



WYOMING LEGISLATIVE SERVICE OFFICE

Research Memorandum

LICENSING OF FISHING OUTFITTERS AND GUIDES

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by

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OVERVIEW

Fishing guides and outfitters do not have regulatory oversight in Wyoming law. The Joint Travel, Recreation, and Wildlife Committee previously considered this issue during the 2019 interim. Five legislative bills were drafted in recent decades related to regulating fishing outfitting and guiding. The latest bill, House Bill 276 – Fishing outfitters and guides, was not considered for introduction in the 2019 General Session.¹ Earlier bills regarding fishing outfitter and guide licensing were drafted in 2014, 2005, 1993, and 1991. The drive for regulating the fishing outfitter and guide industry in Wyoming has typically been the competition between local anglers and commercial outfitters and guides. Overcrowding of anglers, especially in tourist destinations, has also been cited as an impetus for regulation.²

Fishing outfitters and guides are licensed and regulated in four of Wyoming's surrounding states (Colorado, Idaho, Montana, and North Dakota). Of the remaining states, Utah, like Wyoming, licenses and regulates big game hunting outfitters and guides, while Nebraska and South Dakota do not currently regulate outfitters or guides for hunting or fishing. Application requirements vary in the four states identified with fishing outfitter and guide licensing. These requirements include a minimum age of 18 years old, first aid training, surety bonding, liability insurance, testing, and experience requirements for license applicants. Below is an overview of each state's fishing outfitter and guide licensing process and notable requirements.

Colorado

Colorado regulates hunting and fishing outfitters under the same regulatory structure, through the Office of Outfitters Registration in the Department of Regulatory Agencies. Colorado Revised Statutes § 12-145-103 defines an outfitter as “a person soliciting to provide or providing, for compensation, outfitting services for the purpose of hunting or fishing on land that the person does

¹ 2019 Wyoming General Session, House Bill 276. <https://wyoleg.gov/Legislation/2019/HB0276>

² Joint Travel, Recreation, and Wildlife Interim Topic Meeting, February 28, 2023.

<https://www.youtube.com/watch?v=-DbYT-A8rOQ&t=2488s> (Last accessed May 17, 2023).

not own.”³ An outfitter must be 18 years or older, trained in first aid, and possess minimum liability insurance coverage in the amount of \$50,000 for bodily injury of an individual in a single accident and \$100,000 for bodily injury to all individuals in a single accident. Outfitter applicants must also submit a surety bond of at least \$10,000 to the director. Lastly, applicants must have the required permits or permission to provide outfitting services wherever these are to occur.⁴ Meaning, an outfitter must acquire a Colorado fishing license, as must all clients, and if an outfitter plans to offer fishing excursions on private land, the outfitter must receive written permission from the landowner.

A guide is defined in Colorado Revised Statutes § 12-145-103 as an individual who “accompanies an outfitter’s client to assist the client in the taking or attempted taking of wildlife; and either: is employed for compensation by an outfitter; or has independently contracted with an outfitter.”⁵ The Code of Colorado Regulations – Office of Outfitters Registration adds to the definition of “guide” in statute, stating that a guide is: “a registrant or an employee or independent contractor of a registrant whose duties include management of outfitter operations and/or guiding, leading, or assisting any person to and from a place where such person expects to hunt to take fish or wildlife.”⁶ Guides must be 18 years or older and be trained in first aid by the American Red Cross or equivalent training subject to Director⁷ approval. Outfitters may only hire guides with the required qualifications, at the risk of disciplinary action for the outfitter.⁸ The cost of an outfitter or guide application is \$107, renewal fees vary, and license holders must renew on a yearly basis.⁹

Idaho

The Outfitters and Guides Licensing Board oversees and establishes rules and regulations of hunting and fishing outfitters, designated agents, and guides throughout the state.¹⁰ An outfitter and a designated agent are defined as:

Any person who, while engaging in the acts enumerated herein: (1) advertises or otherwise holds himself out to the public for hire; (2) provides facilities and services for consideration; and (3) maintains, leases, or otherwise uses equipment or accommodations for compensation for the conduct of outdoor recreational activities limited to the following: hunting animals or birds; float or power boating on Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and streams;

³ Colo. Rev. Stat. § 12-145-103(5).

⁴ Colo. Rev. Stat. § 12-145-108 (1).

⁵ Colo. Rev. Stat. § 12-145-103(4).

⁶ 4 Colo. Code Regs. § 733-1. 1.3(J).

⁷ 4 Colo. Code Regs. § 733-1 1.3(G) defines “Director” as the Director of the Division of Professions and Occupations in the Department of Regulatory Agencies.

⁸ Colo. Rev. Stat. § 12-145-109 (1)(j).

⁹ Email communication, Colorado Division of Professions and Occupations (May 19, 2023).

¹⁰ Idaho Code § 362105

and hazardous desert or mountain excursions. Any firm, partnership, corporation or other organization or combination thereof operating as an outfitter shall designate one (1) or more individuals as [designated] agents who shall, together with the licensed outfitter, be held responsible for the conduct of the licensed outfitter's operations and who shall meet all of the qualifications of a licensed outfitter.¹¹

Applicants for an outfitter license must include with their application proof of a surety bond of \$10,000.¹² Fees for an outfitter license are \$400 (online), \$450 (offline), and \$400 for a first-time application. The fee to license a designated agent is \$140 (online), \$160 (offline), and \$50 for a first-time application.¹³ All new applicants applying for an outfitter or designated agent license must successfully pass a Board-approved examination on the rules, and general outfitting procedures germane to the license applied for.¹⁴ Applicants must submit an operating plan along with their application materials and may be given priority for any outfitting opportunities in the outfitter's existing area boundaries.¹⁵ In the interest of the conservation of wildlife, as well as the health, safety, and welfare of the public, the Board may set limitations on the number of outfitter licenses issued within an operating area.¹⁶

A guide is defined as:

any natural person who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed. Any such person not employed by a licensed outfitter who offers or provides facilities or services as specified in subsection (b) of this section shall be deemed in violation of the provisions of this chapter, except: (1) any employee of the state of Idaho or the United States when acting in his official capacity, or (2) any natural person who is employed by a licensed outfitter solely for the following activities: caring for, grooming or saddling of livestock, cooking, woodcutting, and transporting people, equipment and personal property on public roads shall be exempt from the provisions of this chapter.¹⁷

¹¹ Idaho Code § 36-2102(b).

¹² Idaho Code § 36-2108(2)(b).

¹³ Idaho Outfitters and Guides Licensing Board Fees, <https://elitepublic.oglb.idaho.gov/OGLBPublic/BoardFees.aspx?Board=OGLB&BoardLinkID=2080> (Last accessed May 18, 2023).

¹⁴ Idaho Admin. Code r. 24.35.01(100)(03).

¹⁵ Idaho Admin. Code r. 24.35.01(100)(04) & (08).

¹⁶ Idaho Admin. Code r. 24.35.01(100)(09).

¹⁷ Idaho Code § 36-2102(c).

Fees for a guide license are \$105 (online), \$115 (offline), and \$50 for a first-time application.¹⁸ Guide applicants must provide documentation of training and experience sufficient to perform the activities and services provided on the license.¹⁹ Guide license applicants must be certified by the American Red Cross in first aid, or comparable certification.²⁰ Additionally, documentation of activity-specific training must be submitted with the application, such as map reading, boating, hunting, etc.²¹

Montana

The Board of Outfitters (the Board) is responsible for regulating hunting and fishing outfitters and guides in the State of Montana.²² In Montana, a person may not act as an outfitter or guide or advertise or otherwise represent to the public that the person is an outfitter or guide without first securing an outfitters license issued by the Board.²³ Montana Code Annotated 37-47-101 defines an outfitter as:

Any person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal, facilities, camping equipment, vehicle, watercraft, or other conveyance, or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or outfitter's assistant in accompanying that person.²⁴

Outfitters must be 18 years or older, physically capable of performing the services of an outfitter, and meet the training and testing requirements prescribed by the Board. An outfitter must also own, or hold under lease or contract, the equipment needed to provide outfitting services as advertised, contracted for, and agreed upon between the outfitter and clients.²⁵ The initial outfitter application fee is set by rule as \$1,800, and the annual renewal fee is \$210.²⁶ Fishing outfitter applicants must have a minimum of three years and 120 days of verified experience as a licensed guide. This experience must include guiding clients and using methods for pursuing fish, or equivalent experience as determined by the board.²⁷ The outfitter examination is set by the Board,

¹⁸ Idaho Outfitters and Guides Licensing Board Fees, <https://elitepublic.oglb.idaho.gov/OGLBPublic/BoardFees.aspx?Board=OGLB&BoardLinkID=2080> (Last accessed May 18, 2023).

¹⁹ Idaho Admin. Code r. 24.35.01(103)(01)(a).

²⁰ Idaho Admin. Code r. 24.35.01(103)(01)(b).

²¹ Idaho Admin. Code r. 24.35.01(103)(02).

²² Mont. Code Ann. § 37-47-201.

²³ Mont. Code Ann. § 37-47-301(1).

²⁴ Mont. Code Ann. § 37-47-101(10).

²⁵ Mont. Code Ann. § 37-47-302.

²⁶ Outfitter License Information, Montana Board of Outfitters, <https://boards.bsd.dli.mt.gov/outfitters/license-information/outfitter> (Last accessed May 18, 2023).

²⁷ Mont. Admin. R. 24.171.502(1)(a)(i-ii).

with categories such as general knowledge of outfitting and guiding, hunting, fishing, and packing. Applicants must score at least 75 percent or more on each examination category taken.²⁸ Outfitter licensees are required to always have current first aid certification.²⁹

A guide is defined as “a person who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed.”³⁰ An outfitter may not hire a guide who does not hold a current license as provided by the Board of Outfitters.³¹ A guide must be 18 years or older, physically and mentally fit to perform the duties of a guide, have the endorsement and recommendation of a licensed outfitter, and have been issued a valid wildlife conservation license.³² Initial guide application fees are set by rule at \$125, and annual renewal fees at \$50.³³ Guide applicants must also have:

- a) not less than one season of experience of hunting or fishing for the type of game for which the applicant will guide or have worked for the outfitter that signs the license for a period of at least six weeks and in the area to be guided in, or have successfully completed a school licensed by a state, approved by the board, and that trains persons to be a guide;
- b) knowledge of hunting and fishing techniques to provide the particular services contracted to the client by the endorsing outfitter; and
- c) knowledge of equipment, terrain and hazards to competently provide a safe experience for those persons he or she guides.³⁴

Guide licensees are required to always have current first aid certification.³⁵

North Dakota

The North Dakota Game and Fish Department is responsible for the licensing of hunting and fishing outfitters and hunting guides. An outfitter is defined as:

A person that holds the person's business operation out to the public for hire or consideration; provides facilities or services for consideration; maintains, leases, or otherwise provides compensation for the use of land and which receives

²⁸ Mont. Admin. R. 24.171.507(2) & (3).

²⁹ Outfitter License Information, Montana Board of Outfitters, <https://boards.bsd.dli.mt.gov/outfitters/license-information/outfitter> (Last accessed May 18, 2023).

³⁰ Mont. Code Ann. § 37-47-101(7).

³¹ Mont. Code Ann. § 37-47-301(7).

³² Mont. Code Ann. § 37-47-303.

³³ Mont. Admin. R. 24.171.401.

³⁴ Mont. Admin. R. 24.171.601.

³⁵ Outfitter License Information, Montana Board of Outfitters, <https://boards.bsd.dli.mt.gov/outfitters/license-information/outfitter> (Last accessed May 18, 2023).

compensation from a third party for use of that land; or otherwise uses equipment or accommodations for consideration for the conduct of outdoor recreational activities, including hunting animals or birds and fishing on lakes, reservoirs, rivers, and streams. An outfitter may act as a guide. The term does not include a person holding title or an equitable interest in business operations if the purpose of the business operation is to provide food or lodging to the general public, chamber of commerce activities, travel agencies, or others that offer free information to attract outdoor and recreational use of their communities.³⁶

No individual may act, advertise, or represent themselves as a guide or outfitter without first securing a license in accordance with North Dakota Century Code 20.1-03-36 and the rules of the Director of North Dakota Game and Fish. The annual fee to receive a fishing outfitter license is \$100 for a resident and \$400 for a nonresident. An applicant for a hunting outfitter or fishing outfitter license must provide proof to the Director that the individual and the individual's business operation are covered by general liability insurance against loss or expense due to accident or injury from outfitting services, at a minimum of \$100,000 per individual and \$300,000 per accident.³⁷

If you have any further questions, please do not hesitate to contact LSO Research at 777-7881.

³⁶ N.D. Cent. Code § 20.1-01-02(34).

³⁷ N.D. Cent. Code § 20.1-03-37(3).