

Amendment No. 120

Assembly Amendment to Assembly Bill No. 194

(BDR 45-258)

Proposed by: Assembly Committee on Natural Resources, Agriculture, and Mining

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

JRS/TMC



Date: 4/1/2009

A.B. No. 194—Makes various changes to provisions governing master guides and subguides. (BDR 45-258)



ASSEMBLY BILL NO. 194—ASSEMBLYMEN GOICOECHEA, BOBZIEN; HAMBRICK AND
SETTELMAYER (BY REQUEST)

FEBRUARY 18, 2009

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Makes various changes to provisions governing master guides and subguides. (BDR 45-258)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for
Term of Imprisonment in County or City Jail or Detention
Facility.

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 wildlife; ~~expanding~~ **revising** the system of assessing demerit points for wildlife convictions to ~~include~~ **exclude** certain convictions concerning master guides and subguides; prohibiting a person from providing compensation to a person acting as a master guide or subguide without proof of licensure; ~~requiring a master guide or subguide to report certain violations relating to wildlife; increasing~~ **revising** the penalty for acting as a master guide or subguide without a license issued by the Department of Wildlife; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires **the Board of Wildlife Commissioners to establish a system of assessing demerit points for a person who is convicted of violating certain laws and regulations in this State relating to hunting, fishing and trapping. Existing law also sets forth certain laws for which a violation is not included in the system of assessing demerit points. (NRS 501.1812-501.1818) Section 3 of this bill includes acting as a guide or subguide without a license within the group of laws for which a violation is not included in the system of assessing demerit points. (NRS 501.1812)**

Existing law requires each person who provides service as a hunting or fishing guide for compensation or who provides that service as an incidental service to customers of a commercial enterprise to have a master guide license issued by the Department of Wildlife. Existing law also requires any person who assists a master guide and acts as a guide in the course of that activity to have a subguide license issued by the Department. (NRS 504.390) Existing law provides that a person who acts as a master guide or subguide without first obtaining a license from the Department is guilty of a gross misdemeanor. (NRS 504.395)

Section 9 of this bill ~~increases~~ revises the penalty for committing such a violation ~~from~~ by providing that the person is guilty of a gross misdemeanor ~~for~~ for a first offense and guilty of a category E felony ~~for~~ for a second or subsequent offense. Section 9 also requires the Board of Wildlife Commissioners to revoke any hunting, fishing or trapping license, permit or privilege issued to the person and refuse to issue any new hunting, fishing or

trapping license to the person for 5 years. Sections 1 and 2 of this bill conform existing references to such a violation to account for the change in the penalty. Section 5 of this bill prohibits a person from knowingly compensating a person who engages in activity for which a master guide license or subguide license is required unless the person engaging in that activity provides proof that he is the holder of such a license to the person providing the compensation. Section 5 makes a violation of that prohibition a ~~gross~~ misdemeanor. ~~[Section 6 of this bill requires a holder of a master guide license or subguide license to notify a game warden or other appropriate federal or state agency if the holder of the master guide license or subguide license observes or becomes aware of a violation of certain federal or state laws or regulations governing wildlife. Section 6 imposes a misdemeanor penalty against the holder of the master guide license or subguide license if he fails to report the violation promptly.]~~ Sections 7 and 8 of this bill **define the word “compensation” and also** revise the **existing** definition of “guide” for the purpose of requiring the issuance of master guide licenses and subguide licenses. (NRS 504.390)

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

Section 1. NRS 501.171 is hereby amended to read as follows:

501.171 1. A county advisory board to manage wildlife shall submit written nominations for appointments to the Commission upon the request of the Governor and may submit nominations at any other time.

2. After consideration of the written nominations submitted by a county advisory board to manage wildlife and any additional candidates for appointment to the Commission, the Governor shall appoint to the Commission:

- (a) One member who is actively engaged in the conservation of wildlife;
- (b) One member who is actively engaged in farming;
- (c) One member who is actively engaged in ranching;
- (d) One member who represents the interests of the general public; and
- (e) Five members who during at least 3 of the 4 years immediately preceding their appointment held a resident license to fish or hunt, or both, in Nevada.

3. The Governor shall not appoint to the Commission any person who has been convicted of:

- (a) A felony or gross misdemeanor for a violation of NRS 501.376;
- (b) A gross misdemeanor for a violation of NRS 502.060 ; ~~for 504.395; or~~
- (c) **A felony or gross misdemeanor for a violation of NRS 504.395; or**
- (d) Two or more violations of the provisions of chapters 501 to 504, inclusive, of NRS,

↳ during the previous 10 years.

4. Not more than three members may be from the same county whose population is 400,000 or more, not more than two members may be from the same county whose population is 100,000 or more but less than 400,000, and not more than one member may be from the same county whose population is less than 100,000.

5. The Commission shall annually select a Chairman and a Vice Chairman from among its members. A person shall not serve more than two consecutive terms as Chairman.

Sec. 2. NRS 501.172 is hereby amended to read as follows:

501.172 1. A member of the Commission may be removed from office for just cause.

2. A member of the Commission must be removed from office for:

- (a) A conviction of a felony or gross misdemeanor for a violation of NRS 501.376;

(b) A conviction of a gross misdemeanor for a violation of NRS 502.060 ; ~~for 504.395; or~~

(c) *A conviction of a felony or gross misdemeanor for a violation of NRS 504.395; or*

(d) Two or more convictions of violating the provisions of chapters 501 to 504, inclusive, of NRS.

Sec. 3. NRS 501.1812 is hereby amended to read as follows:

501.1812 As used in NRS 501.1812 to 501.1818, inclusive, unless the context otherwise requires:

1. "License" means a license or tag issued by the Department for:

(a) Recreational hunting or fishing; or

(b) Taking fur-bearing mammals, trapping unprotected mammals or selling raw furs for profit.

2. "Permit" means a permit issued by the Department for recreational hunting or fishing.

3. "Wildlife conviction" means a conviction obtained in any court of competent jurisdiction in this State, including, without limitation, a conviction obtained upon a plea of nolo contendere or upon a forfeiture of bail not vacated in any such court, for a violation of:

(a) A provision of this title or any regulation adopted pursuant to this title other than a provision of NRS 502.370, 502.390, 503.185, 503.310 or 504.295 to ~~504.390; 504.380; 504.398~~, inclusive; or

(b) A provision of the Lacey Act ~~Amendment~~ Amendments of 1981, ~~Public Law 97-79; 16 U.S.C. §§ 3371 et seq.~~, if the violation of that provision is based on a violation of a law or regulation of this State.

Sec. 4. ~~Chapter 504 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.~~ (Deleted by amendment.)

Sec. 5. Chapter 504 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not, directly or indirectly, knowingly compensate a person who holds himself out as providing guide service or engaging in business as a master guide or subguide, or acting in any other capacity for which a master guide license or subguide license is required pursuant to NRS 504.390, unless the person acting in that capacity provides proof that he is a holder of such a master guide license or subguide license to the person providing the compensation.

2. A person who violates the provisions of subsection 1 is guilty of a ~~gross~~ misdemeanor.

Sec. 6. ~~1. If a holder of a master guide license or subguide license observes or otherwise becomes aware of a violation of any provision of this title, a regulation adopted pursuant to this title or a federal law or regulation governing wildlife, the holder of the license shall promptly report the violation to a game warden or other appropriate federal or state agency.~~

~~2. In addition to any revocation of or refusal to issue a license pursuant to subsection 1 of NRS 504.390, a person who violates the provisions of subsection 1 is guilty of a misdemeanor.~~ (Deleted by amendment.)

Sec. 7. NRS 504.390 is hereby amended to read as follows:

504.390 1. As used in this section, unless the context otherwise requires ~~otherwise, "guide"~~ :

(a) "Compensation" means any remuneration given in exchange for providing guide service which is predicated on a business relationship between the parties. The term does not include any reimbursement for shared trip expenses, including, without limitation, expenses for gasoline, food or any other

1 costs that are generally associated with persons who are engaging in recreational
2 hunting or fishing together.

3 (b) "Guide" means to assist another person for compensation in hunting wild
4 mammals or wild birds and fishing ~~for~~ and includes the transporting of another
5 person or his equipment to hunting and fishing locations within a general hunting
6 and fishing area whether or not the guide determines the destination or course of
7 travel.

8 2. Each person who provides guide service for compensation or provides
9 guide service as an incidental service to customers of any commercial enterprise,
10 whether a direct fee is charged for the guide service or not, must obtain a master
11 guide license from the Department. Such a license must not be issued to any person
12 who has not reached 21 years of age.

13 3. Except as otherwise provided in this subsection, each person who assists a
14 person who is required to have a master guide license and acts as a guide in the
15 course of that activity must obtain a subguide license from the Department. Such a
16 license must not be issued to any person who has not reached 18 years of age. The
17 provisions of this subsection do not apply to a person who:

18 (a) Is employed by or assists a person who holds a master guide license solely
19 for the purpose of cooking, cutting wood, ~~for~~ caring for, grooming or saddling
20 livestock, ~~for~~ or transporting a person by motor vehicle to or from a public facility
21 for transportation, including, without limitation, a public airport.

22 (b) Holds a master guide license which authorizes him to provide services for
23 the same species and in the same areas as the guide who employs him or requests
24 his assistance and has submitted to the Department a notarized statement which
25 indicates that he is employed by or provides assistance to the guide. The statement
26 must be signed by both guides.

27 4. Fees for master guide and subguide licenses must be as provided in NRS
28 502.240.

29 5. Any person who desires a master guide license must apply for the license
30 on a form prescribed and furnished by the Department. The application must
31 contain the social security number of the applicant and such other information as
32 the Commission may require by regulation. If that person was not licensed as a
33 master guide during the previous licensing year, his application must be
34 accompanied by a nonrefundable fee of \$1,500.

35 6. Any person who desires a subguide license must apply for the license on a
36 form prescribed and furnished by the Department. If that person was not licensed as
37 a subguide during the previous licensing year, his application must be accompanied
38 by a nonrefundable fee of \$50.

39 7. It is unlawful for the holder of a master guide license to operate in any area
40 where a special use permit is required without first obtaining a permit unless he is
41 employed by or providing assistance to a guide pursuant to subsection 3.

42 8. The holder of a master guide license shall maintain records of the number
43 of hunters and fishermen served, and any other information which the Department
44 may require concerning fish and game taken by such persons. The information must
45 be furnished to the Department on request.

46 9. If any licensee under this section, or person served by a licensee, is
47 convicted of a violation of any provision of this title or chapter 488 of NRS, the
48 Commission may revoke the license of the licensee and may refuse issuance of
49 another license to the licensee for a period not to exceed 5 years.

50 10. The Commission may adopt regulations covering the conduct and
51 operation of a guide service.

52 11. The Department may issue master guide and subguide licenses that are
53 valid only in certain management areas, management units or administrative

regions in such a manner as may be determined by the regulations of the Commission.

Sec. 8. NRS 504.390 is hereby amended to read as follows:

504.390 1. As used in this section, unless the context otherwise requires ~~{otherwise, "guide"}~~:

(a) "Compensation" means any remuneration given in exchange for providing guide service which is predicated on a business relationship between the parties. The term does not include any reimbursement for shared trip expenses, including, without limitation, expenses for gasoline, food or any other expenses that are generally associated with persons who are engaging in recreational hunting or fishing together.

(b) "Guide" means to assist another person for compensation in hunting wild mammals or wild birds and fishing ~~for~~ and includes the transporting of another person or his equipment to hunting and fishing locations within a general hunting and fishing area whether or not the guide determines the destination or course of travel.

2. Each person who provides guide service for compensation or provides guide service as an incidental service to customers of any commercial enterprise, whether a direct fee is charged for the guide service or not, must obtain a master guide license from the Department. Such a license must not be issued to any person who has not reached 21 years of age.

3. Except as otherwise provided in this subsection, each person who assists a person who is required to have a master guide license and acts as a guide in the course of that activity must obtain a subguide license from the Department. Such a license must not be issued to any person who has not reached 18 years of age. The provisions of this subsection do not apply to a person who:

(a) Is employed by or assists a person who holds a master guide license solely for the purpose of cooking, cutting wood, ~~for~~ caring for, grooming or saddling livestock, ~~for~~ or transporting a person by motor vehicle to or from a public facility for transportation, including, without limitation, a public airport.

(b) Holds a master guide license which authorizes him to provide services for the same species and in the same areas as the guide who employs him or requests his assistance and has submitted to the Department a notarized statement which indicates that he is employed by or provides assistance to the guide. The statement must be signed by both guides.

4. Fees for master guide and subguide licenses must be as provided in NRS 502.240.

5. Any person who desires a master guide license must apply for the license on a form prescribed and furnished by the Department. The application must contain such information as the Commission may require by regulation. If that person was not licensed as a master guide during the previous licensing year, his application must be accompanied by a nonrefundable fee of \$1,500.

6. Any person who desires a subguide license must apply for the license on a form prescribed and furnished by the Department. If that person was not licensed as a subguide during the previous licensing year, his application must be accompanied by a nonrefundable fee of \$50.

7. It is unlawful for the holder of a master guide license to operate in any area where a special use permit is required without first obtaining a permit unless he is employed by or providing assistance to a guide pursuant to subsection 3.

8. The holder of a master guide license shall maintain records of the number of hunters and fishermen served, and any other information which the Department may require concerning fish and game taken by such persons. The information must be furnished to the Department on request.

9. If any licensee under this section, or person served by a licensee, is convicted of a violation of any provision of this title or chapter 488 of NRS, the Commission may revoke the license of the licensee and may refuse issuance of another license to the licensee for a period not to exceed 5 years.

10. The Commission may adopt regulations covering the conduct and operation of a guide service.

11. The Department may issue master guide and subguide licenses that are valid only in certain management areas, management units or administrative regions in such a manner as may be determined by the regulations of the Commission.

Sec. 9. NRS 504.395 is hereby amended to read as follows:

504.395 1. Any person who purposefully or knowingly acts as a master guide or as a subguide without first obtaining a license pursuant to NRS 504.390 is guilty of :

(a) For a first offense, a gross misdemeanor.

(b) For a second or subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.

2. Any vessel, vehicle, aircraft, pack or riding animal or other equipment used by a person operating in violation of subsection 1 is subject to forfeiture upon the conviction of that person of a gross misdemeanor or felony if that person knew or should have known that the vessel, vehicle, aircraft, animal or equipment would be used in violation of subsection 1.

3. In addition to any penalty imposed pursuant to subsection 1, if a person is convicted of violating a provision of that subsection, the Commission shall:

(a) Revoke any license, permit or privilege issued to that person pursuant to this title; and

(b) Refuse to issue any new license, permit or privilege to the person for 5 years after the date of the conviction.

Sec. 10. 1. This section and sections 1 to 7, inclusive, and 9 of this act become effective on October 1, 2009.

2. Section 7 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

3. Section 8 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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