

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 2883**

1 On page 1 of the printed bill, line 2, after “ORS” insert “704.020 and”.

2 Delete lines 4 through 29 and delete pages 2 and 3 and insert:

3 **“SECTION 1. Section 2 of this 2017 Act is added to and made a part**
4 **of the wildlife laws.**

5 **“SECTION 2. (1) In addition to any other penalty authorized by law,**
6 **the court may order the State Fish and Wildlife Commission to revoke**
7 **all licenses, tags and permits issued to a person in the manner pro-**
8 **vided for in ORS 497.415 if the person:**

9 **“(a) Is, as provided for in ORS 496.992, convicted of a violation of**
10 **the wildlife laws, or any rule adopted pursuant to the wildlife laws,**
11 **that involves the taking or killing of wildlife with a culpable mental**
12 **state; and**

13 **“(b) Was, at the time the violation occurred, acting or offering to**
14 **act as an outfitter and guide subject to registration with the State**
15 **Marine Board pursuant to ORS 704.020.**

16 **“(2) Notwithstanding ORS 497.415 (5), upon having a license, tag or**
17 **permit revoked under subsection (1) of this section, a person is pro-**
18 **hibited from applying for or obtaining another such license, tag or**
19 **permit.**

20 **“SECTION 3. ORS 704.020 is amended to read:**

21 **“704.020. (1) Any person who acts or offers to act as an outfitter and guide**

1 must first register with the State Marine Board. Each registration shall be
2 submitted annually on a form provided by the board and shall include the
3 following information:

4 “(a) The name, residence address and telephone number of the person
5 providing outfitting and guiding services, and all business names, addresses
6 and telephone numbers under which outfitting and guiding services are pro-
7 vided.

8 “(b) Proof that the business under which outfitting and guiding services
9 are provided has registered with the Secretary of State.

10 “(c) If the outfitting and guiding services are to be performed in the
11 business name of an individual, proof that the outfitter and guide is certified
12 to give first aid, as determined by the board by rule.

13 “(d) If the outfitting and guiding services are to be performed in the
14 business name of a person other than an individual, a list of the names of
15 all employees, agents and parties in interest who physically provide, or who
16 directly assist in physically providing, outfitting and guiding services in this
17 state, together with the affidavit of the outfitter and guide that each such
18 employee, agent or party in interest is certified to give first aid, as deter-
19 mined by the board by rule.

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

24 “(f) A description of:

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

27 “(B) The geographic area in which the outfitter and guide provides the
28 outfitting and guiding services and the equipment, supplies, livestock and
29 materials; and

30 “(C) The experience of the outfitter and guide in providing the outfitting

1 and guiding services and the equipment, supplies, livestock and materials.

2 “(g) Proof that the outfitter and guide has liability insurance covering
3 occurrences by the outfitter and guide, and the employees of the outfitter
4 and guide, which result in bodily injury or property damage. To meet the
5 requirement under this paragraph, insurance must provide combined single
6 limit per occurrence general liability coverage of at least \$500,000.

7 “(h) Certification by the outfitter and guide that the outfitter and guide
8 will maintain the insurance required by paragraph (g) of this subsection
9 continuously and in full force and effect for a period of time to be determined
10 by the board by rule.

11 “(i) The affidavit of the outfitter and guide stating that for a period of
12 not less than 24 months immediately prior to making the registration appli-
13 cation the outfitter and guide and each person who provides or assists in
14 directly providing outfitting and guiding services:

15 “(A) Have not been convicted of **or charged with:**

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

18 “(ii) A violation under this chapter or ORS chapter 477, 496, 497, 498, 501,
19 506, 508, 509, 511 or 830 or any rule adopted pursuant to ORS chapter 477,
20 496, 497, 498, 501, 506, 508, 509, 511 or 830;

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

24 “(iv) A crime involving delivery, manufacture or possession of a con-
25 trolled substance, as defined in ORS 475.005, except marijuana; or

26 “(v) Assault in any degree, criminal homicide as defined in ORS 163.005
27 or kidnapping in any degree;

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

1 “(C) Have not been denied the right to apply for an outfitting and guiding
2 license, permit or certificate by another state or by an agency of the gov-
3 ernment of the United States; and

4 “(D) Have not been convicted of **or charged with** guiding without regis-
5 tration as required by this subsection.

6 “(j) The affidavit of the outfitter and guide stating that the outfitter and
7 guide and each person who provides or assists in directly providing outfitting
8 and guiding services have not been convicted of **or charged with**:

9 “(A) A crime, the result of which prohibits the person from possessing a
10 firearm; or

11 “(B) A crime, the result of which requires the person to be registered as
12 a sex offender under ORS 163A.010, 163A.015, 163A.020 or 163A.025.

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

18 “(a) If operating a motorboat on waterways determined to be navigable
19 by the United States Coast Guard, that the outfitter and guide possesses a
20 valid United States Coast Guard operator license; and

21 “(b) Of liability insurance in a form prescribed by the board by rule.

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

1 upon services.

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

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

6 “(a) For resident persons, \$150.

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

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

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

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

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

1 tion decal.

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

5 **“SECTION 4.** ORS 704.020, as amended by section 7, chapter 422, Oregon
6 Laws 2013, and section 2, chapter 438, Oregon Laws 2015, is amended to read:

7 “704.020. (1) Any person who acts or offers to act as an outfitter and guide
8 must first register with the State Marine Board. Each registration shall be
9 submitted annually on a form provided by the board and shall include the
10 following information:

11 “(a) The name, residence address and telephone number of the person
12 providing outfitting and guiding services, and all business names, addresses
13 and telephone numbers under which outfitting and guiding services are pro-
14 vided.

15 “(b) Proof that the business under which outfitting and guiding services
16 are provided has registered with the Secretary of State.

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

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

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

1 “(f) A description of:

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

4 “(B) The geographic area in which the outfitter and guide provides the
5 outfitting and guiding services and the equipment, supplies, livestock and
6 materials; and

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

9 “(g) Proof that the outfitter and guide has liability insurance covering
10 occurrences by the outfitter and guide, and the employees of the outfitter
11 and guide, which result in bodily injury or property damage. To meet the
12 requirement under this paragraph, insurance must provide combined single
13 limit per occurrence general liability coverage of at least \$500,000.

14 “(h) Certification by the outfitter and guide that the outfitter and guide
15 will maintain the insurance required by paragraph (g) of this subsection
16 continuously and in full force and effect for a period of time to be determined
17 by the board by rule.

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

22 “(A) Have not been convicted of **or charged with:**

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

25 “(ii) A violation under this chapter or ORS chapter 477, 496, 497, 498, 501,
26 506, 508, 509, 511 or 830 or any rule adopted pursuant to ORS chapter 477,
27 496, 497, 498, 501, 506, 508, 509, 511 or 830;

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

1 “(iv) A crime involving delivery, manufacture or possession of a con-
2 trolled substance, as defined in ORS 475.005, except marijuana; or

3 “(v) Assault in any degree, criminal homicide as defined in ORS 163.005
4 or kidnapping in any degree;

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

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

11 “(D) Have not been convicted of **or charged with** guiding without regis-
12 tration as required by this subsection.

13 “(j) The affidavit of the outfitter and guide stating that the outfitter and
14 guide and each person who provides or assists in directly providing outfitting
15 and guiding services have not been convicted of **or charged with**:

16 “(A) A crime, the result of which prohibits the person from possessing a
17 firearm; or

18 “(B) A crime, the result of which requires the person to be registered as
19 a sex offender under ORS 163A.010, 163A.015, 163A.020 or 163A.025.

20 “(2)(a) In addition to the requirements of subsection (1) of this section, a
21 person who acts or offers to act as an outfitter and guide using boats that
22 are under the direct operation of an outfitter and guide or an employee of
23 an outfitter and guide for the purpose of carrying passengers on the waters
24 of this state must submit proof:

25 “(A) If operating a motorboat on the waters of this state, that the out-
26 fitter and guide:

27 “(i) Has passed a written test adopted by the board by rule;

28 “(ii) Has participated in a drug and alcohol program as defined by the
29 board by rule; and

30 “(iii) Has completed a physical examination every five years as required

1 by the board by rule.

2 “(B) Of liability insurance in a form prescribed by the board by rule.

3 “(b) A person is exempt from paragraph (a)(A) of this subsection if the
4 person is operating a motorboat on waters of this state determined to be
5 navigable by the United States Coast Guard and the person possesses a valid
6 United States Coast Guard operator license.

7 “(3)(a) A person who registers as an outfitter and guide and who accepts
8 deposits from clients in excess of \$100 per person shall submit a bond or
9 other financial security in the amount of \$5,000 to the board at the time of
10 registration. The bond or other financial security shall be held by the board
11 for the benefit of clients of the outfitter and guide who pay a money deposit
12 to the outfitter and guide in anticipation of services to be received. The
13 bond or other financial security amount shall be released to such client or
14 clients conditioned upon a failure of the outfitter and guide to return the
15 deposit following cancellation of services or other failure to provide agreed
16 upon services.

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

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

21 “(a) For resident persons, \$150.

22 “(b) For nonresident persons who reside in a state that requires residents
23 of this state to pay a license fee, registration fee or other fee or charge in
24 excess of \$150 to act as an outfitter and guide in that state, the same fee or
25 other charge as is charged the residents of this state to act as an outfitter
26 and guide in the state where the nonresident applicant resides. If the state
27 in which such a nonresident applicant resides makes distinctions in fees or
28 charges based on the type of outfitter and guide service performed and re-
29 quires residents of this state to pay fees or charges accordingly, the board
30 shall make and apply those same distinctions and require the nonresident

1 applicants to pay the corresponding fees or charges.

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

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

9 “(6) A person who conducts sightseeing flights or other aircraft oper-
10 ations is exempt from the provisions of this section unless the activities
11 conducted by the person are outdoor recreational activities as defined in
12 ORS 704.010.

13 “(7) The board shall issue an identifying decal to outfitters and guides
14 registering under this section that may be displayed on vehicles, pack
15 equipment or other suitable locations where customers can see the registra-
16 tion decal.

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

20 **“SECTION 5.** ORS 704.040 is amended to read:

21 “704.040. (1) The Legislative Assembly finds that violation of fire pre-
22 vention, wildlife, hunting, angling, trapping, commercial fishing, recreational
23 boating or public safety laws is directly related to the fitness required for
24 registration as an outfitter and guide.

25 “(2) When a person is convicted of a felony or misdemeanor related to the
26 provision of services regulated by this chapter, a violation of ORS 704.020
27 or 704.030 or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511 or 830,
28 or any rule promulgated pursuant to ORS 704.500 or ORS chapter 477, 496,
29 497, 498, 501, 506, 508, 509, 511 or 830, the court having jurisdiction of the
30 offense may order the State Marine Board to revoke the certificate of regis-

1 tration issued to that person pursuant to ORS 704.020.

2 “(3) When a court orders revocation of a certificate of registration pur-
3 suant to this section, the court shall take up the certificate of registration
4 and forward it with a copy of the revocation order to the board. Upon receipt
5 thereof, the board shall cause revocation of the certificate of registration in
6 accordance with the court order.

7 “[~~(4)~~ *A person who has had a certificate of registration revoked pursuant*
8 *to a court order under this section is ineligible to register under ORS 704.020*
9 *for a period of 24 months from the date the court ordered the revocation.*]

10 “[~~(5)~~] **(4) Except as provided in subsection (6) of this section,** the
11 board, in its discretion, may reprimand an outfitter and guide or suspend for
12 up to [~~24~~] **60** months, revoke or deny the registration of an outfitter and
13 guide for any of the following:

14 “(a) Conviction of a felony or misdemeanor related to the provision of
15 services regulated by this chapter.

16 “(b) Any serious or repeated violation of this chapter or ORS chapter 477,
17 496, 497, 498, 501, 506, 508, 509, 511 or 830 or any rule adopted pursuant to
18 ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511 or 830.

19 “(c) Any serious or repeated violation of the fish and wildlife laws or
20 regulations of the federal government or of another state for committing or
21 omitting acts that, if committed or omitted in this state, would be a violation
22 of ethical or professional standards established pursuant to this chapter. A
23 certified copy of the record of suspension or revocation of the state making
24 such suspension or revocation is conclusive evidence thereof.

25 “(d) Having an outfitter and guide registration, license, permit or certif-
26 icate suspended, revoked, canceled or denied by another state or by an
27 agency of the United States for committing or omitting acts that, if com-
28 mitted or omitted in this state, would be a violation of ethical or professional
29 standards established pursuant to this chapter. A certified copy of the record
30 of suspension or revocation of the state making such suspension or revoca-

1 tion is conclusive evidence thereof.

2 “(e) Having a United States Coast Guard vessel operator license revoked,
3 suspended or canceled by the United States Coast Guard for committing or
4 omitting acts that if committed or omitted in this state would be a violation
5 of standards established pursuant to this chapter. A certified copy of the
6 record of revocation, suspension or cancellation from the United States
7 Coast Guard is conclusive evidence thereof.

8 “(f) Engaging in fraudulent, untruthful or seriously misleading advertis-
9 ing in the conduct of the outfitting and guiding services.

10 “(g) Conviction of a crime involving delivery, manufacture or possession
11 of a controlled substance, as defined in ORS 475.005, except marijuana.

12 “(h) Conviction of assault in any degree, criminal homicide as defined in
13 ORS 163.005 or kidnapping in any degree.

14 “[~~(6)~~] **(5)** The board shall revoke the registration of an outfitter and guide
15 for:

16 “(a) Conviction of a crime, the result of which prohibits the person from
17 possessing a firearm; or

18 “(b) Conviction of a crime, the result of which requires the person to be
19 registered as a sex offender under ORS 163A.010, 163A.015, 163A.020 or
20 163A.025.

21 **“(6) The board may deny, for any period, the registration of an**
22 **outfitter and guide if:**

23 **“(a) The outfitter and guide or any person who provides or assists**
24 **the outfitter and guide in directly providing outfitting and guiding**
25 **services has had a certificate of registration revoked pursuant to a**
26 **court order under this section for conviction of a violation of ORS**
27 **chapter 496, 497, 498 or 501, or any rule adopted pursuant to ORS**
28 **chapter 496, 497, 498 or 501; and**

29 **“(b) The violation described in paragraph (a) of this subsection in-**
30 **volved the unlawful taking or killing of wildlife with a culpable mental**

1 **state as provided for in ORS 496.992.**

2 “(7) The board shall adopt rules to implement subsections [(5) and (6)] (4)
3 **to (6)** of this section, including rules that describe conduct that is a serious
4 or repeated violation of a law, rule or regulation.

5 **“SECTION 6. Section 2 of this 2017 Act and the amendments to ORS**
6 **704.020 and 704.040 by sections 3 to 5 of this 2017 Act apply to violations**
7 **of agency requirements committed on or after the effective date of this**
8 **2017 Act.”**

9
