

HOUSE BILL NO. HB0276

Fishing outfitters and guides.

Sponsored by: Representative(s) Sommers

A BILL

for

1 AN ACT relating to game and fish; authorizing the Wyoming
2 game and fish commission to regulate and license fishing
3 outfitting and fishing guide services; imposing licensing
4 upon fishing outfitters and professional fishing guides;
5 providing for license application and imposing licensure
6 requirements, qualifications and restrictions; requiring
7 examination; providing for fees; providing for license
8 suspension and revocation; imposing penalties; providing
9 rulemaking authority; providing reporting requirements; and
10 providing for an effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 23-2-501 through 23-2-511 are created
15 to read:

16

1

ARTICLE 5

2

FISHING OUTFITTERS AND PROFESSIONAL FISHING GUIDES

3

4

23-2-501. Definitions.

5

6

(a) As used in this act:

7

8

(i) "Advertises" means attempting by any means, including the internet as defined in W.S. 9-2-1035(a)(iii), to induce persons to enter into an agreement with a fishing outfitter to receive fishing guide services;

12

13

(ii) "Commercially guided fishing boat" means a fishing boat which is operated by a fishing outfitter or professional fishing guide licensed pursuant to this act or by an outfitter or professional guide licensed pursuant to W.S. 23-2-407 and authorized by W.S. 23-2-504(c) or 23-2-505(b);

19

20

(iii) "Fishing guide services" means for hire or remuneration, accompanying and providing assistance to a fisherman in the field relating to catching fish, including the operation of commercially guided fishing boats;

23

1

2 (iv) "Fishing outfitter" means a person who
3 advertises or holds himself out to the public for hire for
4 the purpose of financial gain in order to provide fishing
5 guide services for the purpose of catching fish, excluding
6 any landowner providing fishing outfitting services on
7 private lands owned or leased by the landowner. As used in
8 this paragraph, "landowner" means any person, firm or
9 corporation holding title to, or occupying under a contract
10 of purchase, agricultural land or any person whose family
11 owns at least a majority of the stock in a Wyoming corporation
12 and who provides services specified in this paragraph on lands
13 owned by the corporation and used primarily for agricultural
14 purposes;

15

16 (v) "Professional fishing guide" means any person
17 employed by or operating under an independent contract with
18 a fishing outfitter to furnish personal services for the
19 conduct of outdoor recreational activities for the purpose of
20 catching fish;

21

22 (vi) "This act" means W.S. 23-2-501 through
23 23-2-511.

1

2 **23-2-502. License required for fishing outfitters and**
3 **professional fishing guides; exception.**

4

5 (a) Unless otherwise specified in this act, no person
6 shall hold himself out as, engage in the business of or act
7 in the capacity of a fishing outfitter or shall provide
8 fishing guide services unless the person is licensed as a
9 fishing outfitter or professional fishing guide pursuant to
10 this act.

11

12 (b) Unless licensed or authorized pursuant to this act
13 at the time of providing services, no person shall engage in
14 the business of or act in the capacity as a fishing outfitter
15 or a professional fishing guide.

16

17 (c) Except for landowners as defined in W.S.
18 23-2-501(a)(iv), no person shall advertise fishing outfitting
19 or fishing guide services to be performed in Wyoming without
20 listing the license number of one (1) or more:

21

1 (i) Fishing outfitters or professional fishing
2 guides who are contractually obligated to provide the
3 services advertised; or

4

5 (ii) Outfitters or professional guides licensed
6 pursuant to W.S. 23-2-407 and authorized by W.S. 23-2-504(c)
7 or 23-2-505(b).

8

9 (d) A landowner may guide fishermen on land owned by or
10 deeded land leased to the landowner without a professional
11 fishing guide license.

12

13 **23-2-503. Duties and powers of commission.**

14

15 (a) The commission shall license and regulate fishing
16 outfitters and professional fishing guides in this state and
17 shall:

18

19 (i) Examine applicants for licensure under this
20 act;

21

1 (ii) Deny or approve applications for licensure
2 and may revoke or suspend licenses in accordance with this
3 act and its rules and regulations;

4

5 (iii) Conduct hearings upon complaints received
6 relative to licensees. The commission may require the
7 complainant to appear before the commission in an
8 investigation or a hearing the commission conducts. The
9 commission may summarily dismiss a complaint upon failure of
10 the complainant to appear or otherwise cooperate with the
11 commission;

12

13 (iv) Impose reasonable restrictions and
14 limitations upon licensees as necessary to implement this
15 act.

16

17 (b) The commission may by rule and regulation set daily
18 limits on the number of commercially guided fishing boats
19 allowed to launch into any river or stream over which the
20 commission has jurisdiction. In promulgating any rule and
21 regulation under this subsection, the commission shall hold
22 a public hearing to gather public comments in at least one
23 (1) community in the major drainage area in which the rule

1 and regulation will apply. The commission shall seek to enter
2 into a memorandum of understanding or other agreement with
3 the appropriate federal land management agency on the
4 regulation of commercially guided fishing boats in Wyoming.
5 The commission shall report any action under this subsection
6 to the joint travel, recreation, wildlife and cultural
7 resources interim committee.

8

9 (c) The commission shall investigate alleged violations
10 of this act. Unless a court issues a search warrant based on
11 probable cause that a private property owner is engaged in
12 illegal fishing outfitter activities, investigators of the
13 commission shall not enter onto private property without
14 express permission from the private property owner.

15

16 **23-2-504. Qualifications for fishing outfitter's**
17 **license; required reporting.**

18

19 (a) An applicant for a fishing outfitter's license
20 shall, in addition to any other criteria imposed by rule and
21 regulation of the commission, possess the following
22 qualifications:

23

1 (i) Be at least eighteen (18) years of age;

2

3 (ii) Have experience as a licensed professional
4 fishing guide for not less than two (2) years or similar
5 experience accepted by the commission;

6

7 (iii) Possess through ownership, lease or as a
8 representative of an owner or lessee, equipment and
9 facilities necessary to the type of services the applicant
10 offers and applicable to the conditions of the area in which
11 the applicant operates;

12

13 (iv) Has not previously been found in violation of
14 W.S. 23-2-509(a).

15

16 (b) Any person holding a fishing outfitter's license
17 pursuant to this act may operate as a professional fishing
18 guide without holding a separate professional fishing guide's
19 license.

20

21 (c) Any person holding an outfitter's license pursuant
22 to W.S. 23-2-407 may operate as a:

23

1 (i) Fishing outfitter without holding a separate
2 fishing outfitter's license;

3
4 (ii) Professional fishing guide without holding a
5 separate professional fishing guide's license provided that,
6 for purposes of operating commercially guided fishing boats,
7 the person pays the fee set forth in W.S. 23-2-507(d).
8 Payment of the fee shall be evidenced by a sticker displayed
9 on the fishing boat used for the guiding services.

10
11 (d) In addition to subsection (a) of this section, an
12 applicant for a fishing outfitter's license shall report:

13
14 (i) Any conviction or forfeiture of any bond
15 amount for a violation of federal or state law or applicable
16 regulation relating to wildlife, game and fish within five
17 (5) years before the date of filing the license application;

18
19 (ii) Any felony conviction;

20
21 (iii) Any conviction for a violation of federal or
22 state law relating to criminal fraud and occurring within

1 five (5) years before the date of filing the license
2 application.

3

4 **23-2-505. Qualifications for professional fishing**
5 **guide's license; restrictions; required reporting.**

6

7 (a) An applicant for a professional fishing guide's
8 license shall possess the following qualifications:

9

10 (i) Be at least eighteen (18) years of age;

11

12 (ii) Be employed by or operating under an
13 independent contract with a licensed fishing outfitter;

14

15 (iii) Has not previously been found in violation
16 of W.S. 23-2-509(a).

17

18 (b) Any person holding a professional guide's license
19 pursuant to W.S. 23-2-407 may operate as a professional
20 fishing guide without holding a separate professional fishing
21 guide's license provided that, for purposes of operating
22 commercially guided fishing boats, the person pays the fee
23 set forth in W.S. 23-2-507(d). Payment of the fee shall be

1 evidenced by a sticker displayed on the fishing boat being
2 used for the guiding services.

3

4 (c) A professional fishing guide's license issued
5 pursuant to this act is valid only while the licensee is
6 employed by or operating under an independent contract with
7 a licensed fishing outfitter.

8

9 (d) A licensed fishing outfitter contracting with a
10 professional fishing guide for fishing guide services shall
11 be responsible for the conduct of the independent contractor
12 guide as if the guide were an employee.

13

14 (e) In addition to subsection (a) of this section, an
15 applicant for a professional fishing guide's license shall
16 report:

17

18 (i) Any conviction or forfeiture of any bond
19 amount for a violation of federal or state law or applicable
20 regulation relating to wildlife, game and fish within five
21 (5) years before the date of filing the license application;

22

23 (ii) Any felony conviction;

1

2 (iii) Any conviction for a violation of federal or
3 state law relating to criminal fraud and occurring within
4 five (5) years before the date of filing the license
5 application.

6

7 **23-2-506. Application for licensure; fee; required**
8 **examination; investigation by commission; liability insurance**
9 **required for fishing outfitters.**

10

11 (a) Application for a license authorized by this act
12 shall be made upon a form prescribed and furnished by the
13 commission, contain information required by the commission
14 and be signed by the applicant. The commission may impose a
15 reasonable application fee not to exceed the amount necessary
16 to defray the costs incurred in processing the application,
17 administering the examination required by this section and
18 conducting necessary investigations.

19

20 (b) Each applicant for a license under this act shall
21 submit to examination by the commission. The examination
22 shall be administered by the commission and shall:

23

1 (i) Be standardized for each type of license
2 issued under this act;

3
4 (ii) Require sufficient knowledge of the services
5 to be provided under the license;

6
7 (iii) Test the ability of the applicant to perform
8 services under the license in a safe manner;

9
10 (iv) Require special knowledge applicable to the
11 particular type of license for which application is made.

12
13 (c) In addition to examination under subsection (b) of
14 this section, the commission may investigate the
15 qualifications of the applicant to ensure compliance with
16 this act.

17
18 (d) The commission shall require the applicant for a
19 fishing outfitter's license under this section to post and
20 maintain a liability insurance policy to protect clients and
21 property owners against injury or damage as a result of
22 negligence by fishing outfitters or their agents or
23 employees. The limits of coverage shall be not less than

1 twenty-five thousand dollars (\$25,000.00) for property damage
2 and for personal injury or death, not less than one hundred
3 thousand dollars (\$100,000.00) for injury to or death of one
4 (1) person and not less than three hundred thousand dollars
5 (\$300,000.00) for all injuries or death from any one (1)
6 occurrence. Outfitters licensed pursuant to W.S. 23-2-407
7 shall not be required to hold any additional insurance
8 coverage from that required in W.S. 23-2-413(d).

9

10 **23-2-507. License issuance; fees; term of license;**
11 **renewal; commercially guided fishing boat stickers;**
12 **disposition of collected fees.**

13

14 (a) The commission may issue a license to an applicant
15 who:

16

17 (i) Has passed the examination required by this
18 act;

19

20 (ii) Is determined by the commission to be in
21 compliance with the requirements of this act and its rules
22 and regulations;

23

1 (iii) Pays the following applicable license fee:

2

3 (A) Fishing outfitter\$600.00

4

5 (B) Professional fishing guide\$250.00

6

7 (b) A license issued pursuant to this act is valid for
8 the calendar year in which issued and shall expire on December
9 31 of that year unless earlier expiring pursuant to W.S.
10 23-2-505(c) or otherwise suspended or revoked.

11

12 (c) A license may be renewed upon submission of
13 application with the commission in accordance with its rules
14 and regulations and payment of the appropriate fee set forth
15 in subsection (a) of this section.

16

17 (d) No person shall operate commercially guided fishing
18 boats without obtaining and displaying on the fishing boat a
19 commercially guided fishing boat sticker issued by the
20 commission. The commission shall issue for no charge a
21 commercially guided fishing boat sticker with each fishing
22 outfitter or professional fishing guide license issued or
23 renewed under this section. The commission shall issue a

1 commercially guided fishing boat sticker as authorized by
2 W.S. 23-2-504(c) or 23-2-505(b) to a person holding an
3 outfitter or professional guide license upon payment of a fee
4 in an amount of two hundred fifty dollars (\$250.00). A
5 sticker issued pursuant to this act is valid for the calendar
6 year in which issued and shall expire on December 31 of that
7 year.

8
9 (e) All fees collected by the commission pursuant to
10 this act shall be deposited into a separate account.
11 Expenditures from the account shall be for expenses incurred
12 by the commission in administering this act.

13

14 **23-2-508. Licensed fishing outfitters and professional**
15 **fishing guides to report violations.**

16

17 A fishing outfitter or professional fishing guide licensed
18 under this act shall promptly report any violation of federal
19 or state law or regulation governing wildlife, game and fish
20 observed by the fishing outfitter or professional fishing
21 guide to any commissioned game and fish law enforcement
22 officer, a representative of the involved federal land
23 management agency or to the commission.

1

2 **23-2-509. License suspension and revocation; grounds;**
3 **payment of damages; proceedings.**

4

5 (a) The commission may require a licensee to pay
6 damages as provided by subsection (b) of this section, may
7 refuse to issue or renew or may suspend or revoke a license
8 issued pursuant to this act or may otherwise discipline a
9 licensee for any of the following causes:

10

11 (i) Fraud or substantial misrepresentation in
12 obtaining a license under this act;

13

14 (ii) Fraudulent advertising;

15

16 (iii) Conviction of a felony that relates to the
17 practice of fishing outfitters or professional fishing guides
18 or to the ability to practice as a fishing outfitter or
19 professional fishing guide;

20

21 (iv) Violation of any significant federal or state
22 law or related regulations pertaining to wildlife, game and
23 fish;

1

2 (v) Unethical or dishonorable conduct;

3

4 (vi) A substantial breach of contract with any
5 person using fishing outfitting or fishing guide services of
6 the licensee;

7

8 (vii) Willful violation of the terms and
9 conditions under which the license is issued;

10

11 (viii) Inhumane treatment of any animal;

12

13 (ix) Willfully endangering the health and safety
14 of any person;

15

16 (x) Violation of this act or any rule or
17 regulation of the commission.

18

19 (b) If a client of a fishing outfitter or professional
20 fishing guide licensed pursuant to this act is injured by any
21 of the causes specified under subsection (a) of this section,
22 the commission may require the fishing outfitter or
23 professional fishing guide, as a condition of returning the

1 fishing outfitter's or professional fishing guide's license,
2 to pay to the client any court ordered damages including any:

3

4 (i) Fees paid by the client to the fishing
5 outfitter or professional fishing guide;

6

7 (ii) Actual travel and lodging expenses incurred
8 by the client in attempting to use the services of the fishing
9 outfitter or professional fishing guide;

10

11 (iii) Other actual expenses incurred by the client
12 in attempting to use the services of the fishing outfitter or
13 professional fishing guide.

14

15 (c) Except as provided in subsection (d) of this
16 section, suspension and revocation proceedings under this
17 section shall be conducted in accordance with the Wyoming
18 Administrative Procedure Act.

19

20 (d) Upon receipt from the department of family services
21 of a certified copy of an order from a court to withhold,
22 suspend or otherwise restrict a license issued by the
23 commission pursuant to this act, the commission shall notify

1 the party named in the court order of the withholding,
2 suspension or restriction in accordance with the terms of the
3 court order. No appeal under the Wyoming Administrative
4 Procedure Act shall be allowed for a license withheld,
5 suspended or restricted under this subsection.

6

7 **23-2-510. Violations in general; penalties.**

8

9 (a) Except as otherwise provided in this section, any
10 person violating any provision of this act is guilty of a
11 misdemeanor punishable by a fine of not to exceed five
12 thousand dollars (\$5,000.00).

13

14 (b) In addition to subsection (a) of this section, the
15 court may in its discretion, revoke any license issued under
16 this act or W.S. 23-1-101 through 23-6-208, to any person
17 violating this act, for the remainder of the year in which
18 the conviction occurs, and may suspend the person's privilege
19 to receive any license authorized by this act or W.S. 23-1-101
20 through 23-6-208, for a period not to exceed five (5) years.

21

22 (c) Any person violating W.S. 23-2-502 is guilty of a
23 misdemeanor punishable by a fine of not to exceed seven

1 thousand five hundred dollars (\$7,500.00), imprisonment for
2 not more than one (1) year, or both.

3

4 **23-2-511. Compensation of person not licensed under**
5 **this act prohibited; penalty.**

6

7 (a) No person shall directly or indirectly compensate
8 a person holding himself out as engaging in the business of
9 or acting in the capacity of a fishing outfitter or a
10 professional fishing guide unless that person provides proof
11 that the person is a fishing outfitter or professional fishing
12 guide licensed pursuant to this act or is an outfitter or
13 professional guide licensed pursuant to W.S. 23-2-407 and
14 authorized by W.S. 23-2-504(c) or 23-2-505(b).

15

16 (b) Any person violating this section is guilty of a
17 misdemeanor as prescribed under W.S. 23-2-510(a).

18

19 **Section 2.** This act is effective July 1, 2019.

20

21

(END)