

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 597

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2101, IDAHO CODE, TO REVISE POLICY PROVISIONS; AMENDING SECTION 36-2102, IDAHO CODE, TO REVISE THE DEFINITION OF "OUTFITTER"; AND AMENDING SECTION 36-2103, IDAHO CODE, TO PROVIDE THAT THE DEFINITIONS OF "OUTFITTER" AND "GUIDE" DO NOT INCLUDE PRIVATE LANDOWNERS AND THEIR EMPLOYEES WHO PROVIDE FACILITIES OR SERVICES UPON THEIR OWN PRIVATELY OWNED PROPERTY, TO PROVIDE THAT A CERTAIN EXCEPTION SHALL NOT PROHIBIT VOLUNTARY LICENSURE, TO REVISE EXCEPTION VERBIAGE, TO PROVIDE THAT A PERSON WHO OBTAINS PERMISSION TO OUTFIT OR GUIDE ON PRIVATE PROPERTY FROM THE PROPERTY OWNER IS REQUIRED TO BE LICENSED AS AN OUTFITTER OR GUIDE UNLESS THE TERMS OF A WRITTEN AGREEMENT WITH THE PROPERTY OWNER DO NOT REQUIRE LICENSURE AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 36-2101, Idaho Code, be, and the same is hereby amended to read as follows:

36-2101. DECLARATION OF POLICY. The natural resources of the state of Idaho are an invaluable asset to every community in which they abound. Every year, in rapidly increasing numbers, the inhabitants of the state of Idaho and nonresidents are enjoying the benefits of Idaho's recreational opportunities. The tourist trade is of vital importance to the state of Idaho, and the recreational value of Idaho's natural resources is such that the number of persons who are each year participating in their enjoyment is steadily increasing. The intent of this legislation is to promote and encourage residents and nonresidents alike to participate in the enjoyment and use of the deserts, mountains, rivers, streams, lakes, reservoirs and other natural resources of Idaho, and the fish and game therein, and to that end to regulate and license those persons who undertake for compensation to provide equipment and personal services to such persons, for the explicit purpose of safeguarding the health, safety, welfare and freedom from injury or danger of such persons, in the exercise of the police power of this state. It is not the intent of this legislation to interfere in any way with the business of livestock operations, private property rights, nor to prevent the owner of pack animals from using same to accommodate friends where no consideration is involved for the use thereof, nor is it the intent of this legislation to interfere in any way with the right of the general public to enjoy the recreational value of Idaho's deserts, mountains, rivers, streams, lakes, reservoirs and other natural resources when the services of commercial outfitters and guides are not utilized, nor to interfere with the right of the United States to manage the public lands under its control.

SECTION 2. That Section 36-2102, Idaho Code, be, and the same is hereby amended to read as follows:

36-2102. DEFINITIONS. (a) "Person" includes any individual, firm, partnership, corporation or other organization or any combination thereof.

(b) "Outfitter" includes any person who, while engaging in ~~any of the~~ acts enumerated herein ~~in any manner~~: (1) advertises or otherwise holds himself out to the public for hire; (2) provides facilities and services for consideration; and (3) maintains, leases, or otherwise uses equipment or accommodations for compensation for the conduct of outdoor recreational activities limited to the following: hunting animals or birds; float or power boating on Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and streams; and hazardous desert or mountain excursions. Any firm, partnership, corporation or other organization or combination thereof operating as an outfitter shall designate one (1) or more individuals as agents who shall, together with the licensed outfitter, be held responsible for the conduct of the licensed outfitter's operations and who shall meet all of the qualifications of a licensed outfitter.

(c) "Guide" is any natural person who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed. Any such person not employed by a licensed outfitter who offers or provides facilities or services as specified in subsection (b) of this section shall be deemed in violation of the provisions of this chapter, except: (1) any employee of the state of Idaho or the United States when acting in his official capacity, or (2) any natural person who is employed by a licensed outfitter solely for the following activities: caring for, grooming or saddling of livestock, cooking, woodcutting, and transporting people, equipment and personal property on public roads shall be exempt from the provisions of this chapter.

(d) "Board" means the Idaho outfitters and guides licensing board.

(e) "Resident" means a person who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license.

(f) "Nonresident" means any person not included in subsection (e) of this section.

(g) "License year" means that period of time beginning on the date an outfitter's or guide's license is issued and ending on the anniversary of the date of issuance in the following year.

(h) "Individual" means any person other than a partnership, corporation or any other organization or combination thereof.

SECTION 3. That Section 36-2103, Idaho Code, be, and the same is hereby amended to read as follows:

36-2103. EXCEPTIONS. (1) The foregoing definitions of the terms "outfitter" and "guide" will not apply to do not include:

(a) Private landowners and their employees who provide facilities or services, whether for compensation or not, upon their own privately owned property. Nothing in this exception shall prohibit landowners or their employees from voluntary licensure;

(b) ~~A~~ person who furnishes, rents or leases, whether or not for compensation or gain or promise thereof, a pack or saddle horse, or other equipment, to a hunter or a fisherman. A person so furnishing, renting or leasing a pack or saddle horse or other equipment, shall not be considered an "outfitter" or "guide" if, on an incidental basis, they accompany a hunter, not to include extended camping, for the purpose of maintaining the safety and well-being of the livestock used to retrieve harvested big game; or

~~(c) Additionally, the foregoing definition of "outfitter" and "guide" shall not apply to~~ Members of a nonprofit organization if the organization meets the following criteria: (i) it is exempt from the payment of federal income taxes under section 501(c)(3) of the Internal Revenue Code; (ii) its purpose is to provide outdoor experiences to young persons under twenty-one (21) years of age and to its leaders; and (iii) it provides outfitting and guiding services to its own bona fide members on a not-for-profit basis. If the members of the nonprofit organization provide outfitting or guiding services to persons who are not its members and leaders, the provisions of this chapter shall apply to that organization, its members and leaders.

(2) A person who obtains permission to outfit or guide on private property from the property owner is required to be licensed as an outfitter or guide unless the terms of a written agreement with the property owner do not require licensure.