

1 OCCUPATIONAL AND PROFESSIONAL LICENSING

2 AMENDMENTS

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: Wayne A. Harper

6 House Sponsor: _____

7

8 LONG TITLE

9 General Description:

10 This bill modifies the licensing, certification, and registration requirements of certain
11 professions.

12 Highlighted Provisions:

13 This bill:

- 14 ▶ repeals the State Certification of Court Reporters Act under the Division of
- 15 Occupational and Professional Licensing Act;
- 16 ▶ modifies the Court Reporter Act, including by granting rulemaking authority to the
- 17 Judicial Council to oversee the regulation of court reporters;
- 18 ▶ changes the Hunting Guides and Outfitters Licensing Act to the Hunting Guides and
- 19 Outfitters Registration Act;
- 20 ▶ repeals provisions creating the Hunting Guides and Outfitters Licensing Board;
- 21 ▶ describes the requirements for an individual to register as, and the requirements for
- 22 providing the services of, a hunting guide or outfitter; and
- 23 ▶ makes technical changes.

24 Money Appropriated in this Bill:

25 None

26 Other Special Clauses:

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **58-79-101**, as enacted by Laws of Utah 2009, Chapter 52
- 31 **58-79-102**, as last amended by Laws of Utah 2010, Chapter 326
- 32 **58-79-301**, as enacted by Laws of Utah 2009, Chapter 52
- 33 **58-79-302**, as enacted by Laws of Utah 2009, Chapter 52
- 34 **58-79-303**, as enacted by Laws of Utah 2009, Chapter 52
- 35 **58-79-304**, as enacted by Laws of Utah 2009, Chapter 52
- 36 **58-79-401**, as enacted by Laws of Utah 2009, Chapter 52
- 37 **58-79-501**, as last amended by Laws of Utah 2010, Chapter 326
- 38 **58-79-502**, as enacted by Laws of Utah 2009, Chapter 52
- 39 **78A-2-402**, as last amended by Laws of Utah 2019, Chapter 379
- 40 **78A-2-403**, as last amended by Laws of Utah 2019, Chapter 379
- 41 **78A-2-404**, as last amended by Laws of Utah 2019, Chapter 379
- 42 **78A-2-408**, as last amended by Laws of Utah 2019, Chapter 326

43 REPEALS:

- 44 **58-74-101**, as last amended by Laws of Utah 2019, Chapter 379
- 45 **58-74-102**, as last amended by Laws of Utah 2019, Chapter 379
- 46 **58-74-301**, as last amended by Laws of Utah 2019, Chapter 379
- 47 **58-74-302**, as last amended by Laws of Utah 2019, Chapter 379
- 48 **58-74-303**, as last amended by Laws of Utah 2019, Chapter 379
- 49 **58-74-401**, as last amended by Laws of Utah 2019, Chapter 379
- 50 **58-74-501**, as last amended by Laws of Utah 2019, Chapter 379
- 51 **58-74-502**, as last amended by Laws of Utah 2019, Chapter 379
- 52 **58-79-201**, as last amended by Laws of Utah 2018, Chapter 318



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

55 Section 1. Section **58-79-101** is amended to read:

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

57 **58-79-101. Title.**

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

59 Act."

60 Section 2. Section **58-79-102** is amended to read:

61 **58-79-102. Definitions.**

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

63 [~~(1)~~] "Board" means the Hunting Guides and Outfitters Licensing Board created in
64 Section ~~58-79-201~~;

65 [~~(2)~~] (1) "Compensation" means anything of economic value in excess of \$100 that is
66 paid, loaned, granted, given, donated, or transferred to a hunting guide or outfitter for or in
67 consideration of personal services, materials, or property.

68 [~~(3)~~] (2) "Hunting" means to locate, pursue, chase, catch, capture, trap, or kill wildlife.

69 [~~(4)~~] (3) "Hunting guide" means an individual who:

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

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

72 [~~(5)~~] (4) "Hunting guide services" means to guide, lead, or assist an individual in
73 hunting wildlife.

74 [~~(6)~~] (5) "Outfitter" means an individual who offers or provides outfitting or hunting
75 guide services for compensation to another individual for hunting wildlife on public lands.

76 [~~(7)~~] (6) (a) "Outfitting services" means providing, for hunting wildlife on public lands:

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

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

79 (iii) hunting guide services.

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

83 [~~(8)~~] (7) (a) "Public lands" means any lands owned by the United States, the state, or a
84 political subdivision or independent entity of the state that are open to the public for purposes
85 of engaging in a wildlife related activity.

86 (b) "Public lands" does not include lands owned by the United States, the state, or a
87 political subdivision or independent entity of the state that are included in a cooperative
88 wildlife management unit under Subsection **23-23-7(5)** so long as the guiding and outfitting
89 services furnished by the cooperative wildlife management unit are limited to hunting species

90 of wildlife specifically authorized by the Division of Wildlife Resources in the unit's
91 management plan.

92 ~~[(9)]~~ (8) "Wildlife" means cougar, bear, and big game animals as defined in Subsection
93 ~~23-13-2(6)~~.

94 Section 3. Section **58-79-301** is amended to read:

95 **Part 3. Registration**

96 **58-79-301. Registration required.**

97 (1) Beginning ~~[January 1, 2010]~~ July 1, 2021, and except as provided in Sections
98 ~~58-1-307~~ and ~~58-79-304~~, ~~[a license is required to provide the services of a hunting guide or~~
99 ~~outfitter]~~ in order to provide the services of a hunting guide or outfitter, an individual is
100 required to register with the division under the provisions of this chapter.

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

103 (a) hunting guide; or

104 (b) outfitter.

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

107 Section 4. Section **58-79-302** is amended to read:

108 **58-79-302. Qualifications for registration.**

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

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

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

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

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

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

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

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

121 Act.

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

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

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

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

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

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

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

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

135 Section 5. Section 58-79-303 is amended to read:

136 **58-79-303. Term of registration -- Expiration -- Renewal.**

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

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

141 (2) Each ~~[license]~~ registration automatically expires on the expiration date shown on
142 the ~~[license unless the licensee renews it in accordance with]~~ registration unless the registrant
143 renews the registration in the same manner as a licensee renews a license under Section
144 58-1-308.

145 Section 6. Section 58-79-304 is amended to read:

146 **58-79-304. Exemptions from registration.**

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

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

149 (2) an employee or subordinate of a hunting guide or outfitter if ~~[(a)]~~ the employee or
150 subordinate does not use the title of hunting guide or outfitter or is not directly represented to
151 the public to be legally qualified to engage in the practice of being a hunting guide or outfitter

152 before the public in this state~~[-; and]~~.

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

154 Section 7. Section **58-79-401** is amended to read:

155 **58-79-401. Grounds for denial of registration -- Disciplinary proceedings.**

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

162 Section 8. Section **58-79-501** is amended to read:

163 **58-79-501. Unlawful conduct.**

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

169 Section 9. Section **58-79-502** is amended to read:

170 **58-79-502. Unprofessional conduct.**

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

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

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

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

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

183 Section 10. Section **78A-2-402** is amended to read:

184 **78A-2-402. Definitions.**

185 As used in this part:

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

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

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

196 Section 11. Section **78A-2-403** is amended to read:

197 **78A-2-403. Appointment of court reporters -- Eligibility.**

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

203 Section 12. Section **78A-2-404** is amended to read:

204 **78A-2-404. Contract restrictions.**

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

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

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

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

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

217 Section 13. Section **78A-2-408** is amended to read:

218 **78A-2-408. Transcripts and copies -- Fees.**

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

221 (2) (a) The fee for a transcript of a court session, or any part of a court session, shall be
222 \$4.50 per page, which includes the initial preparation of the transcript and one certified copy.
223 The preparer shall deposit the original text file and printed transcript with the clerk of the court
224 and provide the person requesting the transcript with the certified copy. The cost of additional
225 copies shall be as provided in Subsection **78A-2-301(1)**. The transcript for an appeal shall be
226 prepared within the time period permitted by the rules of Appellate Procedure. The fee for a
227 transcript prepared within three business days of the request shall be 1-1/2 times the base rate.
228 The fee for a transcript prepared within one business day of the request shall be double the base
229 rate.

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

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

239 Section 14. **Repealer.**

240 This bill repeals:

241 Section **58-74-101, Title.**

242 Section **58-74-102, Definitions.**

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

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

- 245 Section **58-74-303**, **Term of state certification -- Expiration -- Renewal.**
- 246 Section **58-74-401**, **Grounds for denial of state certification -- Disciplinary**
- 247 **proceedings.**
- 248 Section **58-74-501**, **Unlawful conduct.**
- 249 Section **58-74-502**, **Unprofessional conduct.**
- 250 Section **58-79-201**, **Board.**