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OUTDOOR GUIDES AND OUTFITTERS

LICENSING ACT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill provides for the licensing of outdoor guides and outfitters by the Division of Occupational and Professional Licensing.

Highlighted Provisions:

This bill:

- ▶ enacts the Outdoor Guides and Outfitters Licensing Act;
- ▶ provides definitions, including outdoor guide, outfitter, and outfitting services;
- ▶ creates the Outdoor Guides and Outfitters Licensing Board and provides for its duties and responsibilities;
- ▶ provides for the licensing of outdoor guides and outfitters by the division;
- ▶ provides for qualifications for licensure as an outdoor guide or outfitter, for the term of the license and its renewal, and for exemptions from licensure;
- ▶ provides grounds for denial of, suspension, revocation, or restrictions on a license issued under the act, and for disciplinary proceedings; and
- ▶ defines unlawful and unprofessional conduct as related to the conduct of licensed outdoor guides and outfitters.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 ENACTS:

31 **58-78-101**, Utah Code Annotated 1953

32 **58-78-102**, Utah Code Annotated 1953

33 **58-78-201**, Utah Code Annotated 1953

34 **58-78-301**, Utah Code Annotated 1953

35 **58-78-302**, Utah Code Annotated 1953

36 **58-78-303**, Utah Code Annotated 1953

37 **58-78-304**, Utah Code Annotated 1953

38 **58-78-401**, Utah Code Annotated 1953

39 **58-78-501**, Utah Code Annotated 1953

40 **58-78-502**, Utah Code Annotated 1953



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

43 Section 1. Section **58-78-101** is enacted to read:

44 **CHAPTER 78. OUTDOOR GUIDES AND OUTFITTERS LICENSING ACT**

45 **Part 1. General Provisions**

46 **58-78-101. Title.**

47 This chapter is known as the "Outdoor Guides and Outfitters Licensing Act."

48 Section 2. Section **58-78-102** is enacted to read:

49 **58-78-102. Definitions.**

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

51 (1) "Board" means the Outdoor Guides and Outfitters Licensing Board created in

52 Section 58-78-201.

53 (2) "Compensation" means anything of economic value that is paid, loaned, granted,
54 given, donated, or transferred to an outdoor guide or outfitter for or in consideration of personal
55 services, materials, or property.

56 (3) "Outdoor guide" means an individual who:

57 (a) offers to guide, lead, or assist another individual in a wildlife related activity on
58 public lands for compensation; and

59 (b) is retained for compensation by an outfitter.
 60 (4) "Outfitter" means an individual who offers outfitting services for compensation to
 61 another individual in the pursuit of a wildlife related activity on public lands.

62 (5) "Outfitting services" means providing, for the pursuit of a wildlife activity on
 63 public lands:

64 (a) transportation of people, equipment, supplies, or wildlife to or from a location; or

65 (b) packing, protecting, or supervising services.

66 (6) "Public lands" mean any lands owned by the United States, the state, or a political
 67 subdivision or independent entity of the state that are open to the public for purposes of
 68 engaging in a wildlife related activity.

69 (7) (a) "Wildlife related activity" means to hunt, pursue, catch, capture, trap, kill,
 70 locate, or collect protected wildlife or its parts.

71 (b) "Wildlife related activity" does not include ~~H~~→ :

71a (i) ~~H~~← fishing, angling, seining, or
 72 photographing ~~H~~→ ; or

72a (ii) activities undertaken by the Division of Wildlife Resources or its employees,
 72b associates, volunteers, contractors, or agents under authority granted in Title 23, Wildlife
 72c Resources Code of Utah ~~H~~← .

73 Section 3. Section **58-78-201** is enacted to read:

74 **Part 2. Board**

75 **58-78-201. Board.**

76 (1) There is created the Outdoor Guides and Outfitters Licensing Board consisting of
 77 four persons licensed in accordance with this chapter and one member of the Wildlife Board
 78 selected by the Wildlife Board or ~~H~~→ [**an employee of the Division of Wildlife Resources**]
 78a **a person** ~~H~~← appointed
 79 by the Wildlife Board.

80 (2) Except for the Wildlife Board member, the board shall be appointed and serve in
 81 accordance with Section 58-1-201.

82 (3) (a) The duties and responsibilities of the board shall be in accordance with Sections
 83 58-1-202 and 58-1-203.

84 (b) The board shall also:

85 (i) designate one of its members on a permanent or rotating basis to assist the division
 86 in reviewing complaints concerning the unlawful or unprofessional conduct of outdoor guides
 87 and outfitters; and

88 (ii) advise the division in its investigations of these complaints.

89 (4) A board member who has, under Subsection (3)(b), reviewed a complaint or

90 advised in its investigation may be disqualified from participating with the board when the
91 board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

92 Section 4. Section **58-78-301** is enacted to read:

93 **Part 3. Licensing**

94 **58-78-301. Licensure required -- Issuance of licenses.**

95 (1) Beginning January 1, 2010, and except as provided in Sections 58-1-307 and
96 58-78-304, a license is required to provide the services of an outdoor guide or outfitter.

97 (2) The division shall issue to an individual who qualifies under the provisions of this
98 chapter a license in the classification of:

99 (a) outdoor guide; or

100 (b) outfitter.

101 Section 5. Section **58-78-302** is enacted to read:

102 **58-78-302. Qualifications for licensure.**

103 (1) An applicant for licensure as an outdoor guide shall:

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

105 (b) pay a fee determined by the department under Section 63J-1-303;

106 (c) produce satisfactory evidence of good moral character;

107 (d) possess a high degree of skill and ability as an outdoor guide;

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

110 (f) meet with the division and board if requested by the division or board.

111 (2) An applicant for licensure as an outfitter shall:

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

113 (b) pay a fee determined by the department under Section 63J-1-303;

114 (c) produce satisfactory evidence of good moral character;

115 (d) possess a high degree of skill and ability as an outfitter;

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

118 (f) meet with the division and board if requested by the division or board.

119 Section 6. Section **58-78-303** is enacted to read:

120 **58-78-303. Term of license -- Expiration -- renewal.**

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

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

125 (2) Each license automatically expires on the expiration date shown on the license
126 unless the licensee renews it in accordance with Section 58-1-308.

127 Section 7. Section **58-78-304** is enacted to read:

128 **58-78-304. Exemptions from licensure.**

129 The exemptions from licensure under this chapter are limited to:

130 (1) those set forth in Section 58-1-307; and

131 (2) an employee or subordinate of an outdoor guide or outfitter if:

132 (a) the employee or subordinate does not use the title of outdoor guide or outfitter or is
133 not directly represented to the public to be legally qualified to engage in the practice of being
134 an outdoor guide or outfitter before the public in this state; and

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

136 Section 8. Section **58-78-401** is enacted to read:

137 **Part 4. License Denial and Discipline**

138 **58-78-401. Grounds for denial of license -- Disciplinary proceedings.**

139 Grounds for refusing to issue a license to an applicant, for refusing to renew the license
140 of a licensee, for revoking, suspending, restricting, or placing on probation the license of a
141 licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and
142 desist order under this chapter shall be in accordance with Section 58-1-401.

143 Section 9. Section **58-78-501** is enacted to read:

144 **Part 5. Unlawful and Unprofessional Conduct**

145 **58-78-501. Unlawful conduct.**

146 "Unlawful conduct" includes, in addition to the definition in Section 58-1-501, using
147 the title "outdoor guide" or "outfitter" or any other title or designation to indicate that the
148 individual is an outdoor guide or outfitter unless the individual has a current license as an
149 outdoor guide or outfitter under this chapter.

150 Section 10. Section **58-78-502** is enacted to read:

151 **58-78-502. Unprofessional conduct.**

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

154 (1) engaging in an activity that would place a licensee's client, prospective client, or
155 third party's safety at risk;

156 (2) using false, deceptive, or misleading advertising related to providing services as an
157 outdoor guide or outfitter; and

158 (3) misrepresenting services, outcomes, facilities, equipment, or fees to a client or
159 prospective client.

Legislative Review Note
as of **2-18-09 10:17 AM**

Office of Legislative Research and General Counsel

H.B. 173 - Outdoor Guides and Outfitters Licensing Act

Fiscal Note

2009 General Session
State of Utah

State Impact

Enacting this bill will require a Commerce Service Fund appropriation of \$1,300 in FY 2010 and \$2,400 in FY 2011. The bill will generate revenues of \$2,500 in FY 2010 and FY 2011. The net impacts of \$1,200 in FY 2010 and \$100 ongoing in FY 2011 go to the General Fund.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$100	\$100
General Fund, One-Time	\$0	\$0	\$0	\$0	\$1,100	\$0
Commerce Service Fund	\$0	\$2,400	\$2,400	\$0	\$1,300	\$2,400
Commerce Service, One-time	\$0	(\$1,100)	\$0	\$0	\$0	\$0
Total	\$0	\$1,300	\$2,400	\$0	\$2,500	\$2,500

Individual, Business and/or Local Impact

Local governments may be impacted by this proposed change in statute. Businesses may be impacted by this proposed change in statute. Individuals may be impacted by this proposed change in statute.