



# Oregon

John A. Kitzhaber, MD, Governor

## State Marine Board

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May 7, 2013



Joint Committee on Ways and Means  
Subcommittee on Natural Resources  
The Honorable Chris Edwards, Co-Chair  
The Honorable Ben Unger, Co-Chair

RE: Testimony on House Bill 2039A

Dear Committee Co-Chairs and Members,

This bill modifies ORS 704 – Outfitters and Guides, to improve accountability, funding for law enforcement and program oversight within the Outfitter and Guide Program.

In 1984, by Oregon Legislative action, the Oregon State Marine Board accepted management and oversight of Oregon's Outfitter and Guides program. In 1987, management of charter vessels was also given to the Oregon State Marine board. In 1993, the Oregon Legislature adopted laws requiring a decal system for guide boats and vehicles to assist law enforcement in tracking illegal guides. The statute also requires all guides operating motorboats on federally navigable waterways to carry a US Coast Guard license. The Outfitter and Guides program functions as a basic registration program which ensures guides are registered, insured, bonded and have current first aid certifications.

In October 2010, as a result of numerous complaints from the public and the guide and outfitter industry, the Board directed agency staff to conduct a comprehensive review of the Outfitter and Guide program. In January 2011, the Guide Advisory Committee (GAC), as identified in statute, (see Appendix A) convened. A survey was mailed to nearly 1,200 registered guides and charters, and a series of ten regional meetings were held to engage guides and outfitters in the review process.

Following the completion of the review process, the GAC unanimously forwarded a number of administrative rule and statutory change recommendations to the Marine Board. The Board reviewed and endorsed the statutory recommendations included in HB 2039.

A pilot project that commenced in 2012 at the request of the GAC utilized the Oregon State Police (OSP) Special Investigations Unit to conduct undercover operations to investigate reported illegal guiding operations (Appendix B). This pilot project identified the need for additional assistance by OSP. Funding does not currently exist to continue to fund this type of law enforcement operation.

This bill establishes higher professional standards for guides operating motorboats by preventing individuals with drug violations from continuing operation of inland waters and addresses public concern for safety and knowledge. An amendment to the original bill includes language that an outfitter/guide operating a motorboat on navigable waterways will be required to 1) pass a written test; 2) participate in a drug and alcohol testing program, and; 3) complete a physical examination every five years as required by Marine Board administrative rules. A guide who possesses a valid U.S. Coast Guard operator's license is exempt from this requirement.

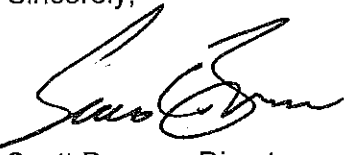


Outfitters and guides who do possess a valid U.S. Coast Guard operator's license have already passed a rigorous USCG test, a physical exam and submit to random drug testing. This concept is similar to the public acceptance of a Commercial Driver's License.

Funding to pay for the improved program oversight, outreach efforts and law enforcement specifically targeting illegal guiding activities will come from a fee increase from \$50 per year to \$150 per year beginning in 2014. The fee remains small compared to other states, and will result in measurable improvements to program implementation.

Please allow me to address any questions you may have.

Sincerely,



Scott Brewen, Director

Enclosures:

Guide Advisory Group (ORS 704.060)  
2012 Pilot Project Summary

**Guide Advisory Group (ORS 704.060)**

<b>ORS Designated Advisory Group</b>					
2	Oregon Guides & Packers	Brian Sykes, Board of Directors		<a href="mailto:brian@oregonrafting.com">brian@oregonrafting.com</a>	541-385-5947 w
	Oregon Guides & Packers	Steve Mathers, President	Owner – Battle Creek Outfitters (Hunting) 20129 Mathers Road Bend, OR 97701	<a href="mailto:mathers@bendnet.com">mathers@bendnet.com</a>	541-389-0743
1	McKenzie River Guides	Steve Schaefer's, President		<a href="mailto:sgsfish@aol.com">sgsfish@aol.com</a>	541-896-3789
1	Eastern Oregon Outfitters & Guides Association	Mark Halley		<a href="mailto:mark@mosssprings.com">mark@mosssprings.com</a>	541-562-1181
1	Rogue River Guides Association	Vernon Grieve	PO Box 543, Shady Cove, OR 97539	<a href="mailto:herefishy@embarqmail.com">herefishy@embarqmail.com</a>	541-878-2004
1 *	Northwest Guides & Anglers Association	Bob Rees	PO Box 1196 Tillamook OR 97141-1196	<a href="mailto:brees@pacifier.com">brees@pacifier.com</a>	503-812-9036
1 *	South Coast guides	Gary Early		<a href="mailto:val@earlyfishing.com">val@earlyfishing.com</a>	541-469-0525
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<b>ORS / Defunct</b>					
1	Rogue River Outfitters	NO LONGER EXISTS			
1	Deschutes River Public Outfitters	NO LONGER EXISTS			
1	Tillamook Guides Association	NO LONGER EXISTS			
<b>OSMB Staff</b>					
	Randy Henry			<a href="mailto:Randy.h.henry@state.or.us">Randy.h.henry@state.or.us</a>	503-378-2611
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## 2012 Outfitter & Guide LE Enforcement Pilot Project Summary

### Overview

With the endorsement of the Guide Advisory Committee (GAC), as identified in ORS 704.060, the Oregon State Marine Board (OSMB) and the Oregon State Police (OSP) entered into an Interagency Agreement to conduct a pilot enforcement project to assess and respond to illegal guiding complaints in Oregon. The project ran from February 1 through November 1, 2012. The goal of the investigation was to test the effectiveness of the OSP Special Investigations Unit in investigating illegal outfitter, guide and charter operations.

In addition, beginning July 2012, the Marine Board provided funding to three county sheriff marine programs to incorporate regular checks into outfitters and guides operating boats on Oregon waterways during the course of a season.

During the course of the pilot project, staff made numerous contacts with outfitters, guides and charters to address complaints and allegations. Convictions were evaluated and current processes for tracking and recording violations were instituted. Staff developed relationships with the US Coast Guard to ensure proper notifications of violations are forwarded to federal licensing authorities.

Initial investigation began in south coast winter steelhead rivers and extended through spring Chinook fishing and fall Chinook fishing. Areas of focus were Curry County, Coos County and Tillamook County, as numerous complaints of illegal activity are commonly reported in these areas. Common complaints include such activities as unlicensed guides, non-resident guides without proper Oregon licensing, illegal charter operations, private individuals offering trip sharing, and aggressive or illegal operation by registered guides.

In conjunction with on-water activities, 100 outfitter and guide 2012 season registration applications were randomly selected for the OSP Special Investigations Unit to review. The documents were reviewed to ensure that they truthfully reported any violations over the past two years, as required.

OSMB worked with the GAC and outfitters and guides to funnel complaints and allegations of illegal conduct to proper authorities. Staff developed a regular protocol for forwarding reports to the OSP Special Investigations Unit. Results are noted below.

During the nine month pilot project, the OSP Special Investigations Unit opened and investigated thirty cases where potential illegal activity was suspected. Of the thirty cases:

- 29 required some level of undercover work;
- 14 cases were unfounded;
- 5 had no substantiated allegations;
- 4 had no violations observed;
- 4 cases resulted in citations;
- 2 require additional investigation with violations observed; and
- 1 deemed a civil matter

Of the 100 applications reviewed, five individuals properly noted past violations and one did not (case pending).

In all, the OSP Special Investigations Unit staff and field personnel documented 880.50 work hours. Crimes included no guide or charter license; exceeding limit for salmon/steelhead; unlawful taking of trout in catch-and-release only area; angling while suspended; unlawful method/snagging; borrowing and loaning of harvest tags; and false application on guide's license.

**Lessons Learned:**

Investigations are sensitive and time-consuming. Confidential communication is crucial.

Relationships between the OSP Special Investigations Unit, OSP fish and wildlife officers, and county marine patrols is crucial, and while generally good, there is an opportunity for improvement.

Communication gaps remain where violations by off-duty guides are not properly reported.

Public education about hiring legal guides and reporting illegal behavior is needed.

People who disregard Marine Board laws are generally willing to disregard fish and wildlife laws.

Marine Board staff observed that while county programs provide a valuable service to guides using boats, they are less effective in addressing specific illegal behavior due both to their visibility and familiarity to the local guide community.

OSP Special Investigations Unit is an essential and irreplaceable tool to address illegal guiding activities.

**Recommendations:**

The Marine Board recognizes the importance of officers to continue to work both overtly and covertly to address illegal operations. To assist in this endeavor, loopholes in current laws must be addressed so that investigations and convictions will result in meaningful sanctions to illegal operators. Moreover, in curtailing illegal operations within their industry, GAC leadership and guide organizations must develop strong working relationships with its membership. Finally, the Marine Board will implement database improvements to allow for more accurate tracking of outfitter guides, charters and their employees.