
COLORADO REVISED STATUTES

Title 12 **Professions and Occupations**

Article 55.5 **Outfitters and Guides**

Effective July 1, 2006

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12-55.5-101. Legislative declaration.

It is the intent of the general assembly to promote and encourage residents and nonresidents alike to participate in the enjoyment and use of the mountains, rivers, and streams of Colorado and the state's fish and game and, to that end, in the exercise of the police power of this state for the purpose of safeguarding the health, safety, welfare, and freedom from injury or danger of such residents and nonresidents, to register and regulate those persons who, for compensation, provide equipment or personal services to such residents and nonresidents for the purpose of hunting and fishing. It is neither the intent of the general assembly to interfere in any way with the business of livestock operations or to prevent livestock owners from loaning or leasing buildings or animals to persons, nor is it intended to prevent said owner from accompanying a person or persons on land that such person owns, nor is it the intent of the general assembly to interfere in any way with the general public's ability to enjoy the recreational value of Colorado's mountains, rivers, and streams when the services of commercial outfitters are not utilized nor to interfere with the right of the United States to manage the public lands under its control.

12-55.5-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Compensation" means making, or attempting to make, a profit, salary, or increase in business or financial standing, or supporting any part of other programs or activities, to include receiving fees, charges, dues, service swaps, or something which is not strictly a sharing of actual expenses incurred from amounts received from or for outfitting services rendered or to be rendered.

(1.5) "Consultant" means a person who is hired by the director to assist in any investigation initiated under this article or any member of an advisory committee appointed pursuant to section 12-55.5-111.

(2) "Director" means the director of the division of registrations in the department of regulatory agencies.

(3) "Division" means the division of registrations in the department of regulatory agencies.

(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; 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.

(5.5) "Outfitting services" means providing transportation of individuals, equipment, supplies, or wildlife by means of vehicle, vessel, or pack animal, facilities including but not limited to tents, cabins, camp gear, food, or similar supplies, equipment, or accommodations, and guiding, leading, packing, protecting, supervising, instructing, or training persons or groups of persons in the take or attempted take of wildlife.

(6) "Peace officer" means a peace officer as described in section 16-2.5-101, C.R.S.

(7) (Deleted by amendment, L. 2004, p. 340, § 14, effective July 1, 2004.)

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.

12-55.5-103. Registration required - fees.

(1) No individual shall engage in activities as an outfitter or advertise in any publication or represent himself as an outfitter unless he first obtains a certificate of registration from the division and unless such certificate of registration is in full force and effect and in such individual's immediate possession. No individual shall continue to act as an outfitter if such registration has been suspended or revoked or has expired.

(2) An applicant for registration as an outfitter shall follow the procedures provided in section 12-55.5-105 and any other procedures required by the director. All applicants shall pay a nonrefundable registration fee to be determined by the director, which fee shall be adequate to cover the direct and indirect expenses incurred for implementation of the provisions of this article. Such registration shall be renewable pursuant to the provisions of this article and upon payment of said fee.

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.

12-55.5-104. Powers and duties of the director.

(1) In addition to all other powers and duties conferred or imposed upon the director by this article or by any other law, the director:

(a) May promulgate rules and regulations pursuant to the provisions of section 24-4-103, C.R.S., to govern the registration of outfitters to carry out the purposes of this article;

(b) (I) May administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all relevant papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter coming before the board. The director may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to perform the functions of this subparagraph (I) and to take evidence and to make findings and report them to the director.

(II) Upon failure of any witness to comply with such subpoena or process, the district court of the county in which the subpoenaed person or licensee resides or conducts business, upon application by the board or director with notice to the subpoenaed person or licensee, may issue to the person or licensee an order requiring that person or licensee to appear before the director; to produce the relevant papers, books, records, documentary evidence, or materials if so ordered; or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(c) Is authorized to apply for injunctive relief, in the manner provided by the Colorado rules of civil procedure, to enforce the provisions of this article or to restrain any violation thereof. In such proceedings, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof.

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:

(a) Is eighteen years of age or older;

(b) Holds 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;

(c) Possesses minimum liability insurance coverage in the amount of fifty thousand dollars for bodily injury to one person in any single accident and one hundred thousand dollars for bodily injury to all persons in any single accident;

(d) Has submitted to the director a surety bond in the minimum sum of ten thousand dollars, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. Such bond shall be conditioned upon compliance with the provisions of this article and with the rules and regulations promulgated under this article.

(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.

(2) and (3) (Deleted by amendment, L. 93, p. 1490, § 3, effective July 1, 1993.)

(4) An individual or entity may register as an outfitter. 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 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.

(5) Renewals and reinstatement of certificates shall be pursuant to a schedule established by the director of the division of registrations within the department of regulatory agencies and shall be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S. The director of the division of registrations within the department of regulatory agencies may establish renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her certification pursuant to the schedule established by the director of the division of registrations, such certificate shall expire. Any person whose certificate has expired shall be subject to the penalties provided in this article or section 24-34-102 (8), C.R.S.

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:

(a) Violates any order of the division or the director or any provision of this article or the rules and regulations established under this article;

(b) Fails to meet the requirements of section 12-55.5-105 or uses fraud, misrepresentation, or deceit in applying for or attempting to apply for registration;

(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.;

(d) Is convicted of or has entered a plea of nolo contendere or guilty to a felony; except that the director shall be governed by the provisions of section 24-5-101, C.R.S., in considering such conviction or plea;

(e) Uses false, deceptive, or misleading advertising;

(f) Misrepresents his services, facilities, or equipment to a client or prospective client;

(g) Is addicted to or dependent upon alcohol or any controlled substance or is a habitual user of a controlled substance as defined in section 18-18-102 (5), C.R.S.;

(h) Has incurred disciplinary action related to the practice of outfitting in another jurisdiction. Evidence of such disciplinary action shall be prima facie evidence for denial of registration or other disciplinary action if the violation would be grounds for such disciplinary action in this state.

(i) Has been convicted of second or third degree criminal trespass pursuant to section 18-4-503 or 18-4-504, C.R.S.; except that the director shall be governed by the provisions of section 24-5-101, C.R.S., in considering such conviction;

(j) Hires any person as a guide who fails to meet the requirements of section 12-55.5-103.5, unless such hiring is a result of an emergency situation, as defined by rules promulgated by the director, in which case the outfitter may hire a guide who does not possess a valid first aid card or first aid instructor's card;

(k) Serves or consumes alcohol while engaged in the activities of an outfitter, if the applicant or holder is under twenty-one years of age; 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.

(2) Any proceeding to deny, suspend, revoke, or place on probation a registration shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S. The director may use an administrative law judge employed by the office of administrative courts in the department of personnel to conduct hearings. Any person whose registration is denied, suspended, placed on probation, or revoked shall pay for the costs incurred in bringing and conducting such proceeding.

(3) (a) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the director, does not warrant formal action by the director but that should not be dismissed as being without merit, a letter of admonition may be issued and sent, by certified mail, to the registrant.

(b) When a letter of admonition is sent by the director, by certified mail, to a registrant, such registrant shall be advised that he or she has the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(c) If the request for adjudication is timely made, the letter of admonition shall be deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.

(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.

(5) When a complaint or an investigation discloses an instance of misconduct that, in the opinion of the director, warrants formal action, the complaint shall not be resolved by a deferred settlement, action, judgment, or prosecution.

12-55.5-107. Penalties.

(1) Any person who violates the provisions of this article or the rules of the director promulgated under this article may be penalized by the director upon a finding of a violation 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 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.

(1.5) Repealed.

(2) In addition to the penalties provided in subsection (1) of this section, the director, upon a finding of a violation, may deny, suspend, revoke, or place on probation an outfitter's registration or take other disciplinary action as provided in section 12-55.5-106 (3).

(3) Any person who engages in activities as an outfitter shall maintain all applicable documents, records, and other items, for the current year and the preceding four years at the address listed on the registration, required to be maintained by this article or by the rules or regulations of the director when requested to do so by any peace officer. Any such person who refuses to permit the inspection of such documents, records, or items is guilty of a misdemeanor and shall be punished by a fine of one hundred dollars.

(4) (Deleted by amendment, L. 93, p. 1491, § 5, effective July 1, 1993.)

(5) All fines collected pursuant to this article shall be distributed as follows:

(a) Fifty percent divided by the court between any federal, state, or local law enforcement agency assisting with an investigation;

(b) Fifty percent to the division for the cost of administering this article.

12-55.5-107.5. Violations - penalties - distribution of fines collected. (Repealed)

(1) Repealed.

(2) Repealed.

12-55.5-108. Cease and desist orders - unauthorized practice - penalties.

(1) (a) If it appears to the director, based upon credible evidence as presented in a written complaint by any person, that a registrant is acting in a manner that is an imminent threat to the health and safety of the public, or a person is acting or has acted without the required registration, the director may issue an order to cease and desist such activity. The order shall set forth the statutes and rules alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all unlawful acts or unregistered practices immediately cease.

(b) Within ten days after service of the order to cease and desist pursuant to paragraph (a) of this subsection (1), the respondent may request a hearing on the question of whether acts or practices in

violation of this article have occurred. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

(2) (a) If it appears to the director, based upon credible evidence as presented in a written complaint by any person, that a person has violated any other portion of this article, then, in addition to any specific powers granted pursuant to this article, the director may issue to such person an order to show cause as to why the director should not issue a final order directing such person to cease and desist from the unlawful act or unregistered practice.

(b) A person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (2) shall be promptly notified by the director of the issuance of the order, along with a copy of the order, the factual and legal basis for the order, and the date set by the director for a hearing on the order. Such notice may be served by personal service, by first-class United States mail, postage prepaid, or as may be practicable upon any person against whom such order is issued. Personal service or mailing of an order or document pursuant to this subsection (2) shall constitute notice thereof to the person.

(c) (I) The hearing on an order to show cause shall be commenced no sooner than ten and no later than forty-five calendar days after the date of transmission or service of the notification by the director as provided in paragraph (b) of this subsection (2). The hearing may be continued by agreement of all parties based upon the complexity of the matter, number of parties to the matter, and legal issues presented in the matter, but in no event shall the hearing commence later than sixty calendar days after the date of transmission or service of the notification.

(II) If a person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (2) does not appear at the hearing, the director may present evidence that notification was properly sent or served upon such person pursuant to paragraph (b) of this subsection (2) and such other evidence related to the matter as the director deems appropriate. The director shall issue the order within ten days after the director's determination related to reasonable attempts to notify the respondent, and the order shall become final as to that person by operation of law. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

(III) If the director reasonably finds that the person against whom the order to show cause was issued is acting or has acted without the required registration, or has or is about to engage in acts or practices constituting violations of this article, a final cease and desist order may be issued, directing such person to cease and desist from further unlawful acts or unregistered practices.

(IV) The director shall provide notice, in the manner set forth in paragraph (b) of this subsection (2), of the final cease and desist order within ten calendar days after the hearing conducted pursuant to this paragraph (c) to each person against whom such order has been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall be effective when issued and shall be a final order for purposes of judicial review.

(3) If it appears to the director, based upon credible evidence presented to the director, that a person has engaged in or is about to engage in any unregistered act or practice, any act or practice constituting a violation of this article, any rule promulgated pursuant to this article, any order issued pursuant to this article, or any act or practice constituting grounds for administrative sanction pursuant to this article, the director may enter into a stipulation with such person.

(4) If any person fails to comply with a final cease and desist order or a stipulation, the director may request the attorney general or the district attorney for the judicial district in which the alleged violation exists to bring, and if so requested such attorney shall bring, suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of the final order.

(5) A person aggrieved by the final cease and desist order may seek judicial review of the director's determination or of the director's final order as provided in section 12-55.5-115.

(6) Any person who engages or offers or attempts to engage in activities as an outfitter without an active registration issued under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and for the second or any subsequent offense, the person commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-55.5-109. Contracts for outfitting services - writing required.

(1) Prior to engaging in any activity as an outfitter, an outfitter shall provide a written contract to the client signed by both the outfitter and the client, stating at least the following terms:

- (a) Type of services to be provided;
- (b) Dates of service;
- (c) Transportation arrangements;
- (d) Costs of the services;
- (e) Ratio of clients to guides; and
- (f) The outfitter's policy regarding cancellation of the contract and refund of any deposit.

(2) No action may be maintained by an outfitter for breach of a contract or agreement to provide outfitting services or for the recovery of compensation for services rendered under such contract or agreement if the outfitter has failed to comply with the provisions of this article.

(3) Any written contract provided pursuant to this section shall also contain a written statement that pursuant to section 12-55.5-105 (1) (c) and (1) (d) outfitters are bonded and required to possess the minimum level of liability insurance and that the activities of outfitters are regulated by the director of the division of registrations in the department of regulatory agencies.

12-55.5-110. Other remedies - contracts void - public nuisance - seizure of equipment.

(1) Every agreement or contract for the services of an outfitter shall be void and unenforceable by the outfitter unless such outfitter is duly registered with the division under the provisions of this article when such services are contracted for and performed.

(2) Every motor vehicle, trailer, vessel, firearm, weapon, trap, equipment, livestock, or other personal property used in outfitting services in violation of the provisions of this article is declared to be a class 2 public nuisance. Unless in conflict with the specific provisions of this section, the provisions of article 13 of title 16, C.R.S., shall apply to any action taken pursuant to this section.

(3) (a) Any personal property subject to seizure under this section which is seized as a part of or incident to a criminal proceeding for violation of this article and for which disposition is not provided by another statute of this state shall be disposed of as provided in this section.

(b) The court may order any such property sold by the director in the manner provided for sales on execution.

(c) The proceeds of such sale shall be applied as follows:

- (I) To the fees and costs of removal and sale;
- (II) To the payment of any costs the state has incurred from such action; and
- (III) The balance, if any, to the office of the district attorney who has brought such action.

12-55.5-111. Advisory committee.

The director shall appoint an advisory committee to make recommendations concerning outfitters, which committee shall serve at the request and pleasure of the director. The members of the advisory committee shall receive no compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties under this article.

12-55.5-112. Immunity.

The director, the director's staff, any person acting as a witness or consultant to the director, any witness testifying in a proceeding authorized under this article, and any person who lodges a complaint pursuant to this article shall be immune from liability in any civil action brought against him or her for acts occurring while acting in his or her capacity as director, staff, consultant, or witness, respectively, if such individual was acting in good faith within the scope of his or her respective capacity, made a reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable belief that the action taken by him or her was warranted by the facts. Any person participating in good faith in lodging a complaint or participating in any investigative or administrative proceeding pursuant to this article shall be immune from any civil or criminal liability that may result from such participation.

12-55.5-113. Enforcement.

Every peace officer, as defined in section 12-55.5-102 (6), is hereby authorized to assist the director in the enforcement of the provisions of this article and the rules and regulations prescribed by the director.

12-55.5-114. Fees - cash fund.

Except as otherwise provided in this article and in section 12-55.5-110, all fees collected pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the division of registrations cash fund created pursuant to section 24-34-105 (2) (b), C.R.S. The general assembly shall make annual appropriations from the division of registrations cash fund for expenditures of the division incurred in the performance of its duties under this article.

12-55.5-115. Judicial review.

The court of appeals shall have initial jurisdiction to review all final actions and orders that are subject to judicial review. Such proceedings shall be conducted in accordance with section 24-4-106 (11), C.R.S.

12-55.5-116. Persons licensed under previous law. (Repealed)

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.

12-55.5-117. Repeal of article - review of functions.

Unless continued by the general assembly, this article is repealed, effective July 1, 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.

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.