

B-Engrossed House Bill 2039

Ordered by the House May 31
Including House Amendments dated March 15 and May 31

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for State Marine Board)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates and modifies provisions related to regulation of outfitting and guiding services.

Increases punishment related to violation of certain provisions regulating outfitting and guiding services to maximum of one year's imprisonment, \$6,250 fine, or both.

Increases amount of limitation on expenditures of State Marine Board for purposes of carrying out provisions of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to outfitting and guiding services; creating new provisions; amending ORS 704.010, 704.020,
3 704.021, 704.030, 704.035, 704.040, 704.070, 704.525 and 704.990; limiting expenditures; and de-
4 claring an emergency.

5 **Be It Enacted by the People of the State of Oregon:**

DEFINITIONS

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7
8
9 **SECTION 1.** ORS 704.010 is amended to read:

10 704.010. As used in this chapter:

11 [(1) "Board" means the State Marine Board.]

12 [(2) "Employee" means an individual who, in exchange for compensation or other pecuniary gain,
13 provides outfitting and guiding services exclusively under the direction, supervision and control of an
14 outfitter and guide or an ocean guide.]

15 [(3) "Ocean guide" means any individual who carries passengers for hire for outdoor recreational
16 activities only on the waters of the Pacific Ocean over which the State of Oregon has jurisdiction and
17 who possesses therefor a valid United States Coast Guard vessel operator license.]

18 (1) "Charter guide" means an individual who:

19 (a) Carries passengers for hire for outdoor recreational activities on the waters of the
20 Pacific Ocean over which the State of Oregon has jurisdiction;

21 (b) Carries passengers for hire for outdoor recreational activities on the waters of the
22 Columbia River below the Astoria-Megler Bridge downstream to the waters of the Pacific
23 Ocean; and

24 (c) Possesses a valid United States Coast Guard operator license.

25 (2) "Employee" means an individual who, in exchange for compensation or monetary gain,

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **provides outfitting and guiding services under the direction, supervision and control of an**
2 **outfitter and guide or a charter guide.**

3 [(4) (3) “Outdoor recreational activities” *[include]* **includes**, but *[are]* **is** not limited to, boating,
4 angling, hunting, jeep touring, backpacking, alpine mountain climbing, camping, trips utilizing pack
5 animals, dog sled trips, whitewater float trips, rafting trips, drift boat trips, kayak trips, inflatable
6 canoe trips and canoe trips[.], the duration of *[any outdoor recreational activities]* **which** may be for
7 a few hours or for several days or weeks.

8 [(5)(a) (4)(a) “Outfitter and guide” means any person:

9 (A) *[Who provides, or who offers to provide, for compensation or other pecuniary gain]* **Who, for**
10 **compensation or monetary gain, provides, offers to provide or advertises the provision of:**

11 (i) Outfitting and guiding services in *[Oregon]* **this state**; or

12 (ii) Outfitting and guiding services and either equipment, supplies, livestock or materials for use
13 in *[Oregon]* **this state**; or

14 (B) Who holds one or more federal **special use** permits for commercial outfitting and guiding
15 services for use in any forest or wilderness or on any *[river in Oregon]* **waterway in this state.**

16 (b) “Outfitter and guide” does not include:

17 *[(A) An ocean guide or an employee of an outfitter and guide or ocean guide; or]*

18 *[(B)] (A)* An individual who, for compensation or *[other pecuniary]* **monetary** gain, provides
19 outfitting and guiding services for the conduct of outdoor recreational activities exclusively upon
20 property owned or controlled by the individual; **or**

21 **(B) An employee of an outfitter and guide, unless the employee conducts, leads or assists**
22 **in angling activities or operates or assists in the operation of watercraft used for angling.**

23 [(6) (5)(a) “Outfitting and guiding services” *[include]* **includes**, but *[are]* **is** not limited to, lead-
24 ing, protecting, instructing, training, cooking, packing, guiding, transporting, supervising, interpret-
25 ing or otherwise assisting any person in the conduct of outdoor recreational activities.

26 **(b) “Outfitting and guiding services” does not include** the rental of equipment alone *[does*
27 *not constitute outfitting and guiding services].*

28 *[(7) Outfitting and guiding services are not offered or provided for compensation or pecuniary gain*
29 *if:]*

30 *[(a) No individual receives any dues, fee, salary, commission, bonus, tip, compensation, equipment,*
31 *materials, livestock, supplies, rental payment, amortization payment, depreciation payment or other fi-*
32 *nancial gain; and]*

33 *[(b) No money or other remuneration is in any manner paid or collected except as a sharing by trip*
34 *participants of the costs or expenses for the trip.]*

35
36 **APPLICABILITY OF CHAPTER**

37
38 **SECTION 2. Section 3 of this 2013 Act is added to and made a part of ORS chapter 704.**

39 **SECTION 3. (1) This chapter does not apply to outfitting and guiding services that are**
40 **not offered or provided for compensation or monetary gain.**

41 **(2) Outfitting and guiding services are not offered or provided for compensation or mon-**
42 **etary gain if:**

43 **(a) A person does not receive, or has not entered into an agreement to receive, any dues,**
44 **fee, salary, commission, bonus, tip, compensation, equipment, material, livestock, supplies,**
45 **rental payment, amortization payment, depreciation payment or other financial gain for the**

1 **outfitting and guiding services; or**

2 **(b) A person does not receive, or has not entered into an agreement to receive, money**
3 **or other remuneration for the outfitting and guiding services except for the sharing of the**
4 **costs or expenses for a trip by trip participants.**

5 **(3) As used in this section:**

6 **(a)(A) "Costs or expenses for a trip" means the costs or expenses for food, fuel, bait or**
7 **other consumable items used during a trip.**

8 **(B) "Costs or expenses for a trip" does not include any costs or expenses related to**
9 **equipment maintenance, insurance, moorage, leases or fees for the use of an area.**

10 **(b) "Trip" means the duration of an outdoor recreational activity beginning:**

11 **(A) For water-based activities, at the point of departure from a dock, pier, float, moorage**
12 **or shore-based landing where a person enters a watercraft; or**

13 **(B) For land-based activities, at the trailhead or other entry point to the area where the**
14 **outdoor recreational activity begins.**

15
16 **REGISTRATION**

17 **(Operative January 1, 2014)**

18
19 **SECTION 4.** ORS 704.020 is amended to read:

20 704.020. (1) Any person who acts[,] or [*who*] offers to act[,] as an outfitter and guide must first
21 register with the State Marine Board. Each registration shall be submitted annually on a form pro-
22 vided by the board and shall include the following information:

23 (a) The name, residence address[,] and [*residence*] telephone number of the person providing
24 outfitting and guiding services, and all business names, addresses and telephone numbers under
25 which outfitting and guiding services are provided.

26 **(b) Proof that the business under which outfitting and guiding services are provided has**
27 **registered with the Secretary of State.**

28 [*(b)*] **(c) If the outfitting and guiding services are to be performed in the business name of an**
29 **individual, proof [*of possession of a current certificate issued to the individual:*] that the outfitter**
30 **and guide is certified to give first aid, as determined by the board by rule.**

31 [*(A) By the American Red Cross upon completion of its multimedia course; or]*

32 [*(B) Upon completion of any equivalent medical or American Red Cross training course approved*
33 *by the board.*]

34 [*(c)*] **(d) If the outfitting and guiding services are to be performed in the business name of a**
35 **person other than an individual, [*the outfitter and guide must provide*] a list of the names of all**
36 **employees, agents and parties in interest who physically provide, or who directly assist in physically**
37 **providing, outfitting and guiding services in [*Oregon*] this state, together with the affidavit of the**
38 **outfitter and guide that each such employee, agent or party in interest [*possesses:*] is certified to**
39 **give first aid, as determined by the board by rule.**

40 [*(A) A current certificate issued to the employee, agent or party in interest:*]

41 [*(i) By the American Red Cross upon completion of its multimedia course; or]*

42 [*(ii) Upon completion of any equivalent medical or American Red Cross training course approved*
43 *by the board.*]

44 [*(B)*] **(e) If the outfitter and guide is carrying passengers for hire on waterways deter-**
45 **mined to be navigable by the United States Coast Guard, proof that the person or an indi-**

1 **vidual employed by the person has** a valid United States Coast Guard [*vessel*] operator license
2 [*if operating a motorboat on navigable waters of the United States*].

3 [(d)] (f) A description of:

4 (A) The outfitting and guiding services[,] and any equipment, supplies, livestock and materials
5 provided by the outfitter and guide;

6 (B) The geographic area in which the outfitter and guide provides the outfitting and guiding
7 services[,] and [*any*] **the** equipment, supplies, livestock and materials; and

8 (C) The experience of the outfitter and guide in providing the outfitting and guiding services[,]
9 and **the** equipment, supplies, livestock and materials.

10 [(e)] (g) Proof that the outfitter and guide has liability insurance covering occurrences by the
11 outfitter and guide, and the employees of the outfitter and guide, which result in bodily injury or
12 property damage. [*Such insurance shall be not less than \$300,000*] **To meet the requirement under**
13 **this paragraph, insurance must provide** combined single limit per occurrence general liability
14 coverage **of at least \$500,000.**

15 [(f)] (h) Certification by the outfitter and guide that the outfitter and guide will maintain the
16 insurance required by paragraph [(e)] (g) of this subsection continuously **and** in full force and effect
17 for a period of [*not less than one year from the date the certificate of registration described in this*
18 *section is issued by the board*] **time to be determined by the board by rule.**

19 [(g)] (i) The affidavit of the outfitter and guide stating that for a period of not less than 24
20 months immediately prior to making the registration application the outfitter and guide and each
21 person who provides or assists in directly providing outfitting and guiding services:

22 (A) Have not been convicted of:

23 (i) **A felony or misdemeanor related to the provision of services regulated by this chapter;**

24 [(i)] (ii) [*Any criminal offense or*] **A** violation under this chapter or ORS chapter 477, 496, 497,
25 498, 501, 506, 508, 509 or 511 or any rule adopted pursuant [*thereto*] **to ORS chapter 477, 496, 497,**
26 **498, 501, 506, 508, 509 or 511;** or

27 [(ii)] (iii) [*Any*] **A** violation of the wildlife laws [*which*] **that** occurred while acting as an outfitter
28 and guide and [*which*] **that** resulted in court-ordered revocation of the hunting or fishing license of
29 the outfitter and guide;

30 (B) Have not had an outfitting and guiding license, permit or certificate revoked, suspended or
31 canceled by another state or by an agency of the government of the United States;

32 (C) Have not been denied the right to apply for an outfitting and guiding license, permit or
33 certificate by another state or by an agency of the government of the United States; and

34 (D) Have not been convicted of guiding without registration as required by this subsection.

35 (2) In addition to the requirements of subsection (1) of this section, a person who acts or offers
36 to act as an outfitter and guide using boats that are under the direct operation of an outfitter and
37 guide or an employee of an outfitter and guide [*to carry*] **for the purpose of carrying** passengers
38 on the waters of this state [*shall*] **must** submit proof:

39 (a) **If operating a motorboat on waterways determined to be navigable by the United**
40 **States Coast Guard,** that the outfitter and guide possesses a valid United States Coast Guard
41 [*vessel*] operator license [*if operating a motorboat on navigable waters of the United States*]; and

42 (b) Of liability insurance **in a form prescribed by the board by rule.**

43 (3)(a) A person who registers as an outfitter and guide and who accepts deposits from clients in
44 excess of \$100 per person shall submit a bond or other financial security in the amount of \$5,000 to
45 the board at the time of registration. The bond or other financial security shall be held by the board

1 for the benefit of clients of the outfitter and guide who pay a money deposit to the outfitter and
2 guide in anticipation of services to be received. The bond or other financial security amount shall
3 be released to such client or clients conditioned upon a failure of the outfitter and guide to return
4 the deposit following cancellation of services or other failure to provide agreed upon services.

5 (b) The board shall release or retain all or any portion of a bond or other financial security as
6 described in paragraph (a) of this subsection according to the provisions of ORS chapter 183.

7 (4) Each annual registration shall be accompanied by a fee as follows:

8 (a) For resident persons, [~~\$50~~] **\$150**.

9 (b) For nonresident persons who reside in a state that requires residents of [*the State of*
10 *Oregon*] **this state** to pay a license fee, registration fee or other fee or charge in excess of [~~\$50~~]
11 **\$150** to act as an outfitter and guide in that state, the same fee or other charge as is charged the
12 residents of [*the State of Oregon*] **this state** to act as an outfitter and guide in the state where the
13 nonresident applicant resides. If the state in which such a nonresident applicant resides makes dis-
14 tinctions in fees or charges based on the type of outfitter and guide service performed and requires
15 residents of [*the State of Oregon*] **this state** to pay fees or charges accordingly, the board shall make
16 and apply those same distinctions and require the nonresident applicants to pay the corresponding
17 fees or charges.

18 (c) For nonresident persons other than those referred to in paragraph (b) of this subsection,
19 [~~\$50~~] **\$150**.

20 (5) Upon the submission to the board of the appropriate fees prescribed in this section and the
21 registration information required by this section, the board shall issue to the applicant a certificate
22 of registration. The board shall also issue to each registrant proof of compliance with the require-
23 ments of this section.

24 (6) A person who conducts sightseeing flights or other aircraft operations is exempt from the
25 provisions of this section unless the activities conducted by the person are outdoor recreational
26 activities as defined in ORS 704.010.

27 (7) The board shall issue an identifying decal to outfitters and guides registering under this
28 section that may be displayed on vehicles, pack equipment or other suitable locations where cus-
29 tomers can see the registration decal.

30 (8) A certificate of registration issued to an outfitter and guide under this section expires on
31 December 31 of each calendar year or on such date as may be specified by board rule.

32 **SECTION 5.** ORS 704.021 is amended to read:

33 704.021. (1) An outfitter and guide who registers pursuant to ORS 704.020 shall, while the out-
34 fitter and guide is engaged in providing outfitting and guide services, hold proof of compliance with
35 the requirements of ORS 704.020 and allow the examination of that proof of compliance by any
36 person authorized to enforce this chapter.

37 **(2) If outfitting and guiding services are performed by an employee of an outfitter and**
38 **guide, the employee shall, while the employee is engaged in providing outfitting and guiding**
39 **services, hold proof that the outfitter and guide is in compliance with the requirements of**
40 **ORS 704.020 and allow the examination of that proof of compliance by any person authorized**
41 **to enforce this chapter.**

42 **SECTION 6.** ORS 704.030 is amended to read:

43 704.030. (1) No person shall make any false statement of material fact submitted pursuant to
44 ORS 704.020.

45 (2) No outfitter and guide who uses a boat to carry passengers on the waters of this state shall

1 carry passengers in excess of the passenger capacity for which insurance is obtained pursuant to
2 ORS 704.020.

3 (3) No outfitter and guide shall use a boat to carry passengers on [*navigable waters of the United*
4 *States*] **waterways determined to be navigable by the United States Coast Guard** without a li-
5 cense, registration or decal required by ORS 704.020 and 704.065.

6
7 **(Operative January 1, 2018)**

8
9 **SECTION 7.** ORS 704.020, as amended by section 4 of this 2013 Act, is amended to read:

10 704.020. (1) Any person who acts or offers to act as an outfitter and guide must first register
11 with the State Marine Board. Each registration shall be submitted annually on a form provided by
12 the board and shall include the following information:

13 (a) The name, residence address and telephone number of the person providing outfitting and
14 guiding services, and all business names, addresses and telephone numbers under which outfitting
15 and guiding services are provided.

16 (b) Proof that the business under which outfitting and guiding services are provided has regis-
17 tered with the Secretary of State.

18 (c) If the outfitting and guiding services are to be performed in the business name of an indi-
19 vidual, proof that the outfitter and guide is certified to give first aid, as determined by the board
20 by rule.

21 (d) If the outfitting and guiding services are to be performed in the business name of a person
22 other than an individual, a list of the names of all employees, agents and parties in interest who
23 physically provide, or who directly assist in physically providing, outfitting and guiding services in
24 this state, together with the affidavit of the outfitter and guide that each such employee, agent or
25 party in interest is certified to give first aid, as determined by the board by rule.

26 (e) If the outfitter and guide is carrying passengers for hire on waterways determined to be
27 navigable by the United States Coast Guard, proof that the person or an individual employed by the
28 person has a valid United States Coast Guard operator license.

29 (f) A description of:

30 (A) The outfitting and guiding services and any equipment, supplies, livestock and materials
31 provided by the outfitter and guide;

32 (B) The geographic area in which the outfitter and guide provides the outfitting and guiding
33 services and the equipment, supplies, livestock and materials; and

34 (C) The experience of the outfitter and guide in providing the outfitting and guiding services and
35 the equipment, supplies, livestock and materials.

36 (g) Proof that the outfitter and guide has liability insurance covering occurrences by the out-
37 fitter and guide, and the employees of the outfitter and guide, which result in bodily injury or
38 property damage. To meet the requirement under this paragraph, insurance must provide combined
39 single limit per occurrence general liability coverage of at least \$500,000.

40 (h) Certification by the outfitter and guide that the outfitter and guide will maintain the insur-
41 ance required by paragraph (g) of this subsection continuously and in full force and effect for a pe-
42 riod of time to be determined by the board by rule.

43 (i) The affidavit of the outfitter and guide stating that for a period of not less than 24 months
44 immediately prior to making the registration application the outfitter and guide and each person
45 who provides or assists in directly providing outfitting and guiding services:

1 (A) Have not been convicted of:

2 (i) A felony or misdemeanor related to the provision of services regulated by this chapter;

3 (ii) A violation under this chapter or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509 or 511
4 or any rule adopted pursuant to ORS chapter 477, 496, 497, 498, 501, 506, 508, 509 or 511; or

5 (iii) A violation of the wildlife laws that occurred while acting as an outfitter and guide and that
6 resulted in court-ordered revocation of the hunting or fishing license of the outfitter and guide;

7 (B) Have not had an outfitting and guiding license, permit or certificate revoked, suspended or
8 canceled by another state or by an agency of the government of the United States;

9 (C) Have not been denied the right to apply for an outfitting and guiding license, permit or
10 certificate by another state or by an agency of the government of the United States; and

11 (D) Have not been convicted of guiding without registration as required by this subsection.

12 (2)(a) In addition to the requirements of subsection (1) of this section, a person who acts or of-
13 fers to act as an outfitter and guide using boats that are under the direct operation of an outfitter
14 and guide or an employee of an outfitter and guide for the purpose of carrying passengers on the
15 waters of this state must submit proof:

16 [(a)] (A) If operating a motorboat on [*waterways determined to be navigable by the United States*
17 *Coast Guard,*] **the waters of this state**, that the outfitter and guide [*possesses a valid United States*
18 *Coast Guard operator license; and*]:

19 (i) **Has passed a written test adopted by the board by rule;**

20 (ii) **Has participated in a drug and alcohol program as defined by the board by rule; and**

21 (iii) **Has completed a physical examination every five years as required by the board by**
22 **rule.**

23 [(b)] (B) Of liability insurance in a form prescribed by the board by rule.

24 (b) **A person is exempt from paragraph (a)(A) of this subsection if the person is operating**
25 **a motorboat on waters of this state determined to be navigable by the United States Coast**
26 **Guard and the person possesses a valid United States Coast Guard operator license.**

27 (3)(a) A person who registers as an outfitter and guide and who accepts deposits from clients in
28 excess of \$100 per person shall submit a bond or other financial security in the amount of \$5,000 to
29 the board at the time of registration. The bond or other financial security shall be held by the board
30 for the benefit of clients of the outfitter and guide who pay a money deposit to the outfitter and
31 guide in anticipation of services to be received. The bond or other financial security amount shall
32 be released to such client or clients conditioned upon a failure of the outfitter and guide to return
33 the deposit following cancellation of services or other failure to provide agreed upon services.

34 (b) The board shall release or retain all or any portion of a bond or other financial security as
35 described in paragraph (a) of this subsection according to the provisions of ORS chapter 183.

36 (4) Each annual registration shall be accompanied by a fee as follows:

37 (a) For resident persons, \$150.

38 (b) For nonresident persons who reside in a state that requires residents of this state to pay a
39 license fee, registration fee or other fee or charge in excess of \$150 to act as an outfitter and guide
40 in that state, the same fee or other charge as is charged the residents of this state to act as an
41 outfitter and guide in the state where the nonresident applicant resides. If the state in which such
42 a nonresident applicant resides makes distinctions in fees or charges based on the type of outfitter
43 and guide service performed and requires residents of this state to pay fees or charges accordingly,
44 the board shall make and apply those same distinctions and require the nonresident applicants to
45 pay the corresponding fees or charges.

1 (c) For nonresident persons other than those referred to in paragraph (b) of this subsection,
2 \$150.

3 (5) Upon the submission to the board of the appropriate fees prescribed in this section and the
4 registration information required by this section, the board shall issue to the applicant a certificate
5 of registration. The board shall also issue to each registrant proof of compliance with the require-
6 ments of this section.

7 (6) A person who conducts sightseeing flights or other aircraft operations is exempt from the
8 provisions of this section unless the activities conducted by the person are outdoor recreational
9 activities as defined in ORS 704.010.

10 (7) The board shall issue an identifying decal to outfitters and guides registering under this
11 section that may be displayed on vehicles, pack equipment or other suitable locations where cus-
12 tomers can see the registration decal.

13 (8) A certificate of registration issued to an outfitter and guide under this section expires on
14 December 31 of each calendar year or on such date as may be specified by board rule.

15
16 **DISCIPLINE**

17
18 **SECTION 8.** ORS 704.035 is amended to read:

19 704.035. (1) The State Marine Board shall [*accord*] **provide an** opportunity for hearing as [*pro-*
20 *vided in*] **required by** ORS chapter 183 when the board proposes to:

- 21 (a) [*Refuse to issue or renew*] **Deny issuance or renewal of** an outfitter and guide registration;
22 (b) Revoke or suspend a registration; or
23 (c) Reprimand an outfitter and guide.

24 (2) Any person aggrieved by a decision of the board under this chapter is entitled to judicial
25 review of the decision in accordance with the procedure for contested cases provided by ORS
26 chapter 183.

27 **SECTION 9.** ORS 704.040 is amended to read:

28 704.040. (1) The Legislative Assembly finds that violation of fire prevention, wildlife, hunting,
29 angling, trapping or commercial fishing laws is directly related to the fitness required for registra-
30 tion as an outfitter and guide.

31 (2) When [*any*] **a person is convicted of [*any*] a felony or misdemeanor related to the pro-**
32 **vision of services regulated by this chapter, a** violation of ORS 704.020 or 704.030 **or ORS**
33 **chapter 477, 496, 497, 498, 501, 506, 508, 509 or 511,** or any rule promulgated pursuant to ORS
34 **704.500 or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509 or 511,** the court having jurisdiction
35 of the offense may order the State Marine Board to revoke the certificate of registration issued to
36 that person pursuant to ORS 704.020.

37 (3) When a court orders revocation of a certificate of registration pursuant to this section, the
38 court shall take up the certificate of registration and forward it with a copy of the revocation order
39 to the board. Upon receipt thereof, the board shall cause revocation of the certificate of registration
40 in accordance with the court order.

41 (4) A person who has had a certificate of registration revoked pursuant to this section is ineli-
42 gible to register under ORS 704.020 for a period of 24 months from the date the court ordered the
43 revocation.

44 (5) The board may reprimand an outfitter and guide or suspend, revoke or deny for a period of
45 up to 24 months the registration of an outfitter and guide for any of the following:

1 **(a) Conviction of a felony or misdemeanor related to the provision of services regulated**
2 **by this chapter.**

3 [(a)] **(b)** Any serious or repeated violation of this chapter or ORS chapter 477, 496, 497, 498, 501,
4 506, 508, 509 or 511 or any rule adopted pursuant [thereto] **to ORS chapter 477, 496, 497, 498, 501,**
5 **506, 508, 509 or 511.**

6 [(b)] **(c)** Any serious or repeated violation of the fish and wildlife laws or regulations of the
7 federal government or of another state for committing or omitting acts that, if committed or omitted
8 in this state, would be a violation of ethical or professional standards established pursuant to this
9 chapter. A certified copy of the record of suspension or revocation of the state making such sus-
10 pension or revocation is conclusive evidence thereof.

11 [(c)] **(d)** Having an outfitter and guide registration, license, permit or certificate suspended, re-
12 voked, canceled or denied by another state or by an agency of the United States for committing or
13 omitting acts that, if committed or omitted in this state, would be a violation of ethical or profes-
14 sional standards established pursuant to this chapter. A certified copy of the record of suspension
15 or revocation of the state making such suspension or revocation is conclusive evidence thereof.

16 [(d)] **(e)** Having a United States Coast Guard vessel operator license revoked, suspended or
17 canceled by the United States Coast Guard for committing or omitting acts that if committed or
18 omitted in this state would be a violation of standards established pursuant to this chapter. A cer-
19 tified copy of the record of revocation, suspension or cancellation from the United States Coast
20 Guard is conclusive evidence thereof.

21 [(e)] **(f)** Engaging in fraudulent, untruthful or seriously misleading advertising in the conduct of
22 the outfitting and guiding services.

23 (6) The board shall adopt rules to implement subsection (5) of this section, including rules that
24 describe conduct that is a serious or repeated violation of a law, rule or regulation.

25
26 **SAFETY REQUIREMENTS**
27

28 **SECTION 10.** ORS 704.070 is amended to read:

29 704.070. (1) A person who acts or offers to act as an outfitter and guide using boats to carry
30 passengers on the waters of this state shall:

31 (a) Equip each nonmotorized boat that is under the direct operation of an outfitter and guide
32 or an employee of an outfitter and guide to carry passengers on waters rated as class III or higher
33 on a commonly accepted scale of river difficulty with a rescue throw bag, complete with a length
34 of artificial fiber rope and a buoyant bag;

35 (b) On any section of waters rated as class III or higher on a commonly accepted scale of river
36 difficulty, require that all persons physically providing outfitting and guiding services and all pas-
37 sengers wear a properly secured United States Coast Guard approved personal flotation device of
38 a type prescribed by rules adopted by the State Marine Board; [and]

39 (c) If the outfitter and guide operates nonmotorized boats carrying passengers on any section
40 of waters rated as class III or higher on a commonly accepted scale of river difficulty, require that
41 all persons physically providing outfitting and guiding services:

42 (A) Prior to providing the services, have completed at least one trip on that section of waters
43 in a nonmotorized boat; and

44 (B) Have been trained in equipment preparation and boat rigging, understanding and recognizing
45 river characteristics and hazards, methods of scouting rapids, methods of physically guiding boats

1 through rapids, proper client communication, how to provide paddling and safety instruction and
2 methods of river rescue techniques, including emergency procedures and equipment recovery[.]; and

3 **(d) If the outfitter and guide is a charter guide, ensure that the vessel used to carry**
4 **passengers complies with the equipment requirements for charter vessels under ORS 830.450.**

5 (2) Subsection (1)(b) of this section does not apply to motorized boats that are inspected by the
6 United States Coast Guard.

7
8 **ADVISORY COMMITTEE**

9
10 **SECTION 11.** ORS 704.525 is amended to read:

11 704.525. (1) The State Marine Board shall appoint an advisory committee to provide advice to
12 the board on various matters regarding the implementation of this chapter. The committee shall be
13 composed of members appointed as follows:

14 **(a) Eight members representing seven of the primary organizations providing outfitting**
15 **and guiding services in this state, with two members representing the most active organ-**
16 **ization. The board shall adopt rules to implement this paragraph.**

17 *[(a) Two members from among those individuals recommended by the Oregon Guides and*
18 *Packers.]*

19 *[(b) One member from among those individuals recommended by the McKenzie River Guides.]*

20 *[(c) One member from among those individuals recommended by the Eastern Oregon Guides.]*

21 *[(d) One member from among those individuals recommended by the Rogue River Outfitters.]*

22 *[(e) One member from among those individuals recommended by the Deschutes River Public Out-*
23 *fitters.]*

24 *[(f) One member from among those individuals recommended by the Rogue River Guides Associ-*
25 *ation, Inc.]*

26 *[(g) One member from among those individuals recommended by the Tillamook Guides*
27 *Association.]*

28 *[(h)]* **(b)** Three public members selected by the board.

29 (2) In addition to such other duties as the board may prescribe, the advisory committee shall
30 provide advice and recommendations to the board regarding:

31 (a) Methods of improving communication between the board and the guiding and outfitting in-
32 dustry.

33 (b) The need for competency testing of guides and outfitters.

34 (c) Refinements of the definitions of guides and outfitters.

35 (d) Adequacy of liability insurance coverage.

36 (e) Identifying decals for motorboats used by guides in providing outfitter and guide services.

37 (f) Registration reciprocity for guides conducting outfitting and guiding services on the Snake
38 and Columbia Rivers.

39 **SECTION 12.** Nothing in the amendments to ORS 704.525 by section 11 of this 2013 Act
40 affects the term of office of any member of the advisory committee appointed prior to and
41 serving on the operative date specified in section 14 (1) of this 2013 Act. However, as va-
42 cancies occur, appointments shall be made in accordance with the qualifications specified in
43 ORS 704.525, as amended by section 11 of this 2013 Act.

44
45 **CRIMINAL PENALTIES**

SECTION 13. ORS 704.990 is amended to read:

704.990. (1) Failure to comply with ORS 704.020, 704.021 or 704.065 is a Class [B] A misdemeanor.

(2) Violation of ORS 704.030 is a Class [B] A misdemeanor.

OPERATIVE DATE

SECTION 14. (1) Sections 2, 3 and 12 of this 2013 Act and the amendments to ORS 704.010, 704.020, 704.021, 704.030, 704.035, 704.040, 704.070, 704.525 and 704.990 by sections 1, 4 to 6, 8 to 11 and 13 of this 2013 Act become operative on January 1, 2014.

(2) The amendments to ORS 704.020 by section 7 of this 2013 Act become operative on January 1, 2018.

(3) The State Marine Board may take any action before the operative dates specified in subsections (1) and (2) of this section that is necessary to enable the board to exercise, on and after the operative dates specified in subsections (1) and (2) of this section, all the duties, functions and powers conferred on the board by sections 2, 3 and 12 of this 2013 Act and the amendments to ORS 704.010, 704.020, 704.021, 704.030, 704.035, 704.040, 704.070, 704.525 and 704.990 by sections 1, 4 to 11 and 13 of this 2013 Act.

APPLICABILITY

SECTION 15. (1) The amendments to ORS 704.020 by section 4 of this 2013 Act apply to applications for registration received by the State Marine Board on or after the operative date specified in section 12 (1) of this 2013 Act.

(2) The amendments to ORS 704.020 by section 7 of this 2013 Act apply to applications for registration received by the State Marine Board on or after the operative date specified in section 14 (2) of this 2013 Act.

(3) The amendments to ORS 704.040 and 704.990 by sections 9 and 13 of this 2013 Act apply to convictions entered on or after the operative date specified in section 14 (1) of this 2013 Act.

EXPENDITURE LIMITATIONS

SECTION 16. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (1), chapter ___, Oregon Laws 2013 (Enrolled House Bill 5025), for the biennium beginning July 1, 2013, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the State Marine Board, is increased by \$212,170 for the purpose of carrying out the provisions of this 2013 Act.

UNIT CAPTIONS

SECTION 17. The unit captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

EMERGENCY CLAUSE

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SECTION 18. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.
