

State of Utah  
Administrative Rule Analysis  
Revised May 2020

DAR File NO. 52950

Date filed 7-14-2020

**NOTICE OF PROPOSED RULE**

TYPE OF RULE: New \_\_\_; Amendment XXXX; Repeal \_\_\_; Repeal and Reenact \_\_\_

	Title No. - Rule No. - Section No.	
Utah Admin. Code Ref (R no.):	R156-79	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

**Agency Information**

1. Department:	Department of Commerce	
Agency:	Division of Occupational and Professional Licensing	
Room no.:		
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Jana Johansen	801-530-6621	janajohansen@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

**2. Rule or section catchline:**

Hunting Guides and Outfitters Licensing Act Rule

**3. Purpose of the new rule or reason for the change** (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):

The proposed amendments update the rule in accordance with statutory changes made by S.B. 149 and HB 290 in the 2020 General Legislative Session.

**4. Summary of the new rule or change:**

Section R156-79-102: The proposed amendments remove obsolete definitions of components for licensure as the license has changed to a registration.

Section R156-79-302a (renumbered to R156-79-302): The proposed amendments add insurance requirements for registration in accordance with Section 58-79-302 as amended by SB 149 and HB 290, and delete obsolete requirements for licensure.

Sections R156-79-302b through R156-79-302e, which contain requirements for licensure, are deleted as obsolete.

Section R156-79-303: The proposed amendment substitutes the term "registrants" for "licensees", as these licenses have changed to a registration.

Section R156-79-502: The proposed amendments delete unprofessional conduct provisions based upon licensure, and substitute the term "registrant" for "licensee".

Section R156-79-601: The proposed amendments remove obsolete hunting guide training programs required for licensure as the license has changed to a registration.

Section R156-79-602: The proposed amendments remove obsolete outfitter training programs required for licensure as the license has changed to a registration.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

No state agencies will be directly or indirectly affected by this filing because the proposed amendments merely update and clarify provisions and conform the rule to statutory changes. Accordingly, the amendments are not expected to impact the state.

**B) Local governments:**

No local governments will be directly or indirectly affected by this filing because the proposed amendments merely update and clarify provisions and conform the rule to statutory changes.

**C) Small businesses ("small business" means a business employing 1-49 persons):**

There are approximately 6 small businesses in Utah owned by individuals in the hunting guide and outfitter industries (NAICS 114210). No small businesses are expected to be impacted by this filing because the proposed amendments merely update and clarify provisions and conform the rule to statutory changes

**D) Non-small businesses ("non-small business" means a business employing 50 or more persons):**

There are no non-small businesses in Utah in the industries in question.

**E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):**

In Utah there are 490 licensed hunting guides and 152 licensed outfitters, and the Division averages 15 new applications per year. The Division does not anticipate any cost or savings to these persons from these proposed amendments over and above the enacted registration requirements. In particular, although new applicants may experience a cost from the expense of acquiring liability insurance as required under renumbered Section R156-79-302, this level of liability insurance is already required of applicants by the Utah Division of Wildlife Resources, and the requirement of liability insurance was established in statute.

**F) Compliance costs for affected persons:**

These proposed amendments are not expected to impose any compliance costs on any affected persons.

**G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)**

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The head of the Department of Commerce, Chris Parker, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

The Division of Occupational and Professional proposes amendments to update the rule according to the statutory changes to Utah Code § 58-79-101 *et seq.* pursuant to SB 149 and HB 290 in the 2020 General Legislative Session. The amendments remove obsolete definitions, add liability insurance requirements for registration, and emphasize the term "registrant" versus "licensee".

Small Businesses (less than 50 employees): In Utah, there are approximately 6 small businesses in the hunting guide and outfitting industry (NAICS 114210). There are also 490 licensed hunting guides and 152 licensed outfitters. The Division averages 15 new applications per year and does not anticipate any cost or savings to these persons from these proposed amendments over and above the enacted registration requirements. The liability insurance requirement under R156-79-302 is already required of applicants by the Utah Division of Wildlife Resources. Accordingly, no fiscal impact is expected for small business over and above any fiscal impact described in the Legislative fiscal note as these costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees); The proposed amendments are not expected to impact non-small businesses because there are no non-small businesses in the hunting guide and outfitting industries (NAICS 114210) in Utah or for the same reasons as described above for small business as the costs are either inestimable, for the reasons stated, or there is not fiscal impact.

**B) Name and title of department head commenting on the fiscal impacts:**

Chris Parker, Executive Director

**Citation Information**

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 58-79-101	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)
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**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

First Incorporation	
Official Title of Materials Incorporated (from title page)	Removes the generally accepted and recognized standards and ethics of the profession, established by the Utah Guides and Outfitters Association
Publisher	Utah Guides and Outfitters Association
Date Issued	July 1, 2006
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

Second Incorporation	
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

**Public Notice Information**

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 08/31/2020

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
08/17/2020	10:00 AM	160 East 300 South – Electronic rule hearing

only - Join with  
Google Meet  
meet.google.com/rfc-  
cfcu-zhm

Join by phone  
+1 929-266-3411  
PIN 415996459

10. This rule change MAY become effective on (mm/dd/yyyy): 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

#### Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or  
designee, and title:



Date  
(mm/dd/yyyy):

July 14, 2020

R156. Commerce, Occupational and Professional Licensing.

R156-79. Hunting Guides and Outfitters [~~Licensing~~]Registration Act Rule.

R156-79-101. Title.

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

R156-79-102. Definitions.

In addition to the definitions in Sections 58-1-102 and 58-79-102, [~~which shall~~] that apply to this rule:

(1) "Client" means [~~the person~~]an individual who engages the professional services of a [~~licensed~~]registered outfitter.

[~~(2) "Certification of completion of a first aid and CPR course" means a valid certificate issued by one of the following:~~

~~(a) the American Red Cross;~~

~~(b) the American Heart Association; or~~

~~(c) another organization that offers substantially equivalent first aid and CPR courses as approved by the Division, to denote the individual whose name and signature appear on the certificate has successfully completed the applicable first aid and CPR course.~~

[~~(3) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:~~

~~(a) a finding of guilt based on evidence presented to a judge or jury;~~

~~(b) a guilty plea;~~

~~(c) a plea of nolo contendere;~~

~~(d) a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation;~~

~~(e) a pending diversion agreement;~~

~~(f) a conviction that has been reduced pursuant to Subsection 76-3-402(1); or~~

~~(g) an equivalent of this Subsection (3)(a) through (f) in another jurisdiction.]~~

([4]2) "Packing" means transporting for hire or compensation hunters, game animals, or equipment in the field.

([5]3) "Protecting" means the hunting guide [~~and~~]or outfitter protects any clientele.

[~~(6) "Responsible charge" means having principal care for the safety and welfare of a client when and where the hunting guide services are being provided.]~~

([7]4) "Unprofessional conduct" [~~7~~] as defined in Title 58, Chapters 1 and 79, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-79-502.

R156-79-302[a]. Qualifications for [~~Licensure~~]Registration - Application Requirements.

In accordance with Subsection [~~s 58-1-203(1) and~~] 58-1-301(3) and Section 58-79-302, an application for registration [~~the application requirements for licensure are defined herein.~~

~~(1) An application for licensure]~~as a hunting guide or outfitter shall be accompanied by a current liability insurance policy protecting against injury or damage as a result of negligence by the registrant, which has at least the following minimum limits of coverage:

- ~~(1) \$25,000 for property damage;~~
- ~~(2) \$100,000 for bodily injury or death of one individual in a single accident; and~~
- ~~(3) \$300,000 for bodily injury or death to all individuals in a single accident.~~

~~[(a) a current certification of criminal history record for the applicant issued by the state of Utah or the applicant's state of residency;~~

~~(b) a current certification of wildlife violation record for the applicant issued by the Utah Division of Wildlife Resources or the State Wildlife Agency of the applicant's state of residency;~~

~~(c) a verification of licensure from any state or territory of the United States or province of Canada in which the applicant has been licensed as a hunting guide; and~~

~~(d) a copy of a current photo identification for the applicant showing the applicant is at least 18 years of age. Acceptable photo identification shall include:~~

~~(i) a driver license issued by a state of the United States of America or the District of Columbia; or~~

~~(ii) an identification card issued by a federal, state or local government agency of the United States of America.~~

~~(2) An application for licensure as an outfitter shall be accompanied by:~~

~~(a) a current certification of criminal history record for the applicant issued by the state of Utah or the applicant's state of residency;~~

~~(b) a current certification of wildlife violation record for the applicant issued by the Utah Division of Wildlife Resources or the State Wildlife Agency of the applicant's state of residency;~~

~~(c) a verification of licensure from any state or territory of the United States or province of Canada in which the applicant has been licensed; and~~

~~(d) a copy of a current photo identification for the applicant showing the applicant is at least 18 years of age. Acceptable photo identification shall include:~~

~~(i) a driver license issued by a state of the United States of America or the District of Columbia; or~~

~~(ii) an identification card issued by a federal, state or local government agency of the United States of America.~~

~~R156-79-302c. Qualifications for Licensure Examination Requirements.~~

~~(1) For the purposes of this rule, to show an applicant possesses a minimum degree of skill and ability, the applicant shall meet one of the following requirements:~~

~~(a) an applicant as a hunting guide shall pass the Utah Hunting Guide Examination or the Utah Outfitters Examination with a passing score of at least 75%; or~~

~~(b) an applicant as an outfitter shall pass the Utah Outfitters Examination with a passing score of at least 75%.~~

~~(2) An individual who fails an examination may retake the failed examination as follows:~~

~~(a) no sooner than 30 days following any failure, up to three~~

failures, and

~~(b) no sooner than six months following any failure thereafter.~~

~~(3) The examination shall include an assessment of the applicant's knowledge of the Division hunting guide and outfitter statute and rules, the Utah Division of Wildlife Resources statutes and rules, the United States Forest Service and the Federal Bureau of Land Management hunting guidelines and rules and the Utah Hunter Safety Course guidelines and rules.~~

**~~R156-79-302d. Qualifications for Licensure — Good Moral Character.~~**

~~(1) Per Subsection 58-1-501(2) and Section R156-1-302, any one or more of the following may disqualify an individual from obtaining or holding a hunting guide or outfitters license:~~

~~(a) a violation of a state or federal wildlife, hunting guide or outfitter statute or regulation that includes:~~

~~(i) an imprisonment for more than five days within the previous five years;~~

~~(ii) an unsuspended fine of more than \$2,000 imposed in the previous 12 months;~~

~~(iii) an unsuspended fine of more than \$3,000 imposed in the previous 36 months; or~~

~~(iv) an unsuspended fine of more than \$5,000 imposed in the previous 60 months;~~

~~(b) any felony conviction within the last five years;~~

~~(c) a conviction for a felony offense against a person under Title 76, Chapter 5, Utah Criminal Code, Offenses Against the Person, within the last ten years;~~

~~(d) a conviction for one or more misdemeanors involving wildlife violations;~~

~~(e) a conviction for a misdemeanor crime of moral turpitude;~~

~~(f) a suspension or disciplinary action involving an individual obtaining or exercising the privileges granted by a hunting guide or outfitter license in this state or another state of the United States, province of Canada, by the Federal Bureau of Land Management or by the United States Forest Service; and~~

~~(g) a loss of the privilege to hunt in this state or another state of the United States or province of Canada.~~

**~~R156-79-302e. Qualifications for Licensure — Equivalent Training Requirements.~~**

~~(1)(a) An applicant for licensure as a hunting guide shall submit evidence of having successfully completed the following training:~~

~~(i) a first aid and CPR course as required under Subsection R156-79-102(2); and~~

~~(ii)(A) a basic hunting guide training program pursuant to Section R156-79-601; or~~

~~(B) 100 days of on the job training that is substantially equivalent to the basic hunting guide training program.~~

~~(b) No more than 15 days of on the job training may be accepted for any single item of training listed in Section R156-79-601.~~

~~(2)(a) An applicant for licensure as an outfitter shall submit evidence of having successfully completed the following training:~~

~~(i) a first aid and CPR course as required under Subsection R156-79-102(2); and~~  
~~(ii) (A) a basic outfitter training program pursuant to Section R156-79-602; or~~  
~~(B) 100 days of on-the-job training that is substantially equivalent to the basic outfitter training program.~~  
~~(b) No more than 15 days of on-the-job training may be accepted for any single item of training listed in Section R156-79-602.~~  
~~(3) An applicant shall document on-the-job training through:~~  
~~(a) an affidavit by a licensed hunting guide or outfitter, as applicable to the license sought, attesting to the on-the-job training claimed by the applicant;~~  
~~(b) for an outfitter who has been licensed in another state, self-authenticating guarantees of reliability, such as:~~  
~~(i) federal land agency records;~~  
~~(ii) approved training program records; or~~  
~~(iii) client affidavits or letters.~~  
~~(4) Three days of on-the-job training may be waived by the Division for every day of training completed by an applicant who has attended a hunting guide or outfitter school that, as of the date of attendance, has been approved by the Division.]~~

**R156-79-303. Renewal Cycle - Procedures.**

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to [~~licensees~~]registrants under Title 58, Chapter 79 is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308b through R156-1-308l.

**R156-79-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

- (1) engaging in fraud in advertising when soliciting hunting guide or outfitter services to the public;
- (2) intentionally obstructing, hindering, or attempting to obstruct or hinder lawful hunting by a person who is not a client or an employee of the [~~licensee~~]registrant;
- (3) failing to report to the Division within 20 days any violation of a state or federal wildlife, big game, or guiding statute by a client or by an employee of the [~~licensee~~]registrant;
- (4) materially breaching a contract with a person using the hunting guide or outfitting services of the [~~licensee~~]registrant;
- (5) failing to provide any animal used in the conduct of business with proper food or drink, or otherwise subjecting any animal used in the conduct of business to abuse or cruel and inhumane treatment;
- (6) failing to allow the Division or its agents access at any time to inspect hunting camps, whether or not the [~~licensee~~]registrant is present;
- (7) failing to provide a hunting guide for every two hunters in wilderness areas and for up to six hunters in any other areas of the state;
- (8) failing to maintain a neat, orderly, and sanitary camp by not disposing of garbage, debris, or [~~and~~] human waste appropriately;

(9) failing to provide clean drinking water or failing to protect food from contamination;

(10) failing to separate livestock facilities and camp facilities, or [and] to protect streams from contamination;

(11) failing to report any serious injury or fatality of a client or outfitter staff to a federal, state, county, or local law enforcement authority;

(12) failing to comply with state [and]or federal laws and rules regarding hunting guides and outfitters;

(13) failing to comply with state or federal wildlife laws and rules;

(14) failing to adequately maintain general liability insurance coverage as required by the United States Forest Service or the Bureau of Land Management;

~~[(15) failing as a licensee to carry an original license, as issued by the Division, when providing outfitting or hunting guide services,]~~

~~[(16)]~~ 15) providing outfitter services to a person who is not properly licensed to hunt for the species sought by that person; and

~~[(17)]~~ 16) failing to conform to the generally accepted and recognized standards and ethics of the profession [~~including those established by the Utah Guides and Outfitters Association, adopted July 1, 2006, which is hereby incorporated by reference~~].

~~[R156-79-601. Content of the Hunting Guide Basic Training Program.~~

~~The basic training program for hunting guides as required in Subsection 58-79-302(1)(e) shall be approved by the Division and may include the following components or their equivalent:~~

~~(1) hunter ethics and attitude;~~

~~(2) horsemanship;~~

~~(3) packing skills;~~

~~(4) transporting livestock;~~

~~(5) shoeing skills;~~

~~(6) use of a crosscut saw and ax;~~

~~(7) use of a chain saw;~~

~~(8) general weapon knowledge;~~

~~(9) guiding skills;~~

~~(10) game care;~~

~~(11) setting up camps;~~

~~(12) hunting guide regulations;~~

~~(13) first aid and CPR training provided by:~~

~~(a) the American Red Cross;~~

~~(b) the American Heart Association; or~~

~~(c) another organization that offers substantially equivalent training as approved by the Division;~~

~~(14) orienteering and map reading;~~

~~(15) a basic off-highway vehicle safety course;~~

~~(16) basic survival skills;~~

~~(17) trophy judging skills;~~

~~(18) other topics pertinent to the hunting guide industry as approved by the Division.~~

~~R156-79-602. Content of the Outfitter Basic Training Program.~~

~~The basic training program for outfitters as required in Subsection 58-79-302(2) (e) shall be approved by the Division and may include the following components or their equivalent:~~

- ~~(1) hunter ethics and attitude;~~
- ~~(2) horsemanship;~~
- ~~(3) packing skills;~~
- ~~(4) transporting livestock;~~
- ~~(5) shoeing skills;~~
- ~~(6) use of a crosscut saw and ax;~~
- ~~(7) use of a chain saw;~~
- ~~(8) general weapon knowledge;~~
- ~~(9) guiding skills;~~
- ~~(10) game care;~~
- ~~(11) setting up camps;~~
- ~~(12) outfitter regulations;~~
- ~~(13) first aid and CPR training provided by:~~
  - ~~(a) the American Red Cross;~~
  - ~~(b) the American Heart Association; or~~
  - ~~(c) another organization that offers substantially equivalent training as approved by the Division;~~
- ~~(14) a basic off highway vehicle safety course;~~
- ~~(15) supervising clientele;~~
- ~~(16) hiring and supervising personnel;~~
- ~~(17) outfitter advertising;~~
- ~~(18) booking clientele;~~
- ~~(19) going into business for oneself;~~
- ~~(20) wilderness and back country manners;~~
- ~~(21) applying federal and state land use policies;~~
- ~~(22) obtaining any necessary licenses and permits and permissions for the client;~~
- ~~(23) providing staff and facilities for hunting;~~
- ~~(24) providing a hunting guide;~~
- ~~(25) orienteering and map reading;~~
- ~~(26) basic survival skills;~~
- ~~(27) trophy judging skills;~~
- ~~(28) other topics pertinent to the outfitter industry as approved by the Division.]~~

**KEY:** licensing, hunting guides, outfitters

Date of Enactment or Last Substantive Amendment: ~~[June 23,]~~ 2020

Notice of Continuation: July 8, 2019

Authorizing, and Implemented or Interpreted Law: 58-79-101; 58-1-106(1) (a); 58-1-202(1) (a)