

# Senate Bill 244

Sponsored by Senator ROBLAN, Representative HELM (Pre-session filed.)

## 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 **as introduced**.

Modifies and creates laws related to outfitters and guides and charter boats.

### A BILL FOR AN ACT

1  
2 Relating to small watercraft; creating new provisions; amending ORS 704.010, 704.020, 704.030,  
3 704.035, 704.040, 704.070, 704.900, 830.435, 830.437, 830.440, 830.460, 830.465 and 830.997; and re-  
4 pealing ORS 830.445 and 830.450.

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

6 **SECTION 1.** ORS 830.435 is amended to read:

7 830.435. (1) Except as otherwise provided in this section, a person may not engage in the busi-  
8 ness of carrying seven or more passengers for hire for angling, sightseeing or other recreational  
9 purposes on the waters of this state [*without first obtaining*] **unless:**

10 (a) **The owner of the boat obtains** a charter boat license from the State Marine Board; and

11 (b) **The person operating the boat is a charter guide, as defined in ORS 704.010.**

12 (2) A person who holds a valid license or registration issued by the State of Washington may  
13 engage in the business of carrying passengers for hire for angling, sightseeing or other recreational  
14 purposes in this state without obtaining a charter boat license from the board if:

15 (a) The person operates a charter boat that leaves from and returns to a port in the State of  
16 Washington;

17 (b) The person operates the charter boat within the jurisdiction of the State of Oregon in the  
18 Pacific Ocean north of Cape Falcon, or in the Columbia River; and

19 (c) The State of Washington adopts provisions that allow a person to engage in the business of  
20 carrying passengers for hire for angling, sightseeing or other recreational purposes with a valid  
21 Oregon charter boat license within the jurisdiction of the State of Washington in the Pacific Ocean  
22 south of Leadbetter Point, or in the Columbia River.

23 **SECTION 2.** ORS 830.437 is amended to read:

24 830.437. The State Marine Board shall adopt rules establishing:

25 (1) Licensing requirements for [*operators of*] charter boats; and

26 (2) [*Safety*] **Equipment** standards for charter boats.

27 **SECTION 3.** ORS 830.440 is amended to read:

28 830.440. (1) An individual who desires to obtain a charter boat license shall submit a written  
29 application to the State Marine Board. The application shall include information regarding the  
30 charter boat and copies of documents and licenses regarding operation of the charter boat as re-  
31 quired by the board by rule. [*The application shall be accompanied by proof that the applicant has*  
32 *protection against liability imposed by law covering occurrences by the operator of the charter boat,*

**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 *and the employees of the operator, for the payment of damages for bodily injury or death in the mini-*  
 2 *imum amount of \$500,000 per occurrence, at any time while engaged in carrying passengers for hire.*  
 3 *The applicant shall certify that the charter boat complies with the equipment requirements established*  
 4 *by the board under ORS 830.450.]*

5 (2) With an application submitted under subsection (1) of this section, an applicant for a charter  
 6 boat license must provide evidence of the charter boat's carrying capacity in the form of a certif-  
 7 icate issued by the boat manufacturer or the United States Coast Guard or through a process es-  
 8 tablished by the board by rule.

9 (3) The annual fee for a charter boat license is:

10 [(a) *For charter boats owned by residents of this state if the charter boat has license, title and*  
 11 *number issued pursuant to ORS chapter 830, \$50.*]

12 [(b)] (a) For charter boats owned by residents of this state, **\$150** [*if the charter boat has a valid*  
 13 *marine document issued by an agency of the federal government, \$100*]. Payment of a fee under this  
 14 paragraph is in lieu of any other fee or tax imposed by the State of Oregon for possessing, owning  
 15 or operating a charter boat **and includes one outfitter and guide registration for the vessel**  
 16 **operator.**

17 [(c)] (b) For charter boats owned by persons who reside in a state that requires Oregon residents  
 18 to pay a license fee to operate a charter boat in the waters of that state, the same fee that is  
 19 charged Oregon residents to operate a charter boat in the state where the nonresident applicant  
 20 resides.

21 [(d)] (c) For all charter boats owned by nonresidents other than those described in paragraph  
 22 [(c)] (b) of this subsection, [*\$100*] **\$150.**

23 [(4)(a) *A person who applies for a license to operate a charter boat and who accepts deposits from*  
 24 *clients in excess of \$100 per person or whose agent accepts such deposits, shall submit a bond or other*  
 25 *financial security in the amount of \$5,000 to the board at the time of application. The bond or other*  
 26 *financial security shall be held by the board for the benefit of clients of the licensee who pay a money*  
 27 *deposit to the licensee or the licensee's agent in anticipation of services to be received. The bond or*  
 28 *other financial security amount shall be released to such client or clients conditioned upon a failure*  
 29 *of the licensee or the licensee's agent to return the deposit following cancellation of services or other*  
 30 *failure to provide agreed upon services.*]

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

33 [(5)] (4) A license issued pursuant to this section [*is*] **may be transferable, as determined by**  
 34 **the board by rule**, to [*a replacement charter boat of the license holder and is transferable to*] the  
 35 purchaser of the charter boat when the charter boat is sold.

36 **SECTION 4.** ORS 830.460 is amended to read:

37 830.460. (1) A person may not make any false statement of material fact in submitting an appli-  
 38 cation for a charter boat license under ORS 830.440.

39 (2) A person may not operate a charter boat to engage in activities for which a charter boat  
 40 license is required:

41 (a) If the State Marine Board or a representative of the board determines upon inspection that,  
 42 or if a peace officer issues a citation because, the charter boat fails to comply with any equipment  
 43 requirements imposed by the board pursuant to ORS [830.450] **830.437.**

44 [(b) *Without having protection against liability as described in ORS 830.440 and 830.445.*]

45 [(c) *If the number of persons on board the charter boat exceeds the carrying capacity of the charter*

1 *boat.*]

2 [(d)] (b) Without **the owner or operator** first providing to the board the names of all employees,  
 3 agents and other persons who physically assist passengers of the charter boat with angling,  
 4 sightseeing or other recreational activities.

5 (3) A person may not offer for compensation or monetary gain or advertise the use of a charter  
 6 boat for angling, sightseeing or other recreational activities without a charter boat license.

7 [(4) *A person may not accept money or other remuneration for angling, sightseeing or other recre-*  
 8 *ational activities for which a charter boat license is required without a charter boat license, except that*  
 9 *a person may share the costs or expenses for a trip by trip participants. As used in this subsection:]*

10 [(a)(A) *“Costs or expenses for a trip” means the costs or expenses for food, fuel, bait or other*  
 11 *consumable items used during a trip.*]

12 [(B) *“Costs or expenses for a trip” does not include any costs or expenses related to equipment*  
 13 *maintenance, insurance, moorage, leases or fees for the use of an area.*]

14 [(b) *“Trip” means the duration of the angling, sightseeing or other recreational activity beginning*  
 15 *at the point of departure from a dock, pier, float, moorage or shore-based landing where a person enters*  
 16 *a charter boat.*]

17 **SECTION 5.** ORS 830.465 is amended to read:

18 830.465. (1) For the purpose of ensuring the safe and legal operation of charter boats in this  
 19 state, the State Marine Board[:]

20 [(a) *Shall require the disclosure of a boating, wildlife, hunting, angling, commercial fishing or*  
 21 *public safety related violation by an operator, owner or deckhand of a charter boat that occurs within*  
 22 *two years of the date on which a charter boat license is issued or updated.*]

23 [(b)] may revoke, suspend or deny issuance of a charter boat license for a violation of this  
 24 chapter [or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511, 530 or 704 or a rule adopted  
 25 pursuant to this chapter or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511, 530 or 704, or for  
 26 a violation of a law or rule regulating the safety and welfare of the public].

27 (2) When a person is found guilty of a violation of ORS 830.430 to 830.465 or any rule adopted  
 28 pursuant to ORS 830.430 to 830.465, the court having jurisdiction of the offense may order the board  
 29 to revoke a charter boat license held by that person.

30 (3) When a court orders revocation of a charter boat license under this section, the court shall  
 31 take up the charter boat license and forward it with a copy of the revocation order to the board.  
 32 Upon receipt of the charter boat license and the revocation order, the board shall revoke the  
 33 charter boat license in accordance with the revocation order.

34 **SECTION 6.** ORS 830.997 is amended to read:

35 830.997. (1) Violation of ORS 830.435 or 830.460 or a rule adopted pursuant to ORS [830.450]  
 36 **830.437** is a Class A misdemeanor.

37 (2) Violation of ORS 830.440 is a Class B misdemeanor.

38 **SECTION 7.** ORS 704.010 is amended to read:

39 704.010. As used in this chapter:

40 (1) “Charter guide” means an [individual] **outfitter and guide** who:

41 (a) Carries passengers for hire for outdoor recreational activities:

42 (A) On the waters of the Pacific Ocean over which the State of Oregon has jurisdiction; **or**

43 [(b)] (B) [Carries passengers for hire for outdoor recreational activities] On the waters of the  
 44 Columbia River below the Astoria-Megler Bridge downstream to the waters of the Pacific Ocean;  
 45 and

1 [(c)] (b) Possesses a valid United States Coast Guard operator license.

2 (2) “Crew member” means an individual who:

3 (a) Assists with angling activities or in the operation of watercraft used for angling while  
4 aboard a boat;

5 (b) Works under the direct supervision of an outfitter and guide who is physically present  
6 and in direct communication with the crew member; and

7 (c) Is registered with the State Marine Board as a crew member under section 10 of this  
8 2019 Act.

9 [(2)] (3) “Employee” means an individual [who]:

10 (a) Who, in exchange for compensation or monetary gain, provides outfitting and guiding ser-  
11 vices [under the direction, supervision and control of an outfitter and guide or a charter guide] that  
12 are assigned and controlled by an outfitter and guide;

13 (b) Who is covered by the employer’s workers’ compensation insurance; and

14 (c) For whom withholding is required under ORS 316.162 to 316.221.

15 [(3)] (4) “Outdoor recreational activities” includes, but is not limited to, boating, angling, hunt-  
16 ing, jeep touring, backpacking, alpine mountain climbing, camping, trips utilizing pack animals, dog  
17 sled trips, whitewater float trips, rafting trips, drift boat trips, kayak trips, inflatable canoe trips and  
18 canoe trips, the duration of which may be for a few hours or for several days or weeks.

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

20 (A) Who, for compensation or monetary gain, provides, offers to provide or advertises the pro-  
21 vision of:

22 (i) Outfitting and guiding services in this state; or

23 (ii) Outfitting and guiding services and either equipment, supplies, livestock or materials for use  
24 in this state; or

25 (B) Who holds one or more federal special use permits for commercial outfitting and guiding  
26 services for use in any forest or wilderness or on any waterway in this state.

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

28 (A) An individual who, for compensation or monetary gain, provides outfitting and guiding ser-  
29 vices for the conduct of outdoor recreational activities exclusively upon property owned or con-  
30 trolled by the individual; [or]

31 (B) An employee of an outfitter and guide, unless the employee conducts, leads or assists in  
32 angling activities or operates or assists in the operation of watercraft used for angling[.]; or

33 (C) A registered crew member.

34 [(5)(a)] (6)(a) “Outfitting and guiding services” includes, but is not limited to, leading, protect-  
35 ing, instructing, training, cooking, packing, guiding, transporting, supervising, interpreting or oth-  
36 erwise assisting any person in the conduct of outdoor recreational activities.

37 (b) “Outfitting and guiding services” does not include the rental of equipment alone.

38 **SECTION 8.** ORS 704.020 is amended to read:

39 704.020. (1) Any person who acts or offers to act as an outfitter and guide [must] shall first  
40 register with the State Marine Board. Each registration shall be submitted annually on a form pro-  
41 vided by the board and shall include the following information:

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

45 (b) Proof that the business under which outfitting and guiding services are advertised and

1 provided has registered with the Secretary of State.

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

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

10 (e) If the outfitter and guide is carrying passengers for hire on waterways determined to be  
11 navigable by the United States Coast Guard, proof that the [*person*] **operator** or an individual em-  
12 ployed by [*the person*] **an outfitter and guide** has a valid United States Coast Guard operator li-  
13 cense.

14 (f) A description of:

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

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

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

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

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

28 (i) [*The*] **An** affidavit [*of the outfitter and guide*] stating **whether or not**, [*that*] for a period of  
29 not less than 24 months immediately prior to making the registration application, the outfitter and  
30 guide and each person who provides or assists in directly providing outfitting and guiding services:

31 (A) Have [*not*] been **arrested or cited for or** convicted of:

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

33 (ii) A violation under this chapter or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511 or  
34 830 or any rule adopted pursuant to ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511 or 830;

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

37 (iv) A crime involving delivery, manufacture or possession of a controlled substance, as defined  
38 in ORS 475.005; or

39 (v) Assault in any degree, criminal homicide as defined in ORS 163.005 or kidnapping in any  
40 degree;

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

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

45 (D) Have [*not*] been convicted of guiding without registration as required by this subsection.

1 (j) [The] **An** affidavit of the outfitter and guide stating [that] **whether or not** the outfitter and  
 2 guide and each person who provides or assists in directly providing outfitting and guiding services  
 3 have [not] been **arrested or cited for or** convicted of:

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

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

7 **(k) An affidavit of the outfitter and guide stating that the outfitter and guide complies**  
 8 **with all safety equipment requirements established under ORS 704.070 and 830.437.**

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

13 (A) If operating a motorboat, **or a boat with a motor affixed to any part of the boat for the**  
 14 **purpose of propelling the boat**, on the waters of this state, that the outfitter and guide:

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

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

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

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

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

22 (3)(a) A person who registers as an outfitter and guide and who accepts deposits from clients in  
 23 excess of \$100 per person shall submit a bond or other financial security in the amount of \$5,000 to  
 24 the board at the time of registration. **If hunting services will be provided, the outfitter and**  
 25 **guide shall submit a bond or other financial security in the amount of \$10,000 to the board**  
 26 **at the time of registration or at the time hunting services are added to the registration.** The  
 27 bond or other financial security shall be held by the board for the benefit of clients of the outfitter  
 28 and guide who pay a money deposit to the outfitter and guide in anticipation of services to be re-  
 29 ceived. The bond or other financial security amount shall be released to such client or clients con-  
 30 ditioned upon a failure of the outfitter and guide to return the deposit following cancellation of  
 31 services or other failure to provide agreed upon services.

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

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

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

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

44 (c) For nonresident persons other than those referred to in paragraph (b) of this subsection,  
 45 \$150.

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

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

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

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

14 **SECTION 9. Section 10 of this 2019 Act is added to and made a part of ORS chapter 704.**

15 **SECTION 10. (1) A person may not act as a crew member without first registering with**  
 16 **the State Marine Board. Each applicant shall submit the application on a form provided by**  
 17 **the board and shall include the following:**

18 (a) **The name, residence address, date of birth and telephone number of the crew mem-**  
 19 **ber;**

20 (b) **All names, business names, addresses and telephone numbers of the applicant's em-**  
 21 **ployer;**

22 (c) **Proof that the crew member is certified to give first aid and cardiopulmonary resus-**  
 23 **citation, as determined by the board by rule;**

24 (d) **An affidavit stating that, for a period of not less than 24 months immediately prior**  
 25 **to making the registration application, the crew member has not been arrested or cited for**  
 26 **or convicted of a provision listed in ORS 704.020; and**

27 (e) **An annual fee of \$25 or a biennial fee of \$50.**

28 (2) **The board may issue either an annual crew member registration or a biennial crew**  
 29 **member registration under this section.**

30 (3) **The board by rule shall establish procedures to renew a crew member registration**  
 31 **issued under this section. The rules must specify the duration of a renewed crew member**  
 32 **registration.**

33 (4) **While assisting an outfitter and guide, a person registered as a crew member under**  
 34 **this section shall hold proof of compliance with the requirements of ORS 704.021 and allow**  
 35 **the examination of that proof of compliance by any person authorized to enforce this chap-**  
 36 **ter.**

37 **SECTION 11. ORS 704.030 is amended to read:**

38 704.030. (1) *[No person shall]* **A person may not** make any false statement of material fact  
 39 submitted pursuant to ORS 704.020.

40 (2) *[No]* **An** outfitter and guide who uses a boat to carry passengers on the waters of this state  
 41 *[shall]* **may not** carry passengers:

42 (a) In excess of the passenger capacity for which insurance is obtained pursuant to ORS  
 43 704.020;

44 (b) **In excess of the boat's passenger capacity established by the United States Coast**  
 45 **Guard; or**

1 (c) **Without a license, registration or decal required under ORS 704.020, 704.065 and**  
 2 **830.435.**

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

6 **SECTION 12.** ORS 704.035 is amended to read:

7 704.035. (1) The State Marine Board shall provide an opportunity for hearing as required by ORS  
 8 chapter 183 when the board proposes to:

9 (a) Deny issuance or renewal of an outfitter and guide registration **or a crew member regis-**  
 10 **tration;**

11 (b) Revoke or suspend [a] **an outfitter and guide registration or a crew member**  
 12 **registration;** or

13 (c) Reprimand an outfitter and guide **or a crew member.**

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

17 **SECTION 13.** ORS 704.040 is amended to read:

18 704.040. (1) The Legislative Assembly finds that violation of fire prevention, wildlife, hunting,  
 19 angling, trapping, commercial fishing, recreational boating or public safety laws is directly related  
 20 to the fitness required for registration as an outfitter and guide **or a crew member.**

21 (2) When a person is convicted of a felony or misdemeanor related to the provision of services  
 22 regulated by this chapter, a violation of ORS 704.020 or 704.030 or ORS chapter 477, 496, 497, 498,  
 23 501, 506, 508, 509, 511 or 830, or any rule promulgated pursuant to ORS 704.500 or ORS chapter 477,  
 24 496, 497, 498, 501, 506, 508, 509, 511 or 830, the court having jurisdiction of the offense may order  
 25 the State Marine Board to revoke the certificate of registration issued to that person pursuant to  
 26 ORS 704.020 **or section 10 of this 2019 Act.**

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

31 (4) Except as provided in subsection (6) of this section, the board, in its discretion, may  
 32 reprimand an outfitter and guide **or a crew member** or suspend for up to 60 months, revoke or deny  
 33 the registration of an outfitter and guide **or a crew member** for any of the following:

34 (a) Conviction of a felony or misdemeanor related to the provision of services regulated by this  
 35 chapter.

36 (b) Any serious or repeated violation of this chapter or ORS chapter 477, 496, 497, 498, 501, 506,  
 37 508, 509, 511 or 830 or any rule adopted pursuant to ORS chapter 477, 496, 497, 498, 501, 506, 508,  
 38 509, 511 or 830.

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

44 (d) Having an outfitter and guide registration **or a crew member registration,** license, permit  
 45 or certificate suspended, revoked, canceled or denied by another state or by an agency of the United



1 States for committing or omitting acts that, if committed or omitted in this state, would be a vio-  
 2 lation of ethical or professional standards established pursuant to this chapter. A certified copy of  
 3 the record of suspension or revocation of the state making such suspension or revocation is con-  
 4 clusive evidence thereof.

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

10 (f) Engaging in fraudulent, untruthful or seriously misleading advertising in the conduct of the  
 11 outfitting and guiding services.

12 (g) Conviction of a crime involving delivery, manufacture or possession of a controlled sub-  
 13 stance, as defined in ORS 475.005.

14 (h) Conviction of assault in any degree, criminal homicide as defined in ORS 163.005 or kidnap-  
 15 ping in any degree.

16 (5) The board shall revoke the registration of an outfitter and guide **or a crew member** for:

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

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

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

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

27 (b) The violation described in paragraph (a) of this subsection involved the unlawful taking or  
 28 killing of wildlife with a culpable mental state as provided for in ORS 496.992.

29 (7) The board shall adopt rules to implement subsections (4) to (6) of this section, including rules  
 30 that describe conduct that is a serious or repeated violation of a law, rule or regulation.

31 **SECTION 14.** ORS 704.070 is amended to read:

32 704.070. (1) A person who acts or offers to act as an outfitter and guide using boats to carry  
 33 passengers on the waters of this state shall:

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

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

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

45 (A) Prior to providing the services, have completed at least one trip on that section of waters

1 in a nonmotorized boat; and

2 (B) Have been trained in equipment preparation and boat rigging, understanding and recognizing  
 3 river characteristics and hazards, methods of scouting rapids, methods of physically guiding boats  
 4 through rapids, proper client communication, how to provide paddling and safety instruction and  
 5 methods of river rescue techniques, including emergency procedures and equipment recovery; and

6 (d) *[If the outfitter and guide is a charter guide,]* Ensure that the vessel used to carry passengers  
 7 complies with the equipment requirements for [*charter*] vessels under [*ORS 830.450*] **rules adopted**  
 8 **by the board under ORS 830.437.**

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

11 **SECTION 15.** ORS 704.900 is amended to read:

12 704.900. (1) In addition to any other penalty provided by law, the State Marine Board may im-  
 13 pose a civil penalty for failure to comply with ORS 704.020, 704.021, 704.065 or 704.070 or for vio-  
 14 lation of ORS 704.030 **or section 10 of this 2019 Act.**

15 (2) Any civil penalty under this section shall be imposed in the manner provided by ORS 183.745.

16 (3) Notwithstanding ORS 183.745, the person to whom the notice is addressed shall have 30 days  
 17 from the date of service of the notice in which to make written application for a hearing before the  
 18 board.

19 (4) The board shall adopt rules implementing these provisions, including a schedule of civil  
 20 penalties. The civil penalty for each violation shall not exceed \$500.

21 (5) A civil penalty imposed under this section may be remitted or reduced upon such terms and  
 22 conditions as the board considers proper and consistent with the public health and safety.

23 (6)(a) In imposing a penalty pursuant to the schedule adopted pursuant to this section, the board  
 24 shall consider the following factors:

25 (A) Any prior violations of ORS 704.020, 704.021, 704.030, 704.065 or 704.070 **or section 10 of**  
 26 **this 2019 Act.**

27 (B) The immediacy and extent to which the violation threatens the public health or safety.

28 (b) The penalty imposed under this section may be remitted or mitigated upon such terms and  
 29 conditions as the board determines to be proper and consistent with the public benefit. Upon the  
 30 request of the person incurring the penalty, the board shall consider evidence of the economic and  
 31 financial conditions of the person in determining whether a penalty shall be remitted or mitigated.

32 (7) All penalties recovered under this section shall be paid into the State Treasury and credited  
 33 to the Outfitters and Guides Account.

34 **SECTION 16. ORS 830.445 and 830.450 are repealed.**

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