

OCCUPATIONAL LICENSING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K. Thurston

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the licensing, certification, 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;
- ▶ repeals the State Certification of Court Reporters Act under the Division of Occupational and Professional Licensing Act;
- ▶ modifies the Court Reporter Act, including by granting rulemaking authority to the Judicial Council to oversee the regulation of court reporters;
- ▶ 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



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **4-10-104**, as renumbered and amended by Laws of Utah 2017, Chapter 345

33 **4-10-105**, as renumbered and amended by Laws of Utah 2017, Chapter 345

34 **4-10-106**, as renumbered and amended by Laws of Utah 2017, Chapter 345

35 **58-79-101**, as enacted by Laws of Utah 2009, Chapter 52

36 **58-79-102**, as last amended by Laws of Utah 2010, Chapter 326

37 **58-79-301**, as enacted by Laws of Utah 2009, Chapter 52

38 **58-79-302**, as enacted by Laws of Utah 2009, Chapter 52

39 **58-79-303**, as enacted by Laws of Utah 2009, Chapter 52

40 **58-79-304**, as enacted by Laws of Utah 2009, Chapter 52

41 **58-79-401**, as enacted by Laws of Utah 2009, Chapter 52

42 **58-79-501**, as last amended by Laws of Utah 2010, Chapter 326

43 **58-79-502**, as enacted by Laws of Utah 2009, Chapter 52

44 **78A-2-402**, as last amended by Laws of Utah 2019, Chapter 379

45 **78A-2-403**, as last amended by Laws of Utah 2019, Chapter 379

46 **78A-2-404**, as last amended by Laws of Utah 2019, Chapter 379

47 **78A-2-408**, as last amended by Laws of Utah 2019, Chapter 326

48 REPEALS:

49 **58-74-101**, as last amended by Laws of Utah 2019, Chapter 379

50 **58-74-102**, as last amended by Laws of Utah 2019, Chapter 379

51 **58-74-301**, as last amended by Laws of Utah 2019, Chapter 379

52 **58-74-302**, as last amended by Laws of Utah 2019, Chapter 379

53 **58-74-303**, as last amended by Laws of Utah 2019, Chapter 379

54 **58-74-401**, as last amended by Laws of Utah 2019, Chapter 379

55 **58-74-501**, as last amended by Laws of Utah 2019, Chapter 379

56 **58-74-502**, as last amended by Laws of Utah 2019, Chapter 379

57 **58-79-201**, as last amended by Laws of Utah 2018, Chapter 318

58

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

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

61 **4-10-104. Manufacture, repair, or wholesale sale of bedding, upholstered**
62 **furniture, quilted clothing, or filling material -- License required.**

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

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

67 **4-10-105. Registration -- Permit -- Fees -- Expiration -- Renewal.**

68 (1) (a) A person [~~may apply to the~~] may register with the department, on [~~forms~~] a
69 form prescribed and furnished by the department, for a [~~license~~] permit to manufacture, repair,
70 sterilize, or engage in the wholesale sale of bedding, upholstered furniture, quilted clothing, or
71 filling material.

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

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

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

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

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

87 (5) A person who fails to renew a [~~license~~] permit and engages in conduct requiring a
88 [~~license~~] permit under this chapter shall pay the applicable [~~license~~] registration fee for each
89 year in which the person engages in conduct requiring a [~~license~~] permit for which [~~a license~~]

90 the permit is not renewed.

91 (6) The department may retroactively collect a registration fee owed under Subsection
92 (5).

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

94 **4-10-106. Unlawful acts specified.**

95 It is unlawful for any person to:

96 (1) sell bedding, upholstered furniture, quilted clothing, or filling material as new
97 unless it is made from new material and properly tagged;

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

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

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

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

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

107 (7) use any false or misleading label;

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

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

113 Section 4. Section **58-79-101** is amended to read:

114 **CHAPTER 79. HUNTING GUIDES AND OUTFITTERS REGISTRATION ACT**

115 **58-79-101. Title.**

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

118 Section 5. Section **58-79-102** is amended to read:

119 **58-79-102. Definitions.**

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

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

123 ~~[(2)]~~ (1) "Compensation" means anything of economic value in excess of \$100 that is
124 paid, loaned, granted, given, donated, or transferred to a hunting guide or outfitter for or in
125 consideration of personal services, materials, or property.

126 ~~[(3)]~~ (2) "Hunting" means to locate, pursue, chase, catch, capture, trap, or kill wildlife.

127 ~~[(4)]~~ (3) "Hunting guide" means an individual who:

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

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

130 ~~[(5)]~~ (4) "Hunting guide services" means to guide, lead, or assist an individual in
131 hunting wildlife.

132 ~~[(6)]~~ (5) "Outfitter" means an individual who offers or provides outfitting or hunting
133 guide services for compensation to another individual for hunting wildlife on public lands.

134 ~~[(7)]~~ (6) (a) "Outfitting services" means providing, for hunting wildlife on public lands:

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

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

137 (iii) hunting guide services.

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

141 ~~[(8)]~~ (7) (a) "Public lands" means any lands owned by the United States, the state, or a
142 political subdivision or independent entity of the state that are open to the public for purposes
143 of engaging in a wildlife related activity.

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

150 ~~[(9)]~~ (8) "Wildlife" means cougar, bear, and big game animals as defined in Subsection
151 23-13-2(6).

152 Section 6. Section 58-79-301 is amended to read:

153 **Part 3. Registration**

154 **58-79-301. Registration required.**

155 (1) Beginning [~~January 1, 2010~~] July 1, 2021, and except as provided in Sections
156 58-1-307 and 58-79-304, [~~a license is required to provide the services of a hunting guide or~~
157 ~~outfitter~~] in order to provide the services of a hunting guide or outfitter, an individual is
158 required to register with the division under the provisions of this chapter.

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

161 (a) hunting guide; or

162 (b) outfitter.

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

165 Section 7. Section 58-79-302 is amended to read:

166 **58-79-302. Qualifications for registration.**

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

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

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

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

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

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

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

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

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

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

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

183 ~~[(c) produce satisfactory evidence of good moral character;]~~
 184 ~~[(d) possess a high degree of skill and ability as an outfitter;]~~
 185 ~~[(e) successfully complete basic education and training requirements established by~~
 186 ~~rule by the division in collaboration with the board; and]~~
 187 ~~[(f) meet with the division and board if requested by the division or board.]~~
 188 (c) in a form prescribed by the division, submit proof that the individual is covered by
 189 liability insurance when providing services as an outfitter that is issued by an insurance
 190 company or association authorized to transact business in the state in an amount determined by
 191 division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 192 Act.

193 Section 8. Section **58-79-303** is amended to read:

194 **58-79-303. Term of registration -- Expiration -- renewal.**

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

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

199 (2) Each ~~[license]~~ registration automatically expires on the expiration date shown on
 200 the ~~[license unless the licensee renews it in accordance with]~~ registration unless the registrant
 201 renews the registration in the same manner as a licensee renews a license under Section
 202 58-1-308.

203 Section 9. Section **58-79-304** is amended to read:

204 **58-79-304. Exemptions from registration.**

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

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

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

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

212 Section 10. Section **58-79-401** is amended to read:

213 **58-79-401. Grounds for denial of registration -- Disciplinary proceedings.**

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

220 Section 11. Section **58-79-501** is amended to read:

221 **58-79-501. Unlawful conduct.**

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

227 Section 12. Section **58-79-502** is amended to read:

228 **58-79-502. Unprofessional conduct.**

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

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

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

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

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

241 Section 13. Section **78A-2-402** is amended to read:

242 **78A-2-402. Definitions.**

243 As used in this part:

244 (1) [~~"Certified court~~] "Court reporter" means a [~~state-certified court reporter as~~

245 ~~described in Title 58, Chapter 74, State Certification of Court Reporters Act]~~ person authorized
 246 in accordance with rules of the Judicial Council to engage in the practice of court reporting.

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

250 (3) "Practice of court reporting" means the making of a verbatim record, by
 251 stenography or voice writing, of any trial, legislative public hearing, state agency public
 252 hearing, deposition, examination before trial, hearing or proceeding before any grand jury,
 253 referee, board, commission, master, or arbitrator, or other sworn testimony given under oath.

254 Section 14. Section **78A-2-403** is amended to read:

255 **78A-2-403. Appointment of court reporters -- Eligibility.**

256 A person may not be appointed to the position of court reporter nor act in the capacity
 257 of a court reporter in any court of record of this state, or before any referee, master, board, or
 258 commission of this state unless the person [~~is a state certified court reporter in accordance with~~
 259 ~~the provisions of Title 58, Chapter 74, State Certification of Court Reporters Act]~~ is authorized
 260 in accordance with rules of the Judicial Council to engage in the practice of court reporting.

261 Section 15. Section **78A-2-404** is amended to read:

262 **78A-2-404. Contract restrictions.**

263 (1) (a) Any contract for court reporting services, not related to a particular case or
 264 reporting incident, is prohibited between a court reporter or any other person with whom a
 265 court reporter has a principal and agency relationship and any attorney, party to an action, or
 266 party having a financial interest in an action.

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

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

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

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

275 Section 16. Section **78A-2-408** is amended to read:

276 **78A-2-408. Transcripts and copies -- Fees.**

277 (1) The Judicial Council shall by rule provide for a standard page format for transcripts
278 of court hearings.

279 (2) (a) The fee for a transcript of a court session, or any part of a court session, shall be
280 \$4.50 per page, which includes the initial preparation of the transcript and one certified copy.
281 The preparer shall deposit the original text file and printed transcript with the clerk of the court
282 and provide the person requesting the transcript with the certified copy. The cost of additional
283 copies shall be as provided in Subsection 78A-2-301(1). The transcript for an appeal shall be
284 prepared within the time period permitted by the rules of Appellate Procedure. The fee for a
285 transcript prepared within three business days of the request shall be 1-1/2 times the base rate.
286 The fee for a transcript prepared within one business day of the request shall be double the base
287 rate.

288 (b) When a transcript is ordered by the court, the fees shall be paid by the parties to the
289 action in equal proportion or as ordered by the court. The fee for a transcript in a criminal case
290 in which the defendant is found to be indigent shall be paid pursuant to Section 78B-22-302.

291 (3) The fee for the preparation of a transcript of a court hearing by an official court
292 transcriber and the fee for the preparation of the transcript by a [certified] court reporter of a
293 hearing before any court, referee, master, board, or commission of this state shall be as
294 provided in Subsection (2)(a), and shall be payable to the person preparing the transcript.
295 Payment for a transcript under this section is the responsibility of the party requesting the
296 transcript.

297 **Section 17. Repealer.**

298 This bill repeals:

299 Section 58-74-101, Title.

300 Section 58-74-102, Definitions.

301 Section 58-74-301, State certification required.

302 Section 58-74-302, Qualifications for state certification.

303 Section 58-74-303, Term of state certification -- Expiration -- Renewal.

304 Section 58-74-401, Grounds for denial of state certification -- Disciplinary
305 proceedings.

306 Section 58-74-501, Unlawful conduct.

307 Section **58-74-502**, Unprofessional conduct.

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