

CHAPTER 101

**PROFESSIONS AND OCCUPATIONS**

**HOUSE BILL 04-1215**

BY REPRESENTATIVE(S) Rippy, Harvey, Johnson R., Madden, McCluskey, Miller, Rose, Salazar, Tochtrop, Wiens, Coleman, Decker, Hefley, Hoppe, McGihon, Weddig, and White; also SENATOR(S) Entz, Chlouber, Isgar, and Taylor.

**AN ACT**

**CONCERNING THE REGULATION OF OUTFITTERS, AND, IN CONNECTION THEREWITH, CONTINUING THE REGULATORY FUNCTIONS OF THE DIRECTOR OF THE DIVISION OF REGISTRATIONS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Repeal.** 24-34-104 (34) (i), Colorado Revised Statutes, is repealed as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (34) The following agencies, functions, or both, shall terminate on July 1, 2004:

(i) ~~The regulation of outfitters by the director of the division of registrations pursuant to article 55.5 of title 12, C.R.S.~~

**SECTION 2.** 24-34-104 (45), Colorado Revised Statutes, is amended to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (45) The following agencies, functions, or both, shall terminate on July 1, 2014:

(a) The accreditation of health care providers under the workers' compensation system in accordance with section 8-42-101 (3.5) and (3.6), C.R.S.;

(b) THE REGULATION OF OUTFITTERS BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS PURSUANT TO ARTICLE 55.5 OF TITLE 12, C.R.S.

**SECTION 3.** Article 55.5 of title 12, Colorado Revised Statutes, is amended BY

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

THE ADDITION OF A NEW SECTION to read:

**12-55.5-102.5. Applicability.** THIS ARTICLE SHALL NOT APPLY TO A PERSON WHO ONLY AUTHORIZES A PERSON TO HUNT, FISH, OR TAKE WILDLIFE ON PROPERTY THE PERSON OWNS, RENTS, OR LEASES, INCLUDING WITHOUT LIMITATION, PROVIDING SUCH AUTHORIZATION FOR COMPENSATION.

**SECTION 4.** 12-55.5-105 (4), Colorado Revised Statutes, is amended to read:

**12-55.5-105. Issuance of certificate of registration - violations.** (4) An individual ~~partnership, or corporation~~ OR ENTITY may register as an outfitter. ~~A partnership or unincorporated association consisting of more than one individual shall designate one of its members to submit an application for registration, and every corporation, in its application for registration, shall designate and appoint one of its directors, who shall also be an officer of the corporation, to submit an application for registration.~~ AN APPLICATION FOR REGISTRATION OF AN ENTITY SHALL INCLUDE THE NAMES OF ALL OFFICERS, DIRECTORS, MEMBERS, PARTNERS, OWNERS OF AT LEAST TEN PERCENT OF THE ENTITY, AND OTHER PERSONS WHO HAVE MANAGING OR CONTROLLING AUTHORITY IN THE ENTITY. THE ENTITY SHALL DESIGNATE ON THE APPLICATION FOR OUTFITTER REGISTRATION ONE OF ITS OFFICERS, DIRECTORS, MEMBERS, PARTNERS, OR OTHER CONTROLLING OR MANAGING INDIVIDUALS TO BE THE RESPONSIBLE PARTY AND AGENT FOR THE ENTITY FOR ALL COMMUNICATIONS WITH THE DIVISION. IF THE ENTITY CHANGES ITS RESPONSIBLE PARTY AND AGENT, IT SHALL NOTIFY THE DIVISION WITHIN TEN WORKING DAYS AFTER THE NAME CHANGE AND PROVIDE CONTACT INFORMATION FOR THE NEW RESPONSIBLE PARTY AND AGENT. If such ~~designee~~ RESPONSIBLE PARTY AND AGENT does not provide guide services, he OR SHE shall not be required to comply with paragraph (b) of subsection (1) of this section.

**SECTION 5.** 12-55.5-106 (1) (c) and (1) (g), Colorado Revised Statutes, are amended, and the said 12-55.5-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-55.5-106. Disciplinary actions - grounds for discipline.** (1) The director may deny, suspend, revoke, or place on probation an outfitter's registration if the applicant or holder:

(c) Violates any local, state, or federal law related to public land management, wildlife, health, or cruelty to animals, INCLUDING, BUT NOT LIMITED TO, SECTION 33-6-113, C.R.S.;

(g) Is addicted to or dependent upon alcohol or any controlled substance ~~within the meaning of part 3 of article 22 of this title~~; or is a habitual user of ~~said~~ A controlled substance ~~if the use, addiction, or dependency is a danger to clients or prospective clients~~ AS DEFINED IN SECTION 18-18-102 (5), C.R.S.;

(4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE DIRECTOR MAY DENY AN INITIAL OR RENEWAL APPLICATION FOR REGISTRATION IF:

(a) THE APPLICANT IS AN INDIVIDUAL WHO WAS PREVIOUSLY LISTED AS PARTICIPATING IN AN ENTITY PURSUANT TO SECTION 12-55.5-105 (4), AND SUCH

ENTITY WAS SUBJECTED TO DISCIPLINE UNDER THIS ARTICLE;

(b) THE APPLICANT IS AN ENTITY, THE ENTITY LISTS AN INDIVIDUAL AS PARTICIPATING IN THE ENTITY PURSUANT TO SECTION 12-55.5-105 (4), AND THAT INDIVIDUAL WAS PREVIOUSLY LISTED AS A PARTICIPATING PERSON IN AN ENTITY THAT WAS SUBJECTED TO DISCIPLINE UNDER THIS ARTICLE; OR

(c) THE APPLICANT IS AN ENTITY, THE ENTITY LISTS AN INDIVIDUAL AS A PARTICIPATING PERSON PURSUANT TO SECTION 12-55.5-105 (4), AND THAT INDIVIDUAL WAS PREVIOUSLY SUBJECTED TO DISCIPLINE UNDER THIS ARTICLE.

**SECTION 6.** 12-55.5-105 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

**12-55.5-105. Issuance of certificate of registration - violations.** (1) Except as otherwise provided in this article, the director shall issue an initial or renewed certificate of registration as an outfitter to any individual who pays the required fee and furnishes evidence satisfactory to the director that such individual:

(e) HOLDS A VALID FIRST AID OR FIRST AID INSTRUCTOR'S CARD ISSUED BY THE AMERICAN RED CROSS OR EVIDENCE OF EQUIVALENT TRAINING CREDENTIALS AS APPROVED BY THE DIRECTOR; AND

(f) HAS, OR WILL HAVE BEFORE PROVIDING OUTFITTING SERVICES, ALL THE REQUIRED PERMITS OR WRITTEN PERMISSION ON THE LAND WHERE THE OUTFITTER PROVIDES OUTFITTING SERVICES.

**SECTION 7. Repeal.** 12-55.5-108 (1) (d), (2), and (3), Colorado Revised Statutes, are repealed as follows:

**12-55.5-108. Penalties - cease and desist orders.** (1) (d) ~~Matters brought before a court pursuant to this section shall have preference over other matters on the court's calendar.~~

(2) ~~Any person who works as a guide must be eighteen years of age or older and must hold a valid instructor's card in first aid or a standard first aid card issued by the American red cross or evidence of equivalent training. A person who violates this subsection (2) is guilty of a misdemeanor and shall be punished by a fine of one hundred dollars.~~

(3) ~~It is a violation of this article for any person whose outfitter registration has been revoked or suspended to work as a guide.~~

**SECTION 8.** Article 55.5 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-55.5-103.5. Guide qualifications.** (1) A PERSON WHO WORKS AS A GUIDE SHALL BE EIGHTEEN YEARS OF AGE OR OLDER AND SHALL HOLD EITHER A VALID FIRST AID OR FIRST AID INSTRUCTOR'S CARD ISSUED BY THE AMERICAN RED CROSS OR EVIDENCE OF EQUIVALENT TRAINING CREDENTIALS AS APPROVED BY THE DIRECTOR. A PERSON WHO VIOLATES THIS SUBSECTION (1) IS GUILTY OF A MISDEMEANOR AND

SHALL BE PUNISHED BY A FINE OF ONE HUNDRED DOLLARS.

(2) IT IS A VIOLATION OF THIS ARTICLE FOR ANY PERSON WHOSE OUTFITTER REGISTRATION HAS BEEN REVOKED OR SUSPENDED TO WORK AS A GUIDE.

**SECTION 9.** 12-55.5-107 (1), Colorado Revised Statutes, is amended to read:

**12-55.5-107. Penalties.** (1) Any person who violates the provisions of this article or the rules ~~and regulations~~ of the director promulgated under this article may be penalized by the director upon a finding of a violation ~~pursuant~~ SUBJECT to article 4 of title 24, C.R.S., as follows:

(a) In the first administrative proceeding against any person, a fine of not less than ~~three~~ ONE hundred dollars but not more than five hundred dollars per violation;

(b) In any subsequent administrative proceeding against any person for transactions occurring after a final agency action determining that a violation of this article has occurred, a fine of not less than one thousand dollars but not more than two thousand dollars PER VIOLATION;

(c) IN AN ADMINISTRATIVE PROCEEDING AGAINST A PERSON FOR A VIOLATION OF SECTION 12-55.5-103 (1), A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS BUT NOT MORE THAN FIVE THOUSAND DOLLARS PER VIOLATION.

**SECTION 10.** 12-55.5-106 (1) (j) and (3), Colorado Revised Statutes, are amended, and the said 12-55.5-106 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**12-55.5-106. Disciplinary actions - grounds for discipline.** (1) The director may deny, suspend, revoke, or place on probation an outfitter's registration if the applicant or holder:

(j) Hires any person as a guide who fails to meet the requirements of section ~~12-55.5-108(2)~~ 12-55.5-103.5, UNLESS SUCH HIRING IS A RESULT OF AN EMERGENCY AS DEFINED BY RULES PROMULGATED BY THE DIRECTOR; or

(l) VIOLATES SECTION 18-4-503 OR 18-4-504, C.R.S., RESULTING IN TWO OR MORE SECOND OR THIRD DEGREE CRIMINAL TRESPASS CONVICTIONS WITHIN ANY THREE-TO FIVE-YEAR PERIOD WHILE ACTING AS AN OUTFITTER OR GUIDE.

(3) When a complaint or an investigation discloses a violation of this article ~~which~~ THAT, in the opinion of the director, does not warrant formal action but ~~which~~ should not be dismissed as being without merit, a letter of admonition may be sent by certified mail to the outfitter against whom a complaint was made and a copy thereof to the person making the complaint; ~~but~~ EXCEPT THAT, when a letter of admonition is sent by certified mail by the director to an outfitter complained against, such outfitter shall be advised that he OR SHE has the right to request in writing, within ~~twenty~~ THIRTY days after ~~proven receipt of the letter~~ THE DATE THE LETTER WAS MAILED, that formal disciplinary proceedings be initiated ~~against him~~ to adjudicate the propriety of the conduct upon which the letter of admonition is based. If such request is timely made, the letter of admonition shall be deemed vacated, and the

matter shall be processed by means of formal disciplinary proceedings.

**SECTION 11.** Article 55.5 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-55.5-116.5. Notice - hunting and fishing license.** THE DIVISION AND THE DIVISION OF WILDLIFE SHALL DEVELOP A SYSTEM TO PROVIDE A WRITTEN NOTICE WITH EACH HUNTING OR FISHING LICENSE, AT THE TIME OF ISSUANCE, STATING THAT IT IS ILLEGAL TO PROVIDE OUTFITTING SERVICES IN COLORADO WITHOUT REGISTERING WITH THE DIVISION.

**SECTION 12. Repeal.** 12-55.5-116, Colorado Revised Statutes, is repealed as follows:

~~**12-55.5-116. Persons licensed under previous law.** Any person who on June 30, 1988, holds an outfitter's license in good standing under the law of this state in effect on such date shall be registered as an outfitter by the director effective July 1, 1988, pursuant to the provisions of this article and the submittal to the director of a surety bond in the minimum sum of ten thousand dollars, as provided in section 12-55.5-105 (1) (d). Such registration shall be renewable as provided in this article.~~

**SECTION 13.** Article 55.5 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-55.5-118. Applicability.** THIS ARTICLE SHALL NOT REQUIRE A PERSON OR ENTITY TO REGISTER AS AN OUTFITTER IF SUCH PERSON OR ENTITY ONLY RENTS MOTOR VEHICLES, LIVESTOCK, OR EQUIPMENT.

**SECTION 14.** 12-55.5-102 (4), (5), and (7), Colorado Revised Statutes, are amended, and the said 12-55.5-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-55.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(3.5) "ENTITY" MEANS AN ENTITY AUTHORIZED BY COLORADO LAW TO CONDUCT BUSINESS, INCLUDING, BUT NOT LIMITED TO, A CORPORATION, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY.

(4) "Guide" means any individual WHO:

(a) ACCOMPANIES AN OUTFITTER'S CLIENT TO ASSIST THE CLIENT IN THE TAKING OR ATTEMPTED TAKING OF WILDLIFE; AND

(b) EITHER:

(I) IS EMPLOYED FOR COMPENSATION BY AN OUTFITTER; ~~for the purpose of guiding, leading, or assisting any other individual to and from a given place.~~ OR

(II) HAS INDEPENDENTLY CONTRACTED WITH AN OUTFITTER.

(5) "Outfitter" means any individual soliciting to provide or providing, for compensation, outfitting services for the purpose of hunting or fishing on land that such individual does not own. ~~"Outfitter" does not include an individual whose only service is providing motor vehicles, horses, or other equipment for rent.~~

(7) ~~"Person" means any individual, firm, association, partnership, corporation, or other legal entity.~~

**SECTION 15.** 12-55.5-117, Colorado Revised Statutes, is amended to read:

**12-55.5-117. Repeal of article - review of functions.** Unless continued by the general assembly, this article is repealed, effective July 1, ~~2004~~ 2014, and those powers, duties, and functions of the division specified in this article are abolished. The provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the powers, duties, and functions of the division specified in this article.

**SECTION 16. Effective date - applicability.** Section 11 of this act shall take effect January 1, 2005, and the remainder of this act shall take effect July 1, 2004, and shall apply to acts committed on or after July 1, 2004.

**SECTION 17. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 2004