

TITLE 36
FISH AND GAME

CHAPTER 21
OUTFITTERS AND GUIDES

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.

[36-2101, added 1976, ch. 95, sec. 2, p. 386; am. 1988, ch. 269, sec. 1, p. 886; am. 2014, ch. 256, sec. 1, p. 646.]

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 the acts enumerated herein: (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 that are known to involve inherent risk limited to the following: hunting animals or birds; float or power boating on Idaho lakes, reservoirs, 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) "License year" means that period of time beginning on April 1 and expiring March 31 the following year.

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

(g) "Allocated tag" means a hunting tag that has been allocated by the fish and game commission pursuant to section [36-408](#) (4), Idaho Code.

(h) "Capped hunt" means a game management area, unit, or zone for which the fish and game commission has limited or "capped" the number of deer or elk tags available for use in a general season hunt.

(i) "Controlled hunt" means a hunt for a species that has a framework determined by the fish and game commission and that has a limited number of tags that are distributed by random drawing to hunters.

(j) "Outfitted hunter tag use history" means the number of tags used by clients of an outfitter for the hunt or hunts with the most similar framework to the hunt for which the allocated tag is being designated.

(k) "Remaining allocated tag" means an allocated tag in an existing capped or controlled hunt that would have been designated to a particular outfitting operation had the outfitting operation used all of its previously designated allocated tags in the preceding big game season or seasons and that will be designated pursuant to this chapter.

(l) "Base allocation" means the historic tag use of an outfitting operation over the preceding two (2) years in a given hunt as computed in section [36-2120](#) (2), Idaho Code.

(m) "Pool" means a group of tags that have not been utilized or have been surrendered by the outfitting operation to which they were originally designated and are made available to other operations in the same hunt.

(n) "Utilized" means that a tag has been purchased, exchanged, or converted at the department of fish and game as a designated allocated tag.

(o) "Commission" means the Idaho fish and game commission.

(p) "Compensation" means the receipt, exchange, or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party is not deemed compensation. However, such out-of-pocket expenses shall not include depreciation, amortization, wages, or other recompense.

(q) "Facilities and services" or "facilities or services" means the provision of personnel; lodging, including a tent, home, lodge, or hotel or motel; transportation, other than by commercial carrier; guiding; preparation and serving of food and equipment; or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designated in subsection (b) of this section.

(r) "Hazardous desert or mountain excursions" means outfitted or guided activities conducted in a desert or mountainous environment that may constitute a potential danger to the health, safety, or welfare of participants involved and are known to involve inherent risk. These activities

include day or overnight trailrides, backpacking, technical mountaineering and rock climbing, cross-country skiing, backcountry alpine skiing, animal pack trips, snowmobiling, operating an all-terrain vehicle, paragliding, anadromous fishing, chukar hunting, trapping, motored and non-motored cycling, wagon rides, sleigh rides, and dog sled rides.

(s) "Minor amendment" means all outfitter license amendment requests that can be processed by the board without requiring recommendation of a land managing agency or other agency before the board takes final action on said amendment request.

(t) "Operating area" means the area assigned by the board to an outfitter for the conduct of outfitting activities.

(u) "Out-of-pocket expenses" means the direct expenses attributable to a recreational activity. Such direct expenses do not include compensation for either sponsors or participants, amortization or depreciation of debt or equipment, or costs of nonexpendable supplies.

[36-2102, added 1976, ch. 95, sec. 2, p. 387; am. 1977, ch. 162, sec. 1, p. 418; am. 1988, ch. 269, sec. 2, p. 887; am. 1990, ch. 254, sec. 1, p. 727; am. 2001, ch. 271, sec. 1, p. 989; am. 2014, ch. 256, sec. 2, p. 646; am. 2017, ch. 118, sec. 1, p. 271; am. 2020, ch. 113, sec. 2, p. 360; am. 2023, ch. 152, sec. 1, p. 406.]

36-2103. EXCEPTIONS. (1) The foregoing definitions of the terms "outfitter" and "guide" 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) 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.

[36-2103, added 1976, ch. 95, sec. 2, p. 388; am. 1991, ch. 157, sec. 1, p. 373; am. 2001, ch. 271, sec. 2, p. 990; am. 2014, ch. 256, sec. 3, p. 647.]

36-2104. LICENSE A PREREQUISITE FOR OUTFITTING AND GUIDING. (1) It is a misdemeanor for any person to engage in the business of or act in the capacity of an outfitter or outfitting, or in the occupation of guiding, unless such person has first secured an outfitter's or guide's license in accordance with the provisions of this chapter, or for any person to knowingly and willingly conspire to violate the provisions of this chapter.

(2) It is a misdemeanor for any person to provide consideration or compensation for services requiring an outfitting or guiding license to another person, when such person providing consideration or compensation knows the person providing such services is not duly licensed as an outfitter or guide in accordance with the provisions of this chapter.

(3) Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, such person shall be punished as provided in section [36-2117](#), Idaho Code.

[36-2104, added 1976, ch. 95, sec. 2, p. 388; am. 1982, ch. 174, sec. 1, p. 459; am. 1988, ch. 269, sec. 3, p. 888; am. 1990, ch. 254, sec. 2, p. 728; am. 2008, ch. 112, sec. 1, p. 314.]

36-2105. CREATION OF IDAHO OUTFITTERS AND GUIDES LICENSING BOARD. There is hereby created in the division of occupational and professional licenses the Idaho outfitters and guides licensing board, herein referred to as "the board," consisting of four (4) members appointed by the governor, and one (1) member appointed by the Idaho fish and game commission, as provided in section [36-2106](#), Idaho Code.

[36-2105, added 1976, ch. 95, sec. 2, p. 388; am. 1988, ch. 269, sec. 4, p. 888; am. 2021, ch. 222, sec. 1, p. 622.]

36-2106. APPOINTMENT AND QUALIFICATION OF MEMBERS -- ORGANIZATION OF BOARD. One (1) member shall be a member of the Idaho fish and game commission or a person selected by that body. Each appointment made by the fish and game commission shall be for a term of three (3) years. One (1) member shall be selected from the public. Three (3) members of the board shall be qualified and licensed outfitters and guides who have not had less than five (5) years' experience in the business of outfitting and guiding in the state of Idaho. Each appointment shall be for the term of three (3) years and each board member shall hold office for a term of three (3) years. Upon the death, resignation or removal of any but the member representing the fish and game commission, the governor shall appoint a member to fill out the unexpired term as provided in this section. Immediately upon the creation of a vacancy, one (1) of the positions held by an outfitter or guide, either through expiration of term, death, resignation or removal, the Idaho outfitters and guides association shall submit to the governor the names of two (2) qualified persons for each such vacancy created and the appointment to fill such vacancy shall be made by the governor who may consider recommendations for appointment to the board from the association and from any individual residing in this state. All appointments to the board made after July 1, 1986, shall be subject to the advice and consent of the senate. Appointments to fill any vacancy other than that created by the expiration of a term shall be made for the unexpired term. All board members shall serve at the pleasure of the governor. A majority of said board shall constitute a quorum. The board shall meet at least four (4) times a year, and at least two (2) meetings shall be held in Boise, Idaho. Each member of the board shall be compensated as pro-

vided by section [59-509](#)(h), Idaho Code. The member representing the fish and game commission shall be paid by the fish and game commission.

[36-2106, added 1976, ch. 95, sec. 2, p. 388; am. 1977, ch. 162, sec. 2, p. 419; am. 1978, ch. 92, sec. 5, p. 176; am. 1978, ch. 131, sec. 1, p. 292; am. 1980, ch. 247, sec. 30, p. 603; am. 1986, ch. 236, sec. 1, p. 648; am. 1988, ch. 269, sec. 5, p. 888; am. 1993, ch. 257, sec. 1, p. 886; am. 2016, ch. 340, sec. 1, p. 931.]

36-2107. POWERS AND DUTIES OF BOARD. The board shall have the following duties and powers:

(a) To conduct examinations to ascertain the qualifications of applicants for outfitter's or guide's licenses, and to issue such licenses to qualified applicants, with such restrictions and limitations thereon as the board may find reasonable.

(b) To prescribe and establish rules of procedure to carry into effect the provisions of this chapter including, but not limited to, rules prescribing all requisite qualifications of training, experience, knowledge of rules of governmental bodies, condition and type of gear and equipment, and examinations to be given applicants, whether oral, written or demonstrative, or a combination thereof.

(c) To conduct hearings and proceedings to suspend, revoke or restrict the licenses of outfitters or guides, and to suspend, revoke or restrict said licenses for due cause in the manner hereinafter provided.

(d) The board is expressly vested with the power and the authority to enforce the provisions of this chapter, including obtaining injunctive relief, and to make and enforce any and all reasonable rules which shall by it be deemed necessary and which are not in conflict with the provisions of this chapter, for the express purpose of safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing the services of outfitters and guides, and for the conservation of wildlife and range resources.

(e) The board shall have the power to cooperate with the federal and state government through its appropriate agency or instrumentality in matters of mutual concern regarding the business of outfitting and guiding in Idaho.

(f) The board shall have the power throughout the state of Idaho to request the attendance of witnesses and the production of such books, records and papers as may be required at any hearing before it. The board or its hearing officer may issue and serve subpoenas or subpoenas duces tecum in a manner consistent with [chapter 52, title 67](#), Idaho Code, the rules of the office of the attorney general, and rules 45(e)(2) and 45(g) of the Idaho rules of civil procedure. Payment of fees or mileage for service of subpoenas or attendance of witnesses shall be paid by the board consistent with the provisions of [chapter 52, title 67](#), Idaho Code, the rules of the office of the attorney general, and rule 45(e)(1) of the Idaho rules of civil procedure. Disobedience of a subpoena or subpoena duces tecum may be enforced by making application to the district court. Disobedience by a licensee of a subpoena or subpoena duces tecum issued by the board shall be deemed a violation of a board order.

(g) The division administrator shall have the power to hire enforcement agents in order to conduct investigations and enforce the provisions of this chapter. All enforcement agents appointed by the board who are certified by

the Idaho peace officer standards and training council shall have the power of peace officers limited to:

1. Enforcement of the provisions of this chapter.
2. Responding to express requests from other law enforcement agencies for aid and assistance in enforcing other laws. For purposes of this section, such a request from a law enforcement agency shall mean only a request as to a particular and singular violation or suspicion of violation of law and shall not constitute a continuous request for assistance outside the purview of enforcement of the provisions of this chapter.

(h) The board shall designate the number of deer or elk tags allocated pursuant to section [36-408](#)(4), Idaho Code, among the authorized outfitting operations within each capped or controlled zone, unit, or game management area in a fair and equitable manner designed to maximize the use of allocated tags by the outfitted public and promote predictability for individual outfitting operations that have previously used or ensured the use of the allocated tags designated to them. The board will report the number of tags designated to each outfitter operation back to the department of fish and game for distribution.

[36-2107, added 1976, ch. 95, sec. 2, p. 389; am. 1978, ch. 131, sec. 2, p. 293; am. 1988, ch. 269, sec. 6, p. 889; am. 1989, ch. 360, sec. 1, p. 904; am. 1991, ch. 131, sec. 1, p. 287; am. 1991, ch. 268, sec. 1, p. 658; am. 1997, ch. 136, sec. 2, p. 406; am. 2001, ch. 170, sec. 2, p. 584; am. 2001, ch. 271, sec. 3, p. 990; am. 2003, ch. 205, sec. 1, p. 546; am. 2008, ch. 112, sec. 2, p. 314; am. 2019, ch. 243, sec. 2, p. 737; am. 2020, ch. 113, sec. 3, p. 361; am. 2021, ch. 221, sec. 1, p. 607; am. 2023, ch. 152, sec. 2, p. 408.]

36-2108. APPLICATION FOR LICENSE -- CONTENTS -- FEE -- QUALIFICATIONS -- TERM -- BOND. (a) Each applicant for an outfitter's or guide's license shall make application for such license upon a form to be prescribed and furnished by the board.

1. All applications for an outfitter's license shall be signed by the applicant, under oath or affirmation that all information supplied by him in the application form is true and correct as he verily believes and shall be duly notarized. Such applications shall include, but are not limited to, a worded description of the boundaries of the operating area in which such activity will be conducted.

2. All applications for a guide's license shall be signed by the applicant.

(b) Applications shall be made to and filed with the board and, unless arrangements have been made otherwise with the board, accompanied by proof of eligibility for a bond payable to the person or persons employing the licensee and in a form approved by the board in the sum of ten thousand dollars (\$10,000) for outfitters, to be executed by a qualified surety, duly authorized to do business in this state, conditioned that for the current license year said applicant, his agents and employees, if said license is issued to him, shall conduct his business as an outfitter without fraud or fraudulent representation, and will faithfully perform his contracts with and duties to his patrons; said bond shall be filed with the board before issuance of the license as provided herein.

(c) The board, in its discretion, may make such additional investigation and inquiry relative to the applicant and his qualifications as it shall deem advisable, provided that final decision by the board upon an applica-

tion submitted by an applicant who has held during the preceding license year a license of the same kind for which application is made, and upon an application submitted by an applicant not holding during the preceding license year a license of the same kind or embracing the same activity(ies) or area for which application is made, shall be made not later than the end of the license year in which the board receives all materials required to be submitted in order to complete a license application or ninety (90) days from the date the board receives all such materials, whichever is later.

(d) The applicant shall pay license, penalty, amendment and application fees to the board as hereinafter provided:

1. The license fee shall be paid prior to the issuance of a license.
2. The license fee shall be used for the investigation of applicants, for enforcement of this chapter, and for the administration costs of the board.
3. The license fee for outfitters shall be four hundred dollars (\$400) for online licensing and four hundred fifty dollars (\$450) for offline licensing; the license fee for a designated agent as defined in section [36-2102](#)(b), Idaho Code, shall be one hundred forty dollars (\$140) for online licensing and one hundred sixty dollars (\$160) for offline licensing; and the license fee for guides shall be one hundred five dollars (\$105) for online licensing and one hundred fifteen dollars (\$115) for offline licensing.
4. A penalty fee in the amount of one hundred fifty dollars (\$150) may be charged in addition to the regular outfitter's license fee for any such renewal applicant whose application is not complete by the end of the outfitter's license year; this does not apply to a new applicant for an outfitter's license.
5. A two-hundred-dollar (\$200) fee shall be charged for every amendment to an outfitter's license other than a minor amendment, a thirty-five-dollar (\$35.00) fee shall be charged for every minor amendment to an outfitter's license, and a twenty-dollar (\$20.00) fee shall be charged for every amendment to the license of a designated agent or guide.
6. The following fees shall be established annually by the board and shall be used for application related expenses: a one-time application fee for outfitters not to exceed four hundred dollars (\$400); a one-time application fee for designated agents not to exceed fifty dollars (\$50.00); and a one-time application fee for guides not to exceed twenty dollars (\$20.00). The board shall establish by rule a policy to refund unused application fees and shall establish by rule fees for expedited, exceptional, resubmittal or emergency processing of license applications, a fee credit for electronic filing of applications and a fee for the use of credit cards corresponding to the cost to the agency of processing the card use.

[36-2108, added 1976, ch. 95, sec. 2, p. 391; am. 1978, ch. 131, sec. 3, p. 294; am. 1983, ch. 74, sec. 1, p. 160; am. 1984, ch. 262, sec. 1, p. 632; am. 1988, ch. 269, sec. 7, p. 890; am. 1988, ch. 288, sec. 1, p. 922; am. 1991, ch. 131, sec. 2, p. 289; am. 1998, ch. 339, sec. 1, p. 1085; am. 2000, ch. 290, sec. 1, p. 1005; am. 2001, ch. 271, sec. 4, p. 992; am. 2003, ch. 75, sec. 1, p. 247; am. 2003, ch. 77, sec. 1, p. 250; am. 2004, ch. 158, sec. 1, p. 509; am. 2023, ch. 152, sec. 3, p. 409.]

36-2109. FORM AND TERM OF LICENSE -- NOTICE OF DENIAL. (a) Upon concurrence of a majority, the board, in its discretion may issue a license to any applicant who has filed an application in proper form with the board including, but not limited to, payment of the license fee and furnishing of bond. Said license shall be in the form prescribed by the board, shall be valid from the date issued, and shall expire as determined by law or rule; provided, that no outfitter's or guide's license may be sold, assigned or otherwise transferred either by any holder thereof or by the operation of law except as provided in this chapter. The board may prescribe by rule that limitations or qualifications placed upon an outfitter's or guide's license as provided in this chapter shall be indicated on the face of the license or as an attachment to the license which shall be considered a part of the license.

(b) An outfitter license granted by the board including any attachment thereto shall specify the activities licensed and the exact territorial limits of the outfitter's area of operation and shall specify the species of game to be hunted. In so approving and/or licensing any outfitter's or guide's activity, the board shall consider the following matters, among others:

1. The length of time in which the applicant has operated in that area;
2. The extent to which the applicant is qualified by reason of experience, equipment or resources to operate in that area;
3. The applicant's previous safety record;
4. The accessibility of the area, the particular terrain and the weather conditions normal to that area during the outfitter's or guide's season;
5. The total amount of outfitter's area requested by any applicant giving due consideration to the effect that such area license grant would have upon the environment, the amount of game that can be harvested, and the number of persons that can be adequately served in the area.

(c) The board shall refuse to issue any license to any applicant for an outfitter's or guide's license who the board finds is not a competent person, who has been convicted, found guilty, or received a withheld judgment or a suspended sentence in this state or in any other state of a crime that is deemed relevant in accordance with section [67-9411\(1\)](#), Idaho Code, who is less than eighteen (18) years of age, or who does not possess a working knowledge of the game and fishing laws of the state of Idaho and the regulations of the United States forest service. The board shall also refuse to issue an outfitter's license to any applicant who the board finds does not have sufficient financial responsibility to conduct adequately the business of an outfitter. The board shall refuse to issue any license to a firm, partnership, corporation or other organization or any combination thereof that fails to have at least one (1) designated agent conducting its outfitting business who meets all of the qualifications and requirements of a licensed outfitter. The board may also refuse to grant an outfitter's or guide's license to any applicant for violation of any of the provisions hereinafter specified in this chapter as grounds for revocation or suspension of an outfitter's or guide's license. If the application is denied, the board shall notify the applicant, in writing, of the reasons for such denial within ten (10) days and if the applicant shall correct, to the satisfaction of the board, such reasons within thirty (30) days of receipt of such notice and if, thereafter, a majority of the board concur, the board may issue a license to the applicant.

(d) No license shall be issued by the board until a majority thereof has reported favorably thereon; except, an application for a license identical to a license held during the previous year may be issued on approval by one (1) board member providing there is no adverse information on file regarding the applicant.

[36-2109, added 1976, ch. 95, sec. 2, p. 392; am. 1977, ch. 162, sec. 3, p. 420; am. 1978, ch. 131, sec. 4, p. 296; am. 1982, ch. 174, sec. 2, p. 459; am. 1988, ch. 269, sec. 8, p. 892; am. 1998, ch. 299, sec. 1, p. 988; am. 2003, ch. 76, sec. 1, p. 249; am. 2010, ch. 39, sec. 1, p. 69; am. 2022, ch. 246, sec. 1, p. 786; am. 2023, ch. 152, sec. 4, p. 411.]

36-2110. OPERATIONS OF LICENSEES -- ADJUSTMENT OF AREA -- RULES. (a) Possession of a valid license issued by the board shall be a prerequisite to acting as an outfitter or guide.

1. No more than one (1) person may operate as an outfitter or guide under one (1) license.

2. The operating area as set forth on the outfitter's license including any attachment thereto shall be the limit of such operations for each licensee, subject to subsection (b) below.

(b) The board may adjust the territorial scope of operations of any licensed outfitter, for reasons of game harvest, where territorial conflict exists, or for the safety of persons utilizing the services of outfitters.

(c) The board shall adopt rules to carry out the provisions of this section.

[36-2110, added 1976, ch. 95, sec. 2, p. 394; am. 1988, ch. 269, sec. 9, p. 893; am. 1997, ch. 345, sec. 5, p. 1030; am. 2010, ch. 38, sec. 1, p. 69.]

36-2111. DISPOSITION OF FUNDS -- CONTINUING APPROPRIATION. All fees collected by the board under the provisions of this chapter shall be deposited with the state treasurer in a special fund, which fund is hereby created, and designated as the Idaho outfitters and guides board fund. All moneys deposited in such fund are hereby continually appropriated to the outfitters and guides board for the purpose of conducting all operations of the board.

[36-2111, added 1976, ch. 95, sec. 2, p. 394.]

36-2112. LICENSED OUTFITTERS MAY ACT AS GUIDES. Any natural person holding a current and valid outfitter's license may act as a guide without a guide's license if he possesses the qualifications of a guide as determined by the board.

[36-2112, added 1976, ch. 95, sec. 2, p. 394.]

36-2113. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS. (a) Every license is subject to suspension, revocation, refusal to issue or renew, probation or other restriction by the board for the commission of any of the following acts:

1. For supplying false information or for failure to provide information required to be furnished or for other fraud or deception in procuring a license under the provisions of this chapter.

2. For fraudulent, untruthful or misleading advertising.
3. For conviction of a felony.
4. For two (2) or more forfeitures of any deposits of money or collateral with a court or administrative agency or for a conviction for violation of regulations of the United States forest service or the bureau of land management.
5. For unethical or unprofessional conduct as defined by rules of the board.
6. For conviction of any violation of any state or federal fish and game or outfitting and guiding laws.
7. For a substantial breach of any contract with any person utilizing his services.
8. For willfully (i) operating in any area for which the licensee is not licensed, or (ii) engaging in any activity for which the licensee is not licensed.
9. For the employment of an unlicensed guide by an outfitter.
10. For inhumane treatment of any animal used by the licensed outfitter or guide in the conduct of his business which endangers the health or safety of any guest or patron or which interferes with the conduct of his business.
11. For failure by any firm, partnership, corporation or other organization or any combination thereof licensed as an outfitter to have at least one (1) licensed outfitter as designated agent conducting its outfitting business who meets all of the qualifications and requirements of a licensed outfitter.
12. For the failure to provide any animal used by the licensed outfitter or guide in the conduct of his business with proper food, drink and shelter, or for the subjection of any such animal to needless abuse or cruel and inhumane treatment.
13. For failure of an outfitter to serve the public in any of the following ways: (i) by nonuse of license privileges as defined by rules of the board, (ii) by limiting services to any individual, group, corporation or club that limits its services to a membership, or (iii) by not offering services to the general public.
14. For violation of or noncompliance with any applicable provision of this chapter, or for violation of any lawful rule or order of the outfitters and guides licensing board.

(b) For the purposes of this section, the term "conviction" shall mean a finding of guilt, an entry of a guilty plea by a defendant and its acceptance by the court, or a forfeiture of bail bond or collateral deposited to secure a defendant's appearance, suspended sentence, probation or withheld judgment.

(c) In addition to the penalties imposed in this section, the board may impose an administrative fine not to exceed five thousand dollars (\$5,000) for each violation of the provisions of this chapter.

(d) The jurisdiction and authority of the board pursuant to this section and section [36-2114](#), Idaho Code, extend to any former licensee for a violation of this section which occurred during the period of licensure.

(e) The assessment of costs and fees incurred in the investigation and prosecution or defense of a licensee under this section shall be governed by the provisions of section [12-117](#)(5), Idaho Code.

[36-2113, added 1976, ch. 95, sec. 2, p. 394; am. 1977, ch. 162, sec. 4, p. 422; am. 1978, ch. 131, sec. 5, p. 298; am. 1982, ch. 174, sec. 3, p.

460; am. 1984, ch. 262, sec. 2, p. 634; am. 1988, ch. 269, sec. 10, p. 893; am. 1991, ch. 131, sec. 3, p. 290; am. 1998, ch. 340, sec. 1, p. 1087; am. 2000, ch. 102, sec. 1, p. 226; am. 2003, ch. 205, sec. 2, p. 547; am. 2018, ch. 348, sec. 2, p. 797; am. 2023, ch. 152, sec. 5, p. 412.]

36-2114. REVOCATION OR SUSPENSION OF LICENSE -- REVIEW OF DENIAL OF LICENSE -- PROCEDURE. (a) Proceedings for the revocation or suspension of a license issued hereunder may be taken upon information and recommendation of any person. All accusations must be made in writing and signed by a person familiar therewith and submitted to the board. Thereupon, the board, acting as a board, or through its executive director, shall make a preliminary investigation of all facts in connection with such charge. The board in its discretion may either decide to take no further action and the results of such investigation shall be subject to disclosure according to [chapter 1, title 74](#), Idaho Code, or the board may decide to initiate proceedings to suspend or revoke the license of the outfitter or guide against whom a complaint has been filed, in which case the board shall set a time and place for hearing as provided in [chapter 52, title 67](#), Idaho Code. Notice of such hearing shall be given to the licensee against whom a citation or formal complaint has been filed not later than one hundred eighty (180) days after the filing of such citation or formal complaint. If, after full, fair and impartial hearing, the majority of the board shall find the accused has committed the violations alleged, the board may suspend the license for a period not to exceed one (1) year, or the board may order the license revoked. The board shall forthwith suspend or revoke such license in accordance with and pursuant to its order under the procedure established in [chapter 52, title 67](#), Idaho Code.

(b) Any applicant aggrieved by a denial of his application in whole or in part for an outfitter's or guide's license by the board shall have twenty-one (21) days from the day of receiving such notice of denial in which to submit a written request for a hearing before the board to review such action. Upon receipt of such request, the board shall hold a hearing as provided in [chapter 52, title 67](#), Idaho Code.

[36-2114, added 1976, ch. 95, sec. 2, p. 396; am. 1978, ch. 131, sec. 6, p. 299; am. 1990, ch. 213, sec. 30, p. 506; am. 1990, ch. 254, sec. 3, p. 728; am. 1993, ch. 216, sec. 18, p. 602; am. 1997, ch. 346, sec. 1, p. 1031; am. 2015, ch. 141, sec. 77, p. 436.]

36-2115. REVIEW OF BOARD ACTION. Any person aggrieved by any action of the board in denying the issuance of or in the suspension or revocation of an outfitter's or guide's license may proceed as provided in [chapter 52, title 67](#), Idaho Code.

[36-2115, added 1976, ch. 95, sec. 2, p. 397; am. 1993, ch. 216, sec. 19, p. 603]

36-2116. COMPLAINT FOR VIOLATION -- PROSECUTION BY COUNTY ATTORNEY. (a) The board or its designated agent may prefer a complaint before any court of competent jurisdiction in the county where the offense occurred, for a violation of: (i) the provisions of subsections (1), (2), (7), (8), or (9) of section [36-2113](#), Idaho Code; or (ii) any regulation promulgated pursuant to subsection (d) of section [36-2107](#), Idaho Code.

(b) Any person convicted of any violation enumerated in subsection (a) of this section shall be guilty of a misdemeanor and, upon conviction

thereof, shall be punished as provided in section [36-2117](#), Idaho Code. Fifty percent (50%) of all fines and forfeitures collected shall be paid to the outfitters and guides licensing board and such moneys so received by the board shall be deposited with the state treasurer and the state treasurer shall credit the same to the occupational licenses fund and fifty percent (50%) of all fines and forfeitures collected shall be distributed in accordance with section [19-4705](#), Idaho Code.

[36-2116, added 1976, ch. 95, sec. 2, p. 397; am. 1978, ch. 131, sec. 7, p. 300; am. 1982, ch. 174, sec. 4, p. 461; am. 1984, ch. 262, sec. 3, p. 635; am. 2021, ch. 224, sec. 26, p. 669.]

36-2117. PENALTY FOR VIOLATIONS -- PROSECUTING ATTORNEY TO PROSECUTE. (1) It shall be the duty of the prosecuting attorney of each county in the state to prosecute, in the county where the violation occurs, any person charged with violating the provisions of section [36-2104](#) or [36-2116](#), Idaho Code.

(2) Any person who pleads guilty or is found guilty of a first offense for violating the provisions of section [36-2104](#), Idaho Code, shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or by imprisonment in the county jail for a term not to exceed one (1) year, if other than a corporation, or by both such fine and imprisonment in the discretion of the court.

(3) Any person who pleads guilty or is found guilty of a second offense for violating the provisions of section [36-2104](#), Idaho Code, shall be punished by a fine of not less than two thousand five hundred dollars (\$2,500) nor more than five thousand dollars (\$5,000), or by imprisonment in the county jail for a term not to exceed one (1) year, if other than a corporation, or by both such fine and imprisonment in the discretion of the court.

(4) Any person who pleads guilty or is found guilty of a third or subsequent offense for violating the provisions of section [36-2104](#), Idaho Code, shall be punished by a fine of five thousand dollars (\$5,000), or by imprisonment in the county jail for a term not to exceed one (1) year, if other than a corporation, or by both such fine and imprisonment in the discretion of the court.

(5) Any person who pleads guilty or is found guilty of a violation of section [36-2116](#), Idaho Code, shall be guilty of a misdemeanor.

(6) All fines and penalties collected for violation of this section, under sentence or judgment of any court, shall be paid over by such court in the same manner as provided for in section [36-2116](#), Idaho Code. Such court shall also send to the Idaho outfitters and guides licensing board a statement setting forth the title of the court and of the cause for which such moneys were collected, the name and residence of the defendant or defendants, the nature of the offense or offenses and the fine and the sentence or judgment imposed and such moneys so received by the board shall be deposited with the state treasurer and the state treasurer shall credit the same to the occupational licenses fund. The court shall require any person violating the provisions of section [36-2104](#), Idaho Code, to reimburse the Idaho outfitters and guides licensing board or other city, county, state or federal agency for the employee costs and other costs incurred by the board or agency in the investigation and criminal prosecution of acts for violations of section [36-2104](#), Idaho Code.

(7) Any person who pleads guilty or is found guilty of violating the provisions of section [36-2104](#), Idaho Code, may, in the discretion of the court, have their license to hunt or take big game, or to fish, suspended for a period of time as determined by the court.

[36-2117, added 1976, ch. 95, sec. 2, p. 397; am. 1978, ch. 131, sec. 8, p. 301; am. 1982, ch. 174, sec. 5, p. 462; am. 1984, ch. 262, sec. 4, p. 636; am. 1988, ch. 269, sec. 11, p. 894; am. 2008, ch. 112, sec. 3, p. 316; am. 2021, ch. 224, sec. 27, p. 669.]

36-2117A. CIVIL PENALTY FOR VIOLATIONS. (a) The board or its designated agent may commence and prosecute in district court a civil enforcement action, including obtaining injunctive relief, against any person who is alleged to have violated this chapter or any rule promulgated pursuant to this chapter. The board shall not be required to initiate or prosecute an administrative action before commencing and prosecuting a civil action.

(b) No civil proceeding may be brought to recover for a violation of this chapter or any rule promulgated pursuant to this chapter more than two (2) years from the later of: the date the violation occurred or the date of the criminal conviction pursuant to section [36-2113](#), Idaho Code.

(c) The civil penalty for violation of the provisions of this chapter or any rule promulgated pursuant to this chapter shall not exceed five thousand dollars (\$5,000) for each separate violation.

(d) Any person who is found to have violated any provision of this chapter or any rule promulgated pursuant to this chapter shall be assessed the board's costs, including the reasonable value of attorneys' services, for preparing and litigating the case.

(e) Fifty percent (50%) of all moneys collected under this section shall be deposited with the state treasurer, and the state treasurer shall credit the same to the Idaho outfitters and guides board fund, and fifty percent (50%) of the moneys shall go to the general fund in the state operating fund.

[36-2117A, added 1984, ch. 262, sec. 5, p. 636; am. 1988, ch. 269, sec. 12, p. 895; am. 2003, ch. 205, sec. 3, p. 549.]

36-2118. LICENSE A PREREQUISITE FOR RECOVERY OF COMPENSATION. No person engaged in the business, or acting in the capacity, of an outfitter or guide, as defined in this chapter, within this state shall bring or maintain any action in the courts of this state for the collection of compensation for the performance of any services as such outfitter or guide, without alleging and proving that such person, partnership, or corporation was a duly licensed outfitter or guide at the time the alleged cause of action arose.

[36-2118, added 1976, ch. 95, sec. 2, p. 398.]

36-2119. BOARD ORDERS AND RULES. (a) All rules and orders adopted pursuant to the provisions of this chapter shall be made in accordance with [chapter 52, title 67](#), Idaho Code.

(b) All rules and orders made as herein provided shall have full force and effect as law and any person violating any such rule or order of the board, adopted and published as herein set forth, shall be guilty of a misdemeanor.

[36-2119, added 1988, ch. 269, sec. 13, p. 896; am. 1997, ch. 345, sec. 6, p. 1030.]

36-2120. DESIGNATION OF ALLOCATED TAGS. (1) Each time the commission allocates tags, except as provided in subsection (3) of this section, the board shall:

(a) Designate allocated tags using a formula that prioritizes an individual outfitting operation's use, including the transfer of allocated tags previously designated to it;

(b) Designate any remaining or additional undesignated allocated tags based on each outfitting operation's base allocation number in comparison to its use of previously designated allocated tags and in proportion to other outfitting operations;

(c) Incorporate the base allocation number into the formula used to designate allocated tags to each outfitting operation; and

(d) When reasonably practical to do so, designate allocated tags before the date on which nonallocated tags become available for sale to nonresidents for the hunt in which tags are allocated.

(2) An individual outfitting operation's base allocation number is computed as follows:

(a) In capped hunts, the average of the two (2) calendar years preceding the date of allocation of all outfitted hunter tag use history in the hunt with the most similar framework to the hunt for which the allocated tag is being designated.

(b) In controlled hunts, the highest year within the two (2) calendar years preceding the date of allocation of all outfitted hunter tag use history in the controlled hunt or hunts with the most similar framework to the hunt for which the allocated tag is being designated.

(3) If the commission allocates tags more frequently than biennially, the board will designate allocated tags only for the hunts for which the fish and game commission adjusted the number of allocated tags.

(4) If the commission reduces the number of allocated tags for a hunt from the immediately preceding big game season setting for that hunt, the board will designate allocated tags as set forth in this section, and then it will reduce each outfitting operation's designation by the same percentage as the percentage reduction to the total number of allocated tags, if necessary.

(5) If the commission allocates tags for a newly capped or controlled hunt, the board will designate allocated tags for that hunt proportionately based on each outfitting operation's base allocation number.

(6) The board may adjust the number of tags that would be otherwise designated to an outfitting operation for a hunt based upon a request and demonstration of hardship by one (1) or more outfitting operations authorized for that hunt, upon notice and an opportunity to be heard by all affected outfitting operations.

(7) Prior to turning back unsold allocated tags to the department of fish and game, a pool for these tags will be established within each hunt. These pooled tags will be accessible to other licensed outfitters in the same hunt for periods of time specified by the board.

(8) The board will notify licensees of the number of allocated tags designated to its operations and the basis for designation.

[36-2120, added 2020, ch. 113, sec. 4, p. 363; am. 2022, ch. 272, sec. 1, p. 878; am. 2023, ch. 152, sec. 6, p. 413.]