

Senator Allen M. Christensen proposes the following substitute bill:

HUNTING GUIDES AND OUTFITTERS

LICENSING ACT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

Senate Sponsor: Allen M. Christensen

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ enacts the Hunting Guides and Outfitters Licensing Act;
- ▶ provides definitions, including hunting guide, outfitter, and outfitting services;
- ▶ creates the Hunting Guides and Outfitters Licensing Board and provides for its duties and responsibilities;
- ▶ provides for the licensing of hunting guides and outfitters by the division;
- ▶ provides for qualifications for licensure as a hunting 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 hunting guides and outfitters.

Monies Appropriated in this Bill:



26 None

27 **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. HUNTING GUIDES AND OUTFITTERS LICENSING ACT**

45 **Part 1. General Provisions**

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

47 This chapter is known as the "Hunting 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 Hunting Guides and Outfitters Licensing Board created in
52 Section 58-78-201.

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

56 (3) "Hunting" means to locate, pursue, chase, catch, capture, trap, or kill wildlife.

- 57 (4) "Hunting guide" means an individual who:
- 58 (a) offers to guide, lead, or assist another individual in hunting wildlife on public lands
- 59 for compensation; and
- 60 (b) is retained for compensation by an outfitter.
- 61 (5) "Outfitter" means an individual who offers outfitting services for compensation to
- 62 another individual for hunting wildlife on public lands.
- 63 (6) (a) "Outfitting services" means providing, for hunting wildlife on public lands:
- 64 (i) transportation of people, equipment, supplies, or wildlife to or from a location; or
- 65 (ii) packing, protecting, or supervising services.
- 66 (b) "Outfitting services" does not include activities undertaken by the Division of
- 67 Wildlife Resources or its employees, associates, volunteers, contractors, or agents under
- 68 authority granted in Title 23, Wildlife Resources Code of Utah.
- 69 (7) "Public lands" mean any lands owned by the United States, the state, or a political
- 70 subdivision or independent entity of the state that are open to the public for purposes of
- 71 engaging in a wildlife related activity.
- 72 (8) "Wildlife" means cougar, bear, and big game animals as defined in Subsection
- 73 23-13-2(6).

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

75 **Part 2. Board**

76 **58-78-201. Board.**

- 77 (1) There is created the Hunting Guides and Outfitters Licensing Board consisting of
- 78 three persons licensed in accordance with this chapter, one member of the Wildlife Board
- 79 selected by the Wildlife Board, and one person appointed by the Wildlife Board.
- 80 (2) Except for the two members selected by the Wildlife Board, the board shall be
- 81 appointed and serve in 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 hunting 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 a hunting 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) hunting 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 a hunting 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 a hunting 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 a hunting guide or outfitter if:

132 (a) the employee or subordinate does not use the title of hunting guide or outfitter or is
133 not directly represented to the public to be legally qualified to engage in the practice of being a
134 hunting 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 "hunting guide" or "outfitter" or any other title or designation to indicate that the
148 individual is a hunting guide or outfitter unless the individual has a current license as a hunting
149 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, recognizing the inherent risks associated with hunting wildlife and
156 the activity engaged in being above and beyond those inherent risks;

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

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

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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.