

OCCUPATIONAL LICENSING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K. Thurston

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the Bedding, Upholstered Furniture, and Quilted Clothing Inspection Act to require a permit rather than a license for certain activities;
- ▶ 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:

4-10-104, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-10-105, as renumbered and amended by Laws of Utah 2017, Chapter 345

- 29 **4-10-106**, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 30 **4-10-110**, as last amended by Laws of Utah 2017, Chapter 77 and renumbered and
- 31 amended by Laws of Utah 2017, Chapter 345 and last amended by Coordination
- 32 Clause, Laws of Utah 2017, Chapter 345
- 33 **58-79-101**, as enacted by Laws of Utah 2009, Chapter 52
- 34 **58-79-102**, as last amended by Laws of Utah 2010, Chapter 326
- 35 **58-79-301**, as enacted by Laws of Utah 2009, Chapter 52
- 36 **58-79-302**, as enacted by Laws of Utah 2009, Chapter 52
- 37 **58-79-303**, as enacted by Laws of Utah 2009, Chapter 52
- 38 **58-79-304**, as enacted by Laws of Utah 2009, Chapter 52
- 39 **58-79-401**, as enacted by Laws of Utah 2009, Chapter 52
- 40 **58-79-501**, as last amended by Laws of Utah 2010, Chapter 326
- 41 **58-79-502**, as enacted by Laws of Utah 2009, Chapter 52

42 REPEALS:

- 43 **58-79-201**, as last amended by Laws of Utah 2018, Chapter 318



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

46 Section 1. Section **4-10-104** is amended to read:

47 **4-10-104. Manufacture, repair, or wholesale sale of bedding, upholstered**
 48 **furniture, quilted clothing, or filling material -- License required.**

49 It is unlawful for any person to engage in the manufacture, repair, or wholesale sale of
 50 any bedding, upholstered furniture, quilted clothing, or filling material without a [~~license~~]
 51 permit issued by the department.

52 Section 2. Section **4-10-105** is amended to read:

53 **4-10-105. Registration -- Permit -- Fees -- Expiration -- Renewal.**

54 (1) (a) A person [~~may apply to the~~] may register with the department, on [~~forms~~] a
 55 form prescribed and furnished by the department, for a [~~license~~] permit to manufacture, repair,

56 sterilize, or engage in the wholesale sale of bedding, upholstered furniture, quilted clothing, or
57 filling material.

58 (b) Upon receipt of a proper [~~application~~] registration form and payment of the
59 appropriate [~~license~~] registration fee, the commissioner, if satisfied that the convenience and
60 necessity of the industry and the public will be served, shall issue to the applicant a [~~license~~]
61 permit to engage in the particular activity through December 31 of the year in which the
62 [~~license~~] permit is issued, subject to suspension or revocation of the permit for cause.

63 (c) A person doing business under more than one name shall [~~be licensed~~] register with
64 and obtain a permit from the department for each name under which business is conducted.

65 (2) The annual [~~license~~] registration fee for each [~~license~~] permit issued under this
66 chapter shall be determined by the department pursuant to Subsection 4-2-103(2).

67 (3) Each [~~license~~] permit issued under this chapter is renewable for a period of one year
68 upon the payment of the applicable amount for the particular [~~license~~] permit sought to be
69 renewed on or before December 31 of each year.

70 (4) A person who holds a valid manufacturer's [~~license may, upon application, be~~
71 ~~licensed~~] permit may register and obtain a permit as a wholesale dealer without the payment of
72 an additional [~~license~~] registration fee.

73 (5) A person who fails to renew a [~~license~~] permit and engages in conduct requiring a
74 [~~license~~] permit under this chapter shall pay the applicable [~~license~~] registration fee for each
75 year in which the person engages in conduct requiring a [~~license~~] permit for which [~~a license~~]
76 the permit is not renewed.

77 (6) The department may retroactively collect a registration fee owed under Subsection
78 (5).

79 Section 3. Section 4-10-106 is amended to read:

80 **4-10-106. Unlawful acts specified.**

81 It is unlawful for any person to:

82 (1) sell bedding, upholstered furniture, quilted clothing, or filling material as new

83 unless it is made from new material and properly tagged;

84 (2) sell bedding, upholstered furniture, quilted clothing or filling material made from
85 secondhand material which is not properly tagged;

86 (3) label or sell a used or secondhand article as if it were a new article;

87 (4) use burlap or other material which has been used for packing or baling, or to use
88 any unsanitary, filthy, or vermin or insect infected filling material in the manufacture or repair
89 of any article;

90 (5) sell bedding, upholstered furniture, quilted clothing or filling material which is not
91 properly tagged regardless of point of origin;

92 (6) use any false or misleading statement, term, or designation on any tag;

93 (7) use any false or misleading label;

94 (8) sell new bedding, upholstered furniture, or quilted clothing with filling material
95 made of down, feather, wool, or hair that has not been properly sterilized; or

96 (9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding,
97 upholstered furniture, quilted clothing, or filling material without a ~~[license]~~ permit issued by
98 the department as required by this chapter.

99 Section 4. Section **4-10-110** is amended to read:

100 **4-10-110. Sale of bedding, upholstered furniture, quilted clothing, or filling**
101 **material -- Tag, stamp, or stencil required -- Secondhand material to bear tag --**
102 **Presumption -- Owner's own material to be tagged.**

103 (1) A wholesaler or retailer may sell bedding, upholstered furniture, quilted clothing, or
104 prefabricated filling if it is properly tagged, stamped, or stenciled under Section **4-10-107** or
105 **4-10-109**.

106 (2) Notwithstanding the requirements of Section **4-10-107**, a retailer who sells [~~used~~
107 ~~articles~~] used bedding or upholstered furniture shall:

108 (a) attach a secondhand material tag to each used article before sale; or

109 (b) clearly display a disclosure statement as provided in Subsection (3).

110 (3) The disclosure statement required under Subsection (2)(b) shall:
 111 (a) state "ALL ~~[ITEMS]~~ BEDDING AND UPHOLSTERED FURNITURE OFFERED
 112 FOR SALE IN THIS ESTABLISHMENT ARE SECONDHAND UNLESS SPECIFICALLY
 113 LABELED AS NEW";
 114 (b) be printed:
 115 (i) in black capital letters using Arial, Calibri, Cambria, or Times New Roman in no
 116 smaller than 48-point font; and
 117 (ii) on bright yellow paper, at least 8.5 inches by 6.5 inches in size; and
 118 (c) be displayed at each public entrance and checkstand at each retail location.

119 (4) Possession of an article by a person who regularly engages in the manufacture,
 120 repair, wholesale, or supply of such articles is presumptive evidence of intent to sell.
 121 (5) (a) A person who repairs "owner's own material" shall immediately upon its receipt
 122 attach an owner's material tag to the article.

123 (b) The tag shall remain attached to the article until it is actually in the process of
 124 repair and shall be reattached upon completion of repair.

125 Section 5. Section **58-79-101** is amended to read:

126 **CHAPTER 79. HUNTING GUIDES AND OUTFITTERS REGISTRATION ACT**
 127 **58-79-101. Title.**

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

130 Section 6. Section **58-79-102** is amended to read:

131 **58-79-102. Definitions.**

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

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

135 ~~[(2)]~~ (1) "Compensation" means anything of economic value in excess of \$100 that is
 136 paid, loaned, granted, given, donated, or transferred to a hunting guide or outfitter for or in

137 consideration of personal services, materials, or property.

138 ~~[(3)]~~ (2) "Hunting" means to locate, pursue, chase, catch, capture, trap, or kill wildlife.

139 ~~[(4)]~~ (3) "Hunting guide" means an individual who:

140 (a) offers or provides hunting guide services on public lands for compensation; and

141 (b) is retained for compensation by an outfitter.

142 ~~[(5)]~~ (4) "Hunting guide services" means to guide, lead, or assist an individual in
143 hunting wildlife.

144 ~~[(6)]~~ (5) "Outfitter" means an individual who offers or provides outfitting or hunting
145 guide services for compensation to another individual for hunting wildlife on public lands.

146 ~~[(7)]~~ (6) (a) "Outfitting services" means providing, for hunting wildlife on public lands:

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

148 (ii) packing, protecting, or supervising services; or

149 (iii) hunting guide services.

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

153 ~~[(8)]~~ (7) (a) "Public lands" means any lands owned by the United States, the state, or a
154 political subdivision or independent entity of the state that are open to the public for purposes
155 of engaging in a wildlife related activity.

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

162 ~~[(9)]~~ (8) "Wildlife" means cougar, bear, and big game animals as defined in Subsection
163 23-13-2(6).

164 Section 7. Section 58-79-301 is amended to read:

165 **Part 3. Registration**

166 **58-79-301. Registration required.**

167 (1) Beginning [~~January 1, 2010~~] July 1, 2021, and except as provided in Sections
168 58-1-307 and 58-79-304, [~~a license is required to provide the services of a hunting guide or~~
169 ~~outfitter~~] in order to provide the services of a hunting guide or outfitter, an individual is
170 required to register with the division under the provisions of this chapter.

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

173 (a) hunting guide; or

174 (b) outfitter.

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

177 Section 8. Section 58-79-302 is amended to read:

178 **58-79-302. Qualifications for registration.**

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

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

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

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

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

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

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

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

191 Act.

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

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

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

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

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

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

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

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

204 Act.

205 Section 9. Section 58-79-303 is amended to read:

206 **58-79-303. Term of registration -- Expiration -- Renewal.**

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

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

211 (2) Each [~~license~~] registration automatically expires on the expiration date shown on
212 the [~~license unless the licensee renews it in accordance with~~] registration unless the registrant
213 renews the registration in the same manner as a licensee renews a license under Section
214 58-1-308.

215 Section 10. Section 58-79-304 is amended to read:

216 **58-79-304. Exemptions from registration.**

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

- 218 (1) those set forth for a licensee in Section 58-1-307; and
- 219 (2) an employee or subordinate of a hunting guide or outfitter if~~[-(a)]~~ the employee or
- 220 subordinate does not use the title of hunting guide or outfitter or is not directly represented to
- 221 the public to be legally qualified to engage in the practice of being a hunting guide or outfitter
- 222 before the public in this state~~[-and]~~.

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

224 Section 11. Section 58-79-401 is amended to read:

225 **58-79-401. Grounds for denial of registration -- Disciplinary proceedings.**

226 Grounds for refusing to issue a [~~license~~] registration to an applicant, for refusing to

227 renew the [~~license of a licensee~~] registration of a registrant, for revoking, suspending,

228 restricting, or placing on probation the [~~license of a licensee~~] registration of a registrant, for

229 issuing a public or private reprimand to a [~~licensee~~] registrant, and for issuing a cease and

230 desist order under this chapter shall be in accordance with the provisions applicable to a

231 licensee under Section 58-1-401.

232 Section 12. Section 58-79-501 is amended to read:

233 **58-79-501. Unlawful conduct.**

234 "Unlawful conduct" includes, in addition to the definition in Section 58-1-501, using

235 the title "hunting guide" or "outfitter" or any other title or designation to indicate that the

236 individual is a hunting guide or outfitter or acting as a hunting guide or outfitter, unless the

237 individual [~~has a current license~~] is currently registered as a hunting guide or outfitter under

238 this chapter.

239 Section 13. Section 58-79-502 is amended to read:

240 **58-79-502. Unprofessional conduct.**

241 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501,

242 and as may be further defined by division rule:

- 243 (1) engaging in an activity that would place a [~~licensee's~~] registrant's client, prospective
- 244 client, or third party's safety at risk, recognizing the inherent risks associated with hunting

245 wildlife and the activity engaged in being above and beyond those inherent risks;
246 (2) using false, deceptive, or misleading advertising related to providing services as a
247 hunting guide or outfitter; [~~and~~]
248 (3) misrepresenting services, outcomes, facilities, equipment, or fees to a client or
249 prospective client[-]; and
250 (4) failing to provide the division with active and current contact information within 30
251 days of any changes to the registrant's contact information that was provided to the division
252 during registration or the renewal of registration as a hunting guide or outfitter.

253 Section 14. **Repealer.**

254 This bill repeals:

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