cooperative wildlife management unit are limited to hunting species of wildlife specifically authorized by the Division of Wildlife Resources in the unit's management plan.

[~~(9)~~] (8) "Wildlife" means cougar, bear, and big game animals as defined in Subsection 23-13-2(6).

Section 3. Section **58-79-301** is amended to read:

Part 3. Registration

58-79-301. Registration required.

(1) Beginning [~~January 1, 2010~~] July 1, 2021, and except as provided in Sections 58-1-307 and 58-79-304, [~~a license is required to provide the services of a hunting guide or outfitter~~] in order to provide the services of a hunting guide or outfitter, an individual is required to register with the division under the provisions of this chapter.

(2) The division shall issue to an individual who qualifies under the provisions of this chapter ~~[a license]~~ a registration in the classification of:

(a) hunting guide; or

(b) outfitter.

(3) The division shall maintain a record of each individual who is registered with the division as a hunting guide or outfitter.

Section 4. Section **58-79-302** is amended to read:

58-79-302. Qualifications for registration.

(1) ~~[An applicant for licensure]~~ To register as a hunting guide an individual shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d) possess a high degree of skill and ability as a hunting guide;]~~

~~[(e) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and]~~

~~[(f) meet with the division and board if requested by the division or board.]~~

(c) in a form prescribed by the division, submit proof that the individual is covered by liability insurance when providing services as a hunting guide that is issued by an insurance company or association authorized to transact business in the state in an amount determined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) ~~[An applicant for licensure]~~ To register as an outfitter an individual shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

~~[(c) produce satisfactory evidence of good moral character;]~~

~~[(d) possess a high degree of skill and ability as an outfitter;]~~

~~[(e) successfully complete basic education and training requirements established by rule by the division in collaboration with the board; and]~~

~~[(f) meet with the division and board if requested by the division or board.]~~

(c) in a form prescribed by the division, submit proof that the individual is covered by liability insurance when providing services as an outfitter that is issued by an insurance

company or association authorized to transact business in the state in an amount determined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 5. Section **58-79-303** is amended to read:

58-79-303. Term of registration -- Expiration -- Renewal.

(1) ~~[(a)]~~ The division shall issue ~~[each license]~~ each registration under this chapter in accordance with a two-year renewal cycle established by rule.

~~[(b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycle it administers.]~~

(2) Each ~~[license]~~ registration automatically expires on the expiration date shown on the ~~[license unless the licensee renews it in accordance with]~~ registration unless the registrant renews the registration in the same manner as a licensee renews a license under Section 58-1-308.

Section 6. Section **58-79-304** is amended to read:

58-79-304. Exemptions from registration.

The exemptions from ~~[licensure]~~ registration under this chapter are limited to:

(1) those set forth for a licensee in Section **58-1-307**; and

(2) an employee or subordinate of a hunting guide or outfitter if ~~[(a)]~~ the employee or subordinate does not use the title of hunting guide or outfitter or is not directly represented to the public to be legally qualified to engage in the practice of being a hunting guide or outfitter before the public in this state~~[, and]~~.

~~[(b) the employee's or subordinate's duties do not include responsible charge.]~~

Section 7. Section **58-79-401** is amended to read:

58-79-401. Grounds for denial of registration -- Disciplinary proceedings.

Grounds for refusing to issue a ~~[license]~~ registration to an applicant, for refusing to renew the ~~[license of a licensee]~~ registration of a registrant, for revoking, suspending, restricting, or placing on probation the ~~[license of a licensee]~~ registration of a registrant, for issuing a public or private reprimand to a ~~[licensee]~~ registrant, and for issuing a cease and desist order under this chapter shall be in accordance with the provisions applicable to a licensee under Section 58-1-401.

Section 8. Section **58-79-501** is amended to read:

58-79-501. Unlawful conduct.

"Unlawful conduct" includes, in addition to the definition in Section 58-1-501, using the title "hunting guide" or "outfitter" or any other title or designation to indicate that the individual is a hunting guide or outfitter or acting as a hunting guide or outfitter, unless the individual ~~[has a current license]~~ is currently registered as a hunting guide or outfitter under this chapter.

Section 9. Section 58-79-502 is amended to read:

58-79-502. Unprofessional conduct.

"Unprofessional conduct" includes, in addition to the definition in Section 58-1-501, and as may be further defined by division rule:

(1) engaging in an activity that would place a ~~[licensee's]~~ registrant's client, prospective client, or third party's safety at risk, recognizing the inherent risks associated with hunting wildlife and the activity engaged in being above and beyond those inherent risks;

(2) using false, deceptive, or misleading advertising related to providing services as a hunting guide or outfitter; ~~[and]~~

(3) misrepresenting services, outcomes, facilities, equipment, or fees to a client or prospective client~~[-];~~ and

(4) failing to provide the division with active and current contact information within 30 days of any changes to the registrant's contact information that was provided to the division during registration or the renewal of registration as a hunting guide or outfitter.

Section 10. Section 78A-2-402 is amended to read:

78A-2-402. Definitions.

As used in this part:

(1) "Certified court reporter" means a state certified court reporter as described in Title 58, Chapter 74, State Certification of Court Reporters Act.

(2) "Official court transcriber" means a person certified and authorized in accordance with rules of the Judicial Council ~~[as competent]~~ to transcribe into written form an audio or video recording of court proceedings.

Section 11. Section 78A-2-404 is amended to read:

78A-2-404. Contract restrictions.

(1) (a) Any contract for court reporting services, not related to a particular case or

reporting incident, is prohibited between a court reporter or any other person with whom a court reporter has a principal and agency relationship and any attorney, party to an action, or party having a financial interest in an action.

(b) Negotiating or bidding reasonable fees, equal to all the parties, on a case-by-case basis ~~[may not be]~~ is not prohibited.

(2) A certified court reporter is an officer of the court, authorized to administer oaths, whose impartiality shall remain beyond question.

(3) This section does not apply to the courts or the administrative tribunals of this state.

(4) Violation of this section shall be considered unprofessional conduct as provided in Section 58-74-102 and 58-74-502, and shall be grounds for revocation of state certification only.

Section 12. **Repealer.**

This bill repeals:

Section 58-79-201, **Board.**