

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 10-0325.02 Thomas Morris

HOUSE BILL 10-1221

HOUSE SPONSORSHIP

Curry,

SENATE SPONSORSHIP

Schwartz,

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

Agriculture and Natural Resources

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE LICENSING OF RIVER
102 OUTFITTERS BY THE BOARD OF PARKS AND OUTDOOR
103 RECREATION, AND, IN CONNECTION THEREWITH, IMPLEMENTING
104 THE SUNSET REVIEW RECOMMENDATIONS OF THE DEPARTMENT
105 OF REGULATORY AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sunset Process - House Agriculture, Livestock, and Natural

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
Am ended 2nd Reading
April 26, 2010

HOUSE
3rd Reading Unam ended
March 15, 2010

HOUSE
Am ended 2nd Reading
March 12, 2010

Resources Committee. The bill implements the sunset review recommendations of the department of regulatory agencies regarding river outfitters pursuant to the provisions of the sunset law, with modifications. **Sections 1, 2, and 3** of the bill extend the river outfitting licensure program until September 1, 2019. **Sections 4 and 6** broaden the definition of "advertise" in connection with the licensure requirement. Section 6 also directs the board of parks and outdoor recreation (board) to adopt a schedule for license renewals, with license terms not to exceed 3 years, and allows the length of license terms to be staggered so that approximately equal numbers of licensees renew their licenses each year. **Section 5** requires the board to e-mail a notice of every proposed rule to each licensee. **Section 7:**

- ! Specifies that, of the 500 river miles currently required to be qualified as a trip leader, at least 250 must be from regulated trips and no more than 250 may be from nonregulated trips;
- ! Requires all guides to be trained in cardiopulmonary resuscitation; and
- ! Repeals the guide qualification exemption for designated faculty members of institutions of higher education in charge of water sport activity courses.

Section 8 makes a river outfitter that operates a river-outfitting business without a valid license liable for an administrative penalty of 5 times the annual licensing fee. **Section 9** recreates the river outfitter advisory committee, consisting of 2 river outfitters and one representative of the division of parks and outdoor recreation (division), and directs the committee to make recommendations concerning rules and proposed rules, including notification to outfitters of inspections and division personnel changes and safety and customer and outfitter interaction training standards for division rangers who oversee regulated trips. **Section 10** repeals the advisory committee on September 1, 2019.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Repeal.** 24-34-104 (41.5), Colorado Revised
3 Statutes, is repealed as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for termination, continuation, or reestablishment.**

6 ~~(41.5) The following agencies, functions, or both, shall terminate on~~
7 ~~October 1, 2010: The function of licensing of river outfitters through the~~

1 ~~board of parks and outdoor recreation and the division of parks and~~
2 ~~outdoor recreation in accordance with article 32 of title 33, C.R.S.~~

3 **SECTION 2.** 24-34-104 (50.5), Colorado Revised Statutes, is
4 amended to read:

5 **24-34-104. General assembly review of regulatory agencies**
6 **and functions for termination, continuation, or reestablishment.**

7 (50.5) The following agencies, functions, or both, shall terminate on
8 September 1, 2019:

9 (a) The Colorado public utilities commission, created by article 2
10 of title 40, C.R.S.;

11 (b) ~~THE FUNCTION OF LICENSING RIVER OUTFITTERS THROUGH THE~~
12 ~~BOARD OF PARKS AND OUTDOOR RECREATION AND THE DIVISION OF PARKS~~
13 ~~AND OUTDOOR RECREATION IN ACCORDANCE WITH ARTICLE 32 OF TITLE~~
14 ~~33, C.R.S.~~

15 **SECTION 3.** 33-32-112, Colorado Revised Statutes, is amended
16 to read:

17 **33-32-112. Repeal of article.** This article is ~~repealed, effective~~
18 ~~October 1, 2010~~ AND the licensing function of the division ~~shall also~~
19 ~~terminate on October 1, 2010~~ ARE REPEALED, EFFECTIVE SEPTEMBER 1,
20 2019. Prior to such termination, the licensing function shall be reviewed
21 as provided for in section 24-34-104, C.R.S.

22 **SECTION 4.** 33-32-102 (1), Colorado Revised Statutes, is
23 amended to read:

24 **33-32-102. Definitions.** As used in this article, unless the context
25 otherwise requires:

26 (1) "Advertise" or "advertisement" means any message in any
27 ~~newspaper, magazine, leaflet, flyer, or catalog, on radio, television, or a~~

1 ~~public address system, in direct mail literature or other printed material,~~
2 ~~on any interior or exterior sign or display, in any window display, or in~~
3 ~~any point-of-transaction literature which is delivered or made available~~
4 ~~to any person including a customer or prospective customer in any~~
5 ~~manner whatsoever and includes announcements or statements made in~~
6 ~~a church, school, or other noncommercial setting~~ PRINTED MATERIALS OR
7 ELECTRONIC MEDIA USED IN THE MARKETING AND MESSAGING OF RIVER
8 OUTFITTER OPERATIONS.

9 **SECTION 5.** 33-32-103, Colorado Revised Statutes, is amended
10 to read:

11 **33-32-103. Powers and duties of the board.** The board shall
12 promulgate ~~regulations~~ RULES to govern the licensing of river outfitters,
13 to regulate river outfitters, guides, trip leaders, and guide instructors, to
14 ensure the safety of associated river-running activities, to establish
15 guidelines to enable a river outfitter, guide, or trip leader, to make a
16 determination that the condition of the river constitutes a hazard to the
17 life and safety of certain persons, and to carry out the purposes of this
18 article. The board may promulgate ~~regulations~~ RULES specifically
19 outlining the procedures to be followed by the board and by the
20 enforcement section of the division in the event of a death or serious
21 injury during a regulated trip. THE BOARD SHALL E-MAIL A NOTICE OF
22 EVERY PROPOSED RULE TO EACH LICENSEE. THE BOARD SHALL ADOPT
23 RULES REGARDING NOTIFICATION TO OUTFITTERS OF CERTAIN DIVISION
24 PERSONNEL CHANGES WITHIN TEN DAYS OF THE CHANGE AND SAFETY
25 TRAINING STANDARDS AND CUSTOMER AND OUTFITTER INTERACTION
26 TRAINING STANDARDS FOR DIVISION RANGERS WHO MONITOR REGULATED
27 TRIPS.

1 **SECTION 6.** 33-32-104 (1) and (2), Colorado Revised Statutes,
2 are amended to read:

3 **33-32-104. License required - fee.** (1) No person shall act in the
4 capacity of a paid river outfitter or advertise ~~in any newspaper or~~
5 ~~magazine or any other trade publication~~ or represent himself OR HERSELF
6 as a river outfitter in this state without first obtaining a river outfitter's
7 license in accordance with rules ~~and regulations~~ prescribed by the board.

8 (2) An applicant for a river outfitter's license shall meet the
9 minimum qualifications pursuant to section 33-32-105 and shall ~~make~~
10 ~~application upon~~ APPLY ON a form prescribed by the board. All applicants
11 shall pay a nonrefundable license fee to be determined by the board,
12 which fee shall be adequate to cover the expenses incurred for
13 inspections, licensing, and enforcement required by the provisions of this
14 article, and shall renew such license ~~annually~~ PURSUANT TO A SCHEDULE
15 ADOPTED BY THE BOARD upon payment of ~~said~~ THE fee. LICENSE TERMS
16 SHALL NOT EXCEED THREE YEARS. THE BOARD MAY OFFER LICENSES THAT
17 DIFFER IN THE LENGTH OF THEIR TERMS AND MAY STAGGER THE LENGTH
18 OF LICENSE TERMS SO THAT APPROXIMATELY EQUAL NUMBERS OF
19 LICENSEES RENEW THEIR LICENSES EACH YEAR.

20 **SECTION 7.** 33-32-105.5, Colorado Revised Statutes, is
21 amended to read:

22 **33-32-105.5. Minimum qualifications of guides, trip leaders,**
23 **and guide instructors.** (1) ~~Except as provided in subsection (2) of this~~
24 ~~section,~~ Individuals providing the services of guides, trip leaders, or guide
25 instructors shall have the following minimum qualifications and such
26 additional qualifications as the board may establish by ~~regulation~~ RULE:

27 (a) Guides shall be eighteen years of age or older, ~~shall~~ possess a

1 valid standard first-aid card AND BE TRAINED IN CARDIOPULMONARY
2 RESUSCITATION, and shall have had fifty hours of training on the river as
3 a guide from a qualified guide instructor.

4 (b) Trip leaders shall be eighteen years of age or older, shall
5 possess a valid standard first-aid card, BE TRAINED IN CARDIOPULMONARY
6 RESUSCITATION, and shall have logged a total of at least five hundred
7 river miles, OF WHICH AT LEAST TWO HUNDRED FIFTY RIVER MILES SHALL
8 HAVE BEEN LOGGED WHILE ACTING as a qualified guide AND NO MORE
9 THAN TWO HUNDRED FIFTY RIVER MILES SHALL HAVE BEEN LOGGED WHILE
10 ACTING AS A GUIDE ON NONREGULATED TRIPS. MILES FROM
11 NONREGULATED TRIPS SHALL BE DOCUMENTED AND SIGNED BY THE TRIP
12 LEADER UNDER PENALTY OF PERJURY, AND THE LICENSEE SHALL RETAIN
13 THE DOCUMENTS DURING THE TERM OF THE TRIP LEADER'S EMPLOYMENT.

14 (c) Guide instructors shall be eighteen years of age or older, shall
15 possess a valid standard first-aid card, BE TRAINED IN CARDIOPULMONARY
16 RESUSCITATION, and shall have logged a total of at least fifteen hundred
17 river miles, of which at least seven hundred fifty of those river miles shall
18 have been logged while acting as a QUALIFIED guide.

19 (2) ~~The minimum qualifications set forth in subsection (1) of this~~
20 ~~section shall not apply to a designated faculty member of an institution of~~
21 ~~higher education in charge of water sport activity courses.~~

22 **SECTION 8.** 33-32-107 (1), Colorado Revised Statutes, is
23 amended to read:

24 **33-32-107. River outfitters - prohibited operations - penalties.**

25 (1) (a) No river outfitter shall operate a river-outfitting business without
26 a valid license as prescribed by section 33-32-104 and OR without
27 insurance as provided in section 33-32-105 (1) (b). Any river outfitter

1 ~~which~~ THAT violates ~~the provisions of this subsection (1)~~ PARAGRAPH (a):

2 (I) Commits a class 2 misdemeanor and shall be punished as
3 provided in section 18-1.3-501, C.R.S.;

4 (II) IS LIABLE FOR AN ADMINISTRATIVE PENALTY OF FIVE TIMES
5 THE ANNUAL LICENSING FEE ESTABLISHED PURSUANT TO SECTION
6 33-32-104 (2).

7 (b) If the river outfitter is a corporation, violation of ~~the provisions~~
8 ~~of~~ this subsection (1) shall result in the officers of said corporation jointly
9 and severally committing a class 2 misdemeanor, and said officers shall
10 be punished as provided in section 18-1.3-501, C.R.S.

11 **SECTION 9.** 33-32-110, Colorado Revised Statutes, is
12 RECREATED AND REENACTED, WITH AMENDMENTS, to read:

13 **33-32-110. Advisory committee - repeal.** (1) THE BOARD SHALL
14 APPOINT A RIVER OUTFITTER ADVISORY COMMITTEE, CONSISTING OF TWO
15 RIVER OUTFITTERS AND ONE REPRESENTATIVE OF THE DIVISION. THE
16 COMMITTEE SHALL REVIEW AND MAKE RECOMMENDATIONS CONCERNING
17 RULES AND PROPOSED RULES PROMULGATED PURSUANT TO THIS
18 ARTICLE.

19 
20 (2) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

21 (b) PRIOR TO ITS REPEAL, THE ADVISORY COMMITTEE SHALL BE
22 REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

23 **SECTION 10.** 2-3-1203 (3), Colorado Revised Statutes, is
24 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25 **2-3-1203. Sunset review of advisory committees.** (3) The
26 following dates are the dates for which the statutory authorization for the
27 designated advisory committees is scheduled for repeal:

1 (gg) SEPTEMBER 1, 2019: THE RIVER OUTFITTER ADVISORY
2 COMMITTEE CREATED IN SECTION 33-32-110, C.R.S.

3 **SECTION 11. Act subject to petition - effective date -**
4 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
5 following the expiration of the ninety-day period after final adjournment
6 of the general assembly (August 11, 2010, if adjournment sine die is on
7 May 12, 2010); except that, if a referendum petition is filed pursuant to
8 section 1 (3) of article V of the state constitution against this act or an
9 item, section, or part of this act within such period, then the act, item,
10 section, or part shall not take effect unless approved by the people at the
11 general election to be held in November 2010 and shall take effect on the
12 date of the official declaration of the vote thereon by the governor.

13 (2) The provisions of this act shall apply to conduct occurring on
14 or after the applicable effective date of this act.