

ASSEMBLY BILL NO. 410—ASSEMBLYMAN CARPENTER

MARCH 16, 2001

Referred to Committee on Natural Resources, Agriculture, and Mining

SUMMARY—Makes various changes relating to guides and outfitters. (BDR 54-1190)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to professions; creating the outfitters and guides licensing board of Nevada; providing for licensure of outfitters and guides; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Title 54 of NRS is hereby amended by adding thereto a
2 new chapter to consist of the provisions set forth as sections 2 to 37,
3 inclusive, of this act.

4 **Sec. 2. 1. *It is the policy of this state and the purpose of this***
5 ***chapter to:***

6 ***(a) Promote and encourage residents and nonresidents alike to***
7 ***participate in the enjoyment and use of the deserts, mountains, rivers,***
8 ***streams, lakes, reservoirs and other natural resources of this state, and***
9 ***the fish and game therein, and to that end to regulate and license those***
10 ***persons who undertake for compensation to provide equipment and***
11 ***personal services to persons who participate in outdoor recreational***
12 ***activities; and***

13 ***(b) Safeguard the health, safety, welfare and freedom from injury or***
14 ***danger of persons who engage in outdoor recreational activities by using***
15 ***the services of commercial outfitters and guides in this state.***

16 **2. *It is not the intent of this chapter to:***

17 ***(a) Interfere in any way with the business of livestock operations;***

18 ***(b) Prevent the owner of pack animals from allowing other persons to***
19 ***use those animals if no consideration is exchanged for that use;***

20 ***(c) Interfere in any way with the right of the general public to enjoy***
21 ***the recreational value of the deserts, mountains, rivers, streams, lakes,***
22 ***reservoirs and other natural resources of this state when the services of***
23 ***commercial outfitters and guides are not used; or***



- 1 (d) *Interfere with the right of the United States to manage the public*
2 *lands under its control.*
- 3 **Sec. 3.** *As used in this chapter, unless the context otherwise*
4 *requires, the words and terms defined in sections 4 to 9, inclusive, of this*
5 *act have the meanings ascribed to them in those sections.*
- 6 **Sec. 4.** *“Board” means the outfitters and guides licensing board of*
7 *Nevada.*
- 8 **Sec. 5.** *“Guide” is any natural person who is employed by a licensed*
9 *outfitter to furnish personal services directly related to the conduct of*
10 *outdoor recreational activities for which the employing outfitter is*
11 *licensed.*
- 12 **Sec. 6.** *“License year” means the period beginning on June 1 and*
13 *ending on May 31 of the following year.*
- 14 **Sec. 7.** *“Licensee” means a person who is issued a license pursuant*
15 *to this chapter.*
- 16 **Sec. 8.** *“Outdoor recreational activities” include, without limitation:*
17 1. *Hunting animals, including, without limitation, birds;*
18 2. *Float or power boating on rivers and streams of this state;*
19 3. *Fishing on the lakes, reservoirs, rivers and streams of this state;*
20 *and*
21 4. *Hazardous desert or mountain excursions, including, without*
22 *limitation, excursions on horseback, rappelling and rafting.*
- 23 **Sec. 9.** *“Outfitter” means any person who:*
24 1. *Advertises or otherwise holds himself out to the public for hire for*
25 *engaging clients in outdoor recreational activities;*
26 2. *For compensation, provides facilities and services to clients*
27 *engaged in outdoor recreational activities; and*
28 3. *Maintains, leases, or otherwise uses equipment or*
29 *accommodations for engaging clients in outdoor recreational activities.*
- 30 **Sec. 10.** *This chapter does not apply to:*
31 1. *A person who, for accommodation and not for compensation or*
32 *gain or promise thereof, furnishes a pack or saddle horse, or other*
33 *equipment, to a hunter or a fisherman.*
34 2. *A person who merely supplies equipment to a person who engages*
35 *in an outdoor recreational activity without a guide.*
36 3. *Members of a nonprofit organization if:*
37 (a) *The organization is exempt from the payment of federal income*
38 *taxes under section 501(c)(3) of the Internal Revenue Code;*
39 (b) *The purpose of the organization is to provide outdoor experiences*
40 *to persons under the age of 21 years and to the leaders of the*
41 *organization; and*
42 (c) *Except as otherwise provided in this paragraph, the organization*
43 *provides outfitting and guiding services to its own bona fide members*
44 *without profit. If the members of the nonprofit organization provide*
45 *outfitting or guiding services to persons who are not its members and*
46 *leaders, the provisions of this chapter apply to that organization, its*
47 *members and leaders.*
48 4. *An employee of this state or the Federal Government who is*
49 *performing the duties of his employment.*



1 **Sec. 11.** *The outfitters and guides licensing board of Nevada,*
2 *consisting of four members appointed by the governor and one member*
3 *appointed by the board of wildlife commissioners, is hereby created.*

4 **Sec. 12.** 1. *The board of wildlife commissioners shall appoint one*
5 *member of the board from its members.*

6 2. *The governor shall appoint four members of the board as follows:*

7 (a) *Three members who are licensed outfitters or guides who have at*
8 *least 5 years of experience as an outfitter or guide in this state; and*

9 (b) *One member who is a game warden.*

10 3. *Each member of the board serves for a term of 3 years and is*
11 *entitled to receive compensation for each day the member is engaged in*
12 *the business of the board in an amount determined by the governor to be*
13 *reasonable for such service. The member representing the board of*
14 *wildlife commissioners must be paid by the board of wildlife*
15 *commissioners.*

16 **Sec. 13.** 1. *A member may be removed from the board by the*
17 *appointing authority for good cause.*

18 2. *If a member dies, resigns or is removed from office before the end*
19 *of his term or is otherwise unable to complete his term, the appointing*
20 *authority that appointed the member shall appoint a person to serve for*
21 *the remainder of the term of the member being replaced in the manner*
22 *required for appointing a member pursuant to section 12 of this act.*

23 3. *If a vacancy occurs in a position held by a person who is*
24 *appointed pursuant to paragraph (a) of subsection 2 of section 12 of this*
25 *act, a professional association of outfitters and guides in this state shall*
26 *submit to the governor the names of two persons who are qualified*
27 *pursuant to that paragraph. Within 30 days after receiving the names*
28 *pursuant to this subsection, the governor shall appoint a person from the*
29 *names received to fill the vacancy.*

30 **Sec. 14.** 1. *A majority of the members of the board constitutes a*
31 *quorum.*

32 2. *The board shall meet at least four times a year, and at least two*
33 *meetings must be held in Reno, Nevada.*

34 **Sec. 15.** 1. *The board shall appoint an executive director who*
35 *serves at the pleasure of the board.*

36 2. *The executive director shall perform duties prescribed by the*
37 *board.*

38 3. *The board may, in its discretion, refuse, sustain or reverse, by*
39 *majority vote, any action or decision of the executive director.*

40 **Sec. 16.** *The board shall:*

41 1. *Conduct examinations to determine the qualifications of*
42 *applicants for licenses issued pursuant to this chapter.*

43 2. *Issue licenses to qualified applicants, with such restrictions and*
44 *limitations thereon as the board may find reasonable.*

45 3. *Conduct hearings and proceedings to suspend, revoke or restrict*
46 *licenses issued pursuant to this chapter for due cause in the manner*
47 *provided in this chapter.*

48 4. *Enforce the provisions of this chapter.*



- 1 5. *Adopt regulations to carry out the provisions of this chapter,*
2 *including, without limitation, regulations which prescribe:*
3 (a) *Requirements for training, experience and knowledge of laws and*
4 *regulations for licensure pursuant to this chapter;*
5 (b) *The form and content of examinations to be given to applicants for*
6 *licenses pursuant to this chapter, whether oral, written or demonstrative,*
7 *or a combination thereof;*
8 (c) *The type and condition of equipment which must be used by a*
9 *licensee; and*
10 (d) *Standards and requirements for the operation of an outfitter and*
11 *conduct of a guide which are appropriate for:*
12 (1) *Protecting customers of an outfitter from injury or danger; and*
13 (2) *Conservation of wildlife and range resources.*
14 6. *Cooperate with the federal and state governments in matters of*
15 *mutual concern regarding outfitters or guides in this state.*
16 **Sec. 17.** 1. *The board, any member of the board, a panel of its*
17 *members or a hearing officer may issue subpoenas to compel the*
18 *attendance of witnesses and the production of books, papers, documents,*
19 *records of licensees, and any other articles related to this chapter.*
20 2. *If any witness refuses to attend or testify or produce any article as*
21 *required by a subpoena, the board may file a petition with the district*
22 *court stating that:*
23 (a) *Due notice has been given for the time and place of attendance of*
24 *the witness or the production of the required articles;*
25 (b) *The witness has been subpoenaed pursuant to this section; and*
26 (c) *The witness has failed or refused to attend or produce the articles*
27 *required by the subpoena or has refused to answer questions propounded*
28 *to him,*
29 *and asking for an order of the court compelling the witness to attend and*
30 *testify before the board, a panel of its members or a hearing officer, or*
31 *produce the articles as required by the subpoena.*
32 3. *Upon receipt of the petition, the court shall enter an order*
33 *directing the witness to appear before the court at a time and place to be*
34 *fixed by the court in its order, the time to be not more than 10 days after*
35 *the date of the order, and then and there show cause why he has not*
36 *attended or testified or produced the articles. A certified copy of the order*
37 *must be served upon the witness.*
38 4. *If it appears to the court that the subpoena was regularly issued,*
39 *the court shall enter an order that the witness appear before the board, a*
40 *member of the board, a panel of its members or a hearing officer, as*
41 *appropriate, at the time and place fixed in the order and testify or*
42 *produce the required articles, and upon failure to obey the order the*
43 *witness must be dealt with as for contempt of court.*
44 **Sec. 18.** 1. *The board may employ enforcement agents to conduct*
45 *investigations and enforce the provisions of this chapter.*
46 2. *All enforcement agents appointed by the board who are certified*
47 *by the peace officers' standards and training commission shall have the*
48 *power of peace officers as provided in section 40 of this act.*



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1 **Sec. 19.** 1. *By June 1 of each year:*
2 (a) *The board shall provide to the administrator of the division of*
3 *wildlife of the state department of conservation and natural resources, in*
4 *a manner and form prescribed by the executive director, the number of*
5 *each species of big game mammal taken by clients of licensed outfitters*
6 *during the immediately preceding license year and the area in which*
7 *each big game mammal was taken.*
8 (b) *Each licensed outfitter shall provide to the administrator of the*
9 *division of wildlife, in a manner and form prescribed by the executive*
10 *director, the number of each species of big game mammal taken by its*
11 *clients during the immediately preceding license year and the area in*
12 *which each big game mammal was taken.*
13 2. *As used in this section, "big game mammal" has the meaning*
14 *ascribed to it in NRS 501.005.*
15 **Sec. 20.** 1. *Each applicant for the issuance of a license pursuant to*
16 *this chapter must submit to the board an application for the issuance of a*
17 *license, as appropriate, on a form prescribed by the board.*
18 2. *All applications for the issuance of an outfitter license must:*
19 (a) *Include, without limitation:*
20 (1) *A list of the outdoor recreational activities for which the*
21 *outfitter desires to be licensed; and*
22 (2) *A description of the boundaries of the geographical area in*
23 *which the outfitter desires to engage clients in the outdoor recreational*
24 *activities;*
25 (b) *Be signed by the applicant, under oath or affirmation that all*
26 *information supplied by him is true and correct; and*
27 (c) *Be notarized by a notary public.*
28 3. *An application for an outfitter license submitted by a firm,*
29 *partnership, corporation or other organization must designate at least*
30 *one natural person conducting its business who meets the qualifications*
31 *and requirements for an outfitter license.*
32 4. *All applications for a guide license must:*
33 (a) *Include, without limitation, a statement signed by the outfitter by*
34 *whom the applicant will be employed stating that the outfitter will employ*
35 *the applicant as a guide; and*
36 (b) *Be signed by the applicant.*
37 5. *The board may investigate the background and qualifications of*
38 *an applicant as it deems appropriate.*
39 **Sec. 21.** *An application for licensure pursuant to this chapter must*
40 *include the social security number of the applicant.*
41 **Sec. 22.** 1. *An applicant for the issuance of a license issued*
42 *pursuant to this chapter shall submit to the board the statement*
43 *prescribed by the welfare division of the department of human resources*
44 *pursuant to NRS 425.520. The statement must be completed and signed*
45 *by the applicant.*
46 2. *The board shall include the statement required pursuant to*
47 *subsection 1 in:*
48 (a) *The application or any other forms that must be submitted for the*
49 *issuance of the license; or*



1 (b) A separate form prescribed by the board.
2 3. A license may not be issued or renewed by the board if the
3 applicant:

- 4 (a) Fails to submit the statement required pursuant to subsection 1; or
5 (b) Indicates on the statement submitted pursuant to subsection 1 that
6 he is subject to a court order for the support of a child and is not in
7 compliance with the order or a plan approved by the district attorney or
8 other public agency enforcing the order for the repayment of the amount
9 owed pursuant to the order.

10 4. If an applicant indicates on the statement submitted pursuant to
11 subsection 1 that he is subject to a court order for the support of a child
12 and is not in compliance with the order or a plan approved by the district
13 attorney or other public agency enforcing the order for the repayment of
14 the amount owed pursuant to the order, the board shall advise the
15 applicant to contact the district attorney or other public agency enforcing
16 the order to determine the actions that the applicant may take to satisfy
17 the arrearage.

18 **Sec. 23.** 1. The board shall make a final decision on an application
19 submitted by an applicant who has held during the immediately
20 preceding license year a license of the same type for which the
21 application is made not later than:

- 22 (a) May 31 of the year in which the board receives all materials
23 required to be submitted to complete the application; or
24 (b) Thirty days after the date on which the board receives all materials
25 required to be submitted to complete the application,
26 whichever is later.

27 2. The board shall make a final decision on an application submitted
28 by an applicant who did not hold during the immediately preceding
29 license year a license of the same type for which the application is made
30 not later than:

- 31 (a) February 15 of the year in which the board receives all materials
32 required to be submitted to complete the application; or
33 (b) Ninety days after the date on which the board receives all
34 materials required to be submitted to complete the application,
35 whichever is later.

36 **Sec. 24.** 1. If an applicant has not been previously licensed by the
37 board, the applicant shall submit with his application an application fee
38 in an amount determined by the board pursuant to subsection 5.

39 2. If the board approves an application for licensure pursuant to this
40 chapter, before issuing the license, the board must receive from the
41 applicant a license fee in the amount of:

- 42 (a) For an outfitter license, \$300; and
43 (b) For a guide license, \$95.

44 3. The board shall charge a fee of \$75 for every amendment to the
45 license of an outfitter other than an incidental amendment, as
46 determined by the board, and a fee of \$10 for every incidental
47 amendment to the license of an outfitter and every amendment to the
48 license of a guide. The board shall adopt regulations that prescribe when



1 a license may be amended, the procedure for amending a license and
2 when an amendment to a license is incidental.

3 4. The license fees and fees for amending a license collected
4 pursuant to this section must be used for the investigation of applicants,
5 for the enforcement of this chapter and for the administrative costs of the
6 board.

7 5. Each year, the board shall establish a one-time application fee of
8 not more than \$800 for an application for licensure as an outfitter or \$10
9 for an application for licensure as a guide to be charged to each
10 applicant who has not been previously issued such a license by the board.
11 Application fees collected by the board must be used to pay for the cost of
12 investigating applicants. The board shall prescribe by regulation a policy
13 for refunding any unused application fees or portions thereof.

14 **Sec. 25.** 1. Before issuing a license to an applicant, the board shall
15 require that the applicant:

16 (a) File with the board a surety bond in a form acceptable to the board
17 executed by the applicant as principal with a corporation authorized to
18 transact surety business in this state as surety; or

19 (b) In lieu of such a bond, establish with the board a cash deposit as
20 provided in this section.

21 2. Before granting a license to an applicant, the board shall require
22 that the applicant file with the board satisfactory evidence that his surety
23 bond or cash deposit is in full force, unless the applicant has been
24 relieved of the requirement as provided in this section.

25 3. Failure of an applicant or licensee to file or maintain in full force
26 the required bond or to establish the required cash deposit constitutes
27 cause for the board to deny, revoke, suspend or refuse to renew a license.

28 4. The amount of each bond or cash deposit required by this section
29 must be fixed by the board with reference to the financial and
30 professional responsibility of the licensee or applicant and the magnitude
31 of operations of the licensee or applicant, but must be not less than
32 \$1,000 or more than \$10,000. The bond must be continuous in form and
33 must be conditioned that the total aggregate liability of the surety for all
34 claims is limited to the face amount of the bond irrespective of the
35 number of years the bond is in force. The board may increase or reduce
36 the amount of any bond or cash deposit if evidence supporting a change
37 in the amount is presented when the applicant applies for a license
38 pursuant to this chapter or at a hearing conducted pursuant to this
39 chapter. Unless released earlier pursuant to subsection 5, any cash
40 deposit may be withdrawn 2 years after termination of the license in
41 connection with which it was established, or 2 years after completion of
42 all work authorized by the board after termination of the license,
43 whichever occurs later, if there is no outstanding claim against the cash
44 deposit.

45 5. After a licensee has acted in the capacity of a licensed outfitter or
46 licensed guide in this state for not less than 5 consecutive years, the
47 board may relieve the licensee of the requirement of filing a bond or
48 establishing a cash deposit if evidence supporting the relief is presented
49 to the board. The board may at any time thereafter require the licensee to



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1 *file a new bond or establish a new cash deposit as provided in subsection*
2 *4. If a licensee is relieved of the requirement of establishing a cash*
3 *deposit, the cash deposit may be withdrawn 2 years after the relief is*
4 *granted, if there is no outstanding claim against the cash deposit.*

5 **Sec. 26.** *1. Each bond or cash deposit required by section 25 of this*
6 *act must be in favor of the State of Nevada for the benefit of any person*
7 *who is injured by any unlawful act or omission of the outfitter or guide.*

8 *2. Any person claiming against the bond or cash deposit may bring*
9 *an action in a court of competent jurisdiction on the bond or against the*
10 *board on the cash deposit for the amount of damage he has suffered to*
11 *the extent covered by the bond or cash deposit. No action may be*
12 *commenced on the bond or cash deposit for 2 years after the commission*
13 *of the act on which the action is based. If an action is commenced on the*
14 *bond, the surety that executed the bond shall notify the board of the*
15 *action within 30 days after the date on which:*

16 *(a) The surety is served with a complaint and summons; or*

17 *(b) The action is commenced,*

18 *whichever occurs first.*

19 *3. Upon receiving a request from a person for whose benefit a bond*
20 *or cash deposit is required, the board shall notify him that:*

21 *(a) A bond is in effect or that a cash deposit has been made, and the*
22 *amount of either;*

23 *(b) There is an action against a bond, if that is the case, and the court,*
24 *the title and number of the action and the amount sought by the plaintiff;*
25 *and*

26 *(c) There is an action against the board, if that is the case, and the*
27 *amount sought by the plaintiff.*

28 *4. If a surety, or in the case of a cash deposit, the board, desires to*
29 *make payment without awaiting court action, the amount of the bond or*
30 *cash deposit must be reduced to the extent of any payment made by the*
31 *surety or the board in good faith under the bond or cash deposit. Any*
32 *payment must be based on written claims received by the surety or board*
33 *before the court action.*

34 *5. The surety or the board may bring an action for interpleader*
35 *against all claimants upon the bond or cash deposit. If an action for*
36 *interpleader is commenced, the surety or the board must serve each*
37 *known claimant and publish notice of the action at least once each week*
38 *for 2 weeks in a newspaper of general circulation in the county where the*
39 *outfitter has his principal place of business. The surety is entitled to*
40 *deduct its costs of the action, including publication, from its liability*
41 *under the bond. The board is entitled to deduct its costs of the action,*
42 *including attorney's fees and publication, from the cash deposit.*

43 *6. Claims against a bond or cash deposit have equal priority, except*
44 *where otherwise provided by law, and if the bond or cash deposit is*
45 *insufficient to pay all those claims in full, they must be paid pro rata.*
46 *Partial payment of claims is not full payment, and the claimants may*
47 *bring actions against the licensee for the unpaid balances.*

48 *7. The board shall not claim against the bond or cash deposit*
49 *required pursuant to section 25 of this act for the payment of an*



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- 1 *administrative fine imposed for a violation of the provisions of this*
2 *chapter.*
- 3 **Sec. 27.** 1. *The board shall not issue a license to an applicant if the*
4 *board determines that the applicant:*
- 5 (a) *Is incompetent or does not possess good moral character;*
 - 6 (b) *Is less than 18 years of age; or*
 - 7 (c) *Does not possess a working knowledge of the laws and regulations*
8 *of this state and of the Federal Government that relate to fish and game*
9 *or outfitters and guides.*
- 10 2. *The board shall not issue an outfitter license to any applicant who*
11 *the board determines does not have sufficient financial responsibility to*
12 *conduct adequately the business of an outfitter.*
- 13 3. *The board shall not issue a license to a firm, partnership,*
14 *corporation or other organization which does not have at least one*
15 *designated agent conducting its outfitting business who meets all the*
16 *qualifications and requirements of a licensed outfitter.*
- 17 4. *The board may refuse to grant a license to an applicant who the*
18 *board determines has committed an act or omission that constitutes*
19 *grounds for revocation or suspension of a license pursuant to this*
20 *chapter.*
- 21 **Sec. 28.** 1. *The board shall prescribe by regulation the form and*
22 *content of licenses issued pursuant to this chapter. The board may*
23 *prescribe by regulation limitations or qualifications placed upon a*
24 *license issued pursuant to this chapter. A limitation or qualification*
25 *placed upon a license must be clearly indicated on the face of the license*
26 *or as an attachment to the license and is part of the license.*
- 27 2. *An outfitter license issued by the board must specify:*
- 28 (a) *The outdoor recreational activities that may be conducted by the*
29 *outfitter pursuant to the license;*
 - 30 (b) *The geographical limits of the area in which the outfitter is*
31 *authorized to operate; and*
 - 32 (c) *The species of game, if any, which may be hunted pursuant to the*
33 *license.*
- 34 3. *When considering approving an outdoor recreational activity for a*
35 *license, the board shall consider the following matters, including,*
36 *without limitation:*
- 37 (a) *The length of time the applicant has operated in that area;*
 - 38 (b) *The extent to which the applicant is qualified by reason of*
39 *experience, equipment or resources to operate in that area;*
 - 40 (c) *The safety record of the applicant;*
 - 41 (d) *The accessibility of the area, the particular terrain, and the*
42 *weather conditions normal to that area during the applicable season; and*
 - 43 (e) *The total amount of geographical area requested by any applicant*
44 *for an outfitters license, giving due consideration to the effect which the*
45 *licensure of such an area would have upon the environment, the amount*
46 *of game which can be harvested and the number of persons that can be*
47 *adequately served in the area.*
- 48 4. *A license issued by the board is valid from the date issued until the*
49 *end of the license year in which the license is issued.*



1 5. *Only the person named on the license may conduct the activities*
2 *described in the license. A license may not be sold, assigned or otherwise*
3 *transferred.*

4 6. *The board may adjust the geographical limit of operations of the*
5 *outfitter described in his license if the board determines that good cause*
6 *exists for the adjustment. The board shall adopt regulations to carry out*
7 *the provisions of this subsection.*

8 **Sec. 29.** *A person engaged in the business, or acting in the capacity,*
9 *of an outfitter or a guide within this state shall not bring or maintain any*
10 *action in the courts of this state for the collection of compensation for the*
11 *performance of any services as an outfitter or a guide, without alleging*
12 *and proving that the person, partnership, or corporation was a licensed*
13 *outfitter or guide at the time the alleged cause of action arose.*

14 **Sec. 30.** *1. If the board denies an application, the board shall*
15 *notify the applicant, in writing, of the reasons for the denial within 10*
16 *days after denying the application.*

17 *2. If an applicant who receives notice pursuant to subsection 1*
18 *corrects, to the satisfaction of the board, the reasons stated by the board*
19 *for the denial within 30 days after receiving notice of denial, and if,*
20 *thereafter, a majority of the board approve the correction, the board shall*
21 *issue a license to the applicant.*

22 **Sec. 31.** *1. Except as otherwise provided in subsection 4, all*
23 *reasonable expenses incurred by the board in carrying out the provisions*
24 *of this chapter must be paid from the money that it receives. No part of*
25 *the salaries or expenses of the board may be paid out of the state general*
26 *fund.*

27 *2. Except as otherwise provided in this section, all money collected*
28 *by the board from the imposition of fines must be deposited with the state*
29 *treasurer for credit to the state general fund. All other money received by*
30 *the board must be deposited in qualified banks, credit unions or savings*
31 *and loan associations in this state and paid out on its order for its*
32 *expenses.*

33 *3. The board may delegate to a hearing officer or panel its authority*
34 *to take any disciplinary action pursuant to this chapter, impose and*
35 *collect fines therefor, and deposit the money therefrom in banks, credit*
36 *unions or savings and loan associations in this state.*

37 *4. If a hearing officer or panel is not authorized to take disciplinary*
38 *action pursuant to subsection 3 and the board deposits the money*
39 *collected from the imposition of fines with the state general fund, it may*
40 *present a claim to the state board of examiners for recommendation to*
41 *the interim finance committee if money is needed to pay attorney's fees*
42 *or the costs of an investigation, or both.*

43 **Sec. 32.** *1. The board may, upon its own motion, and shall, upon*
44 *the verified complaint in writing of any person setting forth facts which,*
45 *if proven, would constitute grounds for refusal, suspension or revocation*
46 *of a license pursuant to this chapter, investigate the actions of the*
47 *licensee. If, after an investigation, the board decides to proceed with*
48 *disciplinary action, the board may take action pursuant to this section.*



1 2. *A written notice of the hearing must be served on the respondent*
2 *not less than 30 days before the date of the hearing, either personally or*
3 *by mailing a copy thereof by registered or certified mail to the address of*
4 *the respondent last known to the board.*

5 3. *If, after having been served with the notice of hearing, the*
6 *respondent fails to appear at the hearing and defend, the board may*
7 *proceed to hear evidence against the respondent and may enter an order*
8 *as is justified by the evidence. The order is final unless the respondent*
9 *petitions for a review thereof. Within 30 days after the date of any order,*
10 *upon a showing of good cause for failing to appear and defend, the*
11 *board may reopen the proceedings and may allow the respondent to*
12 *submit evidence in his behalf.*

13 4. *At any hearing a respondent may be represented before the board*
14 *by counsel. The respondent is entitled, on application to the board, to the*
15 *issuance of subpoenas to compel the attendance of witnesses on his*
16 *behalf.*

17 5. *A hearing may be conducted by:*

18 (a) *The board, less any member or members who have been*
19 *disqualified, without the appointment of persons to hear the case in place*
20 *of the disqualified members; or*

21 (b) *A member of the board appointed by the board, with the remaining*
22 *members of the board, less any member or members who have been*
23 *disqualified, to review the record, make a final decision and issue the*
24 *order,*

25 *unless the board, after disqualifications, consists of less than three*
26 *members to hear or review the case, in which circumstance, the governor*
27 *must appoint one or more qualified persons so that the panel which*
28 *hears or reviews the case consists of at least three persons.*

29 **Sec. 33. 1.** *After giving notice and conducting a hearing, the board*
30 *may revoke, or may suspend for a period of not more than 1 year, any*
31 *license issued pursuant to this chapter for any one or a combination of*
32 *the following causes:*

33 (a) *For supplying false information or for failure to provide*
34 *information required to be furnished on the application for a license that*
35 *is currently in effect or for other fraud or deception in procuring a*
36 *license pursuant to the provisions of this chapter.*

37 (b) *For fraudulent, untruthful or misleading advertising.*

38 (c) *For conviction of a felony.*

39 (d) *For three or more forfeitures of any deposits of money or*
40 *collateral with a court or administrative agency or for a conviction for*
41 *violation of regulations of the United States Forest Service or the Bureau*
42 *of Land Management of the United States Department of the Interior.*

43 (e) *For unethical or unprofessional conduct as defined by regulations*
44 *of the board.*

45 (f) *For conviction of any violation of any state or federal law or*
46 *regulation relating to fish and game or outfitters and guides.*

47 (g) *For a substantial breach of any contract with any person using his*
48 *services.*

49 (h) *For willfully:*



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- 1 (1) *Operating in a geographical area for which the licensee is not*
- 2 *licensed; or*
- 3 (2) *Engaging in any activity for which the licensee is not licensed.*
- 4 (i) *For the employment of an unlicensed guide by an outfitter.*
- 5 (j) *For the inhumane treatment of any animal used by the licensed*
- 6 *outfitter or guide in the conduct of his business, including, without*
- 7 *limitation, the failure to provide the animal with proper food, drink and*
- 8 *shelter.*
- 9 (k) *For failure by any firm, partnership, corporation or other*
- 10 *organization, or any combination thereof, licensed as an outfitter to have*
- 11 *at least one natural person conducting its outfitting business who meets*
- 12 *all the qualifications and requirements of a licensed outfitter.*
- 13 (l) *For failure of an outfitter to serve the public in any of the*
- 14 *following ways:*
- 15 (1) *By limiting its services to any individual, group, corporation or*
- 16 *club that limits its services to a membership; or*
- 17 (2) *By not offering services to the general public.*
- 18 (m) *For violation of or noncompliance with any applicable provision*
- 19 *of this chapter or any regulation of the board adopted pursuant to this*
- 20 *chapter.*
- 21 2. *In addition to any other penalties prescribed by this chapter, the*
- 22 *board may impose a civil penalty of not more than \$5,000 for each*
- 23 *violation. The board may recover:*
- 24 (a) *Attorney's fees and costs incurred with respect to a hearing held*
- 25 *pursuant to subsection 1 from a licensee if he is found in violation*
- 26 *thereof; and*
- 27 (b) *Attorney's fees and costs incurred in the recovery of a civil penalty*
- 28 *imposed.*
- 29 **Sec. 34. 1. If the board receives a copy of a court order issued**
- 30 **pursuant to NRS 425.540 that provides for the suspension of all**
- 31 **professional, occupational and recreational licenses, certificates and**
- 32 **permits issued to a person who is the holder of a license granted**
- 33 **pursuant to this chapter, the board shall deem the license issued to that**
- 34 **person to be suspended at the end of the 30th day after the date on which**
- 35 **the court order was issued unless the board receives a letter issued to the**
- 36 **holder of the license by the district attorney or other public agency**
- 37 **pursuant to NRS 425.550 stating that the holder of the certificate,**
- 38 **registration, license or permit has complied with the subpoena or warrant**
- 39 **or has satisfied the arrearage pursuant to NRS 425.560.**
- 40 2. *The board shall reinstate a license issued pursuant to this chapter*
- 41 *that has been suspended by a district court pursuant to NRS 425.540 if*
- 42 *the board receives a letter issued by the district attorney or other public*
- 43 *agency pursuant to NRS 425.550 to the person whose license was*
- 44 *suspended stating that the person whose license was suspended has*
- 45 *complied with the subpoena or warrant or has satisfied the arrearage*
- 46 *pursuant to NRS 425.560.*
- 47 **Sec. 35. Any person aggrieved by any action of the board in denying**
- 48 **the issuance of or in the suspension or revocation of a license pursuant**
- 49 **to this chapter may appeal the decision to the board by filing a written**



1 *request for a hearing before the board within 21 days after the decision*
2 *of the board.*

3 **Sec. 36.** *1. Except as otherwise provided in this subsection and*
4 *section 10 of this act, a person shall not act in the capacity of an outfitter*
5 *or guide unless the person is licensed as an outfitter or guide, as*
6 *appropriate, pursuant to this chapter. Any natural person holding a*
7 *current and valid outfitter license may act as a guide without a guide*
8 *license if he possesses the qualifications of a guide as determined by the*
9 *board.*

10 *2. A person licensed to operate as an outfitter shall only conduct his*
11 *outfitting operation within the geographical limit of the operations*
12 *described in his license.*

13 *3. Any person convicted for violating the provisions of this chapter is*
14 *guilty of a gross misdemeanor and may be punished by a fine of not less*
15 *than \$100 nor more than \$5,000, or by imprisonment in the county jail*
16 *for a term not to exceed 90 days, if other than a corporation, or by both*
17 *fine and imprisonment, in the discretion of the court.*

18 **Sec. 37.** *1. The board or its designated agent may commence and*
19 *prosecute in district court a civil enforcement action against any person*
20 *who is alleged to have violated this chapter or any regulation adopted*
21 *pursuant to this chapter. The board is not required to initiate or*
22 *prosecute an administrative action before commencing and prosecuting a*
23 *civil action.*

24 *2. A civil proceeding may not be brought to recover for a violation of*
25 *this chapter or any regulation adopted pursuant to this chapter more*
26 *than 2 years after the board had knowledge of the violation.*

27 *3. Any person who is found to have violated any provision of this*
28 *chapter or any regulation adopted pursuant to this chapter must be*
29 *assessed the board's costs, including the reasonable value of attorney's*
30 *services, for preparing and litigating the case.*

31 **Sec. 38.** NRS 218.825 is hereby amended to read as follows:
32 218.825 1. Each of the boards and commissions created by the
33 provisions of chapters ~~341C~~ 623 to 625A, inclusive, 628 to 644,
34 inclusive, ~~and~~ 654 and 656 of NRS *and sections 2 to 37, inclusive, of*
35 *this act* shall engage the services of a certified public accountant or public
36 accountant, or firm of either of such accountants, to audit all its fiscal
37 records once each year for the preceding fiscal year or once every other
38 year for the 2 preceding fiscal years. The cost of the audit must be paid by
39 the board or commission audited.

40 2. A report of each such audit must be filed by the board or
41 commission with the legislative auditor and the director of the budget on or
42 before December 1 of each year in which an audit is conducted. All audits
43 must be conducted in accordance with generally accepted auditing
44 standards and all financial statements must be prepared in accordance with
45 generally accepted principles of accounting for special revenue funds.

46 3. The legislative auditor shall audit the fiscal records of any such
47 board or commission whenever directed to do so by the legislative
48 commission. When the legislative commission directs such an audit, it shall
49 also determine who is to pay the cost of the audit.



1 **Sec. 39.** NRS 284.013 is hereby amended to read as follows:
2 284.013 1. Except as otherwise provided in subsection 4, this chapter
3 does not apply to:

4 (a) Agencies, bureaus, commissions, officers or personnel in the
5 legislative department or the judicial department of state government,
6 including the commission on judicial discipline;

7 (b) Any person who is employed by a board, commission, committee or
8 council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644,
9 inclusive, 648, 652, 654 and 656 of NRS ~~H~~ *and sections 2 to 37, inclusive*
10 *of this act*; or

11 (c) Officers or employees of any agency of the executive department of
12 the state government who are exempted by specific statute.

13 2. Except as otherwise provided in subsection 3, the terms and
14 conditions of employment of all persons referred to in subsection 1,
15 including salaries not prescribed by law and leaves of absence, including,
16 without limitation, annual leave and sick and disability leave, must be fixed
17 by the appointing or employing authority within the limits of legislative
18 appropriations or authorizations.

19 3. Except as otherwise provided in this subsection, leaves of absence
20 prescribed pursuant to subsection 2 must not be of lesser duration than
21 those provided for other state officers and employees pursuant to the
22 provisions of this chapter. The provisions of this subsection do not govern
23 the legislative commission with respect to the personnel of the legislative
24 counsel bureau.

25 4. Any board, commission, committee or council created in chapters
26 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and
27 656 of NRS *and sections 2 to 37, inclusive, of this act* which contracts for
28 the services of a person, shall require the contract for those services to be
29 in writing. The contract must be approved by the state board of examiners
30 before those services may be provided.

31 **Sec. 40.** Chapter 289 of NRS is hereby amended by adding thereto a
32 new section to read as follows:

33 1. *A person employed as an enforcement officer for the outfitters and*
34 *guides licensing board of Nevada pursuant to subsection 2 of section 18*
35 *of this act is a peace officer for the purposes of:*

36 (a) *Enforcement of the provisions of sections 2 to 37, inclusive, of this*
37 *act and any regulations adopted pursuant thereto.*

38 (b) *Responding to express requests from other law enforcement*
39 *agencies for aid and assistance in enforcing other laws.*

40 2. *For purposes of this section, a request from a law enforcement*
41 *agency means only a request relating to a particular violation or*
42 *suspicion of a violation of law and does not constitute a continuous*
43 *request for assistance outside the purview of enforcement of the*
44 *provisions of sections 2 to 37, inclusive, of this act.*

45 **Sec. 41.** NRS 289.010 is hereby amended to read as follows:
46 289.010 As used in this chapter, unless the context otherwise requires:

47 1. "Choke hold" means the holding of a person's neck in a manner
48 specifically intended to restrict the flow of oxygen or blood to the person's



1 lungs or brain. The term includes the arm-bar restraint, carotid restraint and
2 lateral vascular neck restraint.

3 2. "Peace officer" means any person upon whom some or all of the
4 powers of a peace officer are conferred pursuant to NRS 289.150 to
5 289.360, inclusive ~~H~~, *and sections 2 to 37, inclusive, of this act.*

6 3. "Punitive action" means any action which may lead to dismissal,
7 demotion, suspension, reduction in salary, written reprimand or transfer of
8 a peace officer for purposes of punishment.

9 **Sec. 42.** NRS 502.148 is hereby amended to read as follows:

10 502.148 1. Except as otherwise provided in this subsection, any
11 person who wishes to apply for a restricted nonresident deer tag pursuant to
12 NRS 502.147 must complete an application on a form prescribed and
13 furnished by the division. A licensed master guide may complete the
14 application for an applicant. The application must be signed by the
15 applicant and the master guide who will be responsible for conducting the
16 restricted nonresident deer hunt.

17 2. The application must be accompanied by a fee for the tag of \$300,
18 plus any other fees which the division may require. The commission shall
19 establish the time limits and acceptable methods for submitting such
20 applications to the division.

21 3. Any application for a restricted nonresident deer tag which contains
22 an error or omission must be rejected and the fee for the tag returned to the
23 applicant.

24 4. A person who is issued a restricted nonresident deer tag is not
25 eligible to apply for any other deer tag issued in this state for the same
26 hunting season as that restricted nonresident deer hunt.

27 5. ~~HH~~ *Fifty percent of the* fees collected pursuant to this section
28 must be deposited with the state treasurer for credit to the wildlife account
29 in the state general fund ~~H~~ *and fifty percent of the fees collected pursuant*
30 *to this section must be distributed to the outfitters and guides licensing*
31 *board of Nevada for use in the manner as other money received by that*
32 *board pursuant to sections 2 to 37, inclusive, of this act.*

33 **Sec. 43.** NRS 608.0116 is hereby amended to read as follows:

34 608.0116 "Professional" means pertaining to an employee who is
35 licensed or certified by the State of Nevada for and engaged in the practice
36 of law or any of the professions regulated by chapters 623 to 645,
37 inclusive, of NRS ~~H~~ *and sections 2 to 37, inclusive, of this act.*

38 **Sec. 44.** 1. Notwithstanding the provisions of sections 2 to 37,
39 inclusive, of this act, a person who acts as a guide or an outfitter is not
40 required to be licensed as a guide or an outfitter pursuant to the provisions
41 of this act before July 1, 2003.

42 2. As used in this section:

43 (a) "Guide" has the meaning ascribed to it in section 5 of this act.

44 (b) "Outfitter" has the meaning ascribed to it in section 9 of this act.

45 **Sec. 45.** Notwithstanding the provisions of section 13 of this act, the
46 initial members appointed to the board pursuant to paragraph (a) of
47 subsection 2 must be persons who the governor determines to be qualified
48 to serve as such members and who have at least 5 years of experience as an
49 outfitter or guide in this state.



1 **Sec. 46.** The amendatory provisions of this act do not apply to
2 offenses committed before the effective date of this act.

3 **Sec. 47.** 1. This act becomes effective upon passage and approval.

4 2. Sections 21, 22 and 34 of this act expire by limitation on the date on
5 which the provisions of 42 U.S.C. § 666 requiring each state to establish
6 procedures under which the state has authority to withhold or suspend, or
7 to restrict the use of professional, occupational and recreational licenses of
8 persons who:

9 (a) Have failed to comply with a subpoena or warrant relating to a
10 proceeding to determine the paternity of a child or to establish or enforce
11 an obligation for the support of a child; or

12 (b) Are in arrears in the payment for the support of one or more
13 children,
14 are repealed by the Congress of the United States.

