

# HB0290S01 compared with HB0290

~~{deleted text}~~ shows text that was in HB0290 but was deleted in HB0290S01.

inserted text shows text that was not in HB0290 but was inserted into HB0290S01.

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Representative Norman K. Thurston proposes the following substitute bill:

## OCCUPATIONAL LICENSING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Norman K. Thurston**

Senate Sponsor: \_\_\_\_\_

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### 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;~~

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- ‡ ▶ 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

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

4-10-110, as last amended by Laws of Utah 2017, Chapter 77 and renumbered and amended by Laws of Utah 2017, Chapter 345 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 345

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-2-403, as last amended by Laws of Utah 2019, Chapter 379~~

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

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

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⌋REPEALS:

~~{ 58-74-101, as last amended by Laws of Utah 2019, Chapter 379~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It is unlawful for any person to:

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

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

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

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

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

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

(7) use any false or misleading label;

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

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

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

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

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

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

- (a) attach a secondhand material tag to each used article before sale; or
- (b) clearly display a disclosure statement as provided in Subsection (3).
- (3) The disclosure statement required under Subsection (2)(b) shall:

(a) state "ALL [~~ITEMS~~] BEDDING AND UPHOLSTERED FURNITURE OFFERED FOR SALE IN THIS ESTABLISHMENT ARE SECONDHAND UNLESS SPECIFICALLY LABELED AS NEW";

(b) be printed:

(i) in black capital letters using Arial, Calibri, Cambria, or Times New Roman in no smaller than 48-point font; and

(ii) on bright yellow paper, at least 8.5 inches by 6.5 inches in size; and

(c) be displayed at each public entrance and checkstand at each retail location.

(4) Possession of an article by a person who regularly engages in the manufacture, repair, wholesale, or supply of such articles is presumptive evidence of intent to sell.

(5) (a) A person who repairs "owner's own material" shall immediately upon its receipt attach an owner's material tag to the article.

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

Section ~~4~~5. Section **58-79-101** is amended to read:

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

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### 58-79-101. Title.

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

Section ~~5~~6. 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

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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 ~~67~~7. 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 ~~77~~8. 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

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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 ~~{8}~~9. 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 ~~{9}~~10. 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



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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 ~~{10}~~11. 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 ~~{11}~~12. 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 ~~{12}~~13. 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

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

~~78A-2-402. Definitions.~~

~~As used in this part:~~

~~(1) ["Certified court] "Court reporter" means a [state certified court reporter as described in Title 58, Chapter 74, State Certification of Court Reporters Act] person authorized in accordance with rules of the Judicial Council to engage in the practice of court reporting.~~

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

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

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

~~78A-2-403. Appointment of court reporters -- Eligibility.~~

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

~~Section 15. 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,~~

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

~~—— 78A-2-408. Transcripts and copies -- Fees.~~

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

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

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

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

‡ Section ~~{17}~~ 14. **Repealer.**

This bill repeals:

{ ~~—— Section 58-74-101, Title:~~

~~—— Section 58-74-102, Definitions.~~

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

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

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

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

~~Section 58-74-501, Unlawful conduct.~~

~~Section 58-74-502, Unprofessional conduct.~~

† Section 58-79-201, Board.