

River Outfitter Licensing Statutes

Eff. August 11th, 2010

33-32-101 – Legislative Declaration

The general assembly declares that it is the policy of this state to promote and encourage residents and nonresidents alike to participate in the enjoyment and use of the rivers of this state and, to that end, in the exercise of the police powers of this state for the purpose of safeguarding the health, safety, welfare, and freedom from injury or danger of such residents and nonresidents, to license and regulate those persons who provide river-running services in the nature of equipment or personal services to such residents and nonresidents for the purpose of floating on rivers in this state unless the provider of such river-running services is providing such river-running services exclusively for family or friends. It is not the intent of the general assembly to interfere in any way with private land owner rights along rivers or to prevent the owners of whitewater equipment from using said equipment to accommodate friends when no consideration is involved; nor is it the intent of the general assembly to interfere in any way with the general public's ability to enjoy the recreational value of state rivers when the services of river outfitters are not utilized or to interfere with the right of the United States to manage public lands and waters under its control. The general assembly recognizes that river outfitters, as an established business on rivers flowing within and without this state, make a significant contribution to the economy of this state and that the number of residents and nonresidents who are participating in river-running is steadily increasing.

33-32-102 – Definitions

As used in this article, unless the context otherwise requires:

- (1) "Advertise" or "advertisement" means any message in any printed materials or electronic media used in the marketing and messaging of river outfitter operations.
- (1.4) "Board" means the board of parks and outdoor recreation.
- (2) "Division" means the division of parks and outdoor recreation.
- (3) "Guide" means any individual, including but not limited to subcontractors, employed for compensation by any river outfitter for the purpose of operating vessels.
- (4) "Guide instructor" means any qualified guide whose job responsibilities include the training of guides.
- (5) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization as defined in section 13-21-115.5 (3), C.R.S., limited liability company, firm, association, or other legal entity either located within or outside of this state.
- (5.5) (a) "Regulated trip" means any river trip for which river-running services are provided which has been the subject of an advertisement or for which a fee has been charged regardless of whether such fee is:
 - (I) Charged exclusively for the river trip or as part of a packaged trip, recreational excursion, or camp; or
 - (II) Calculated to monetarily profit the river outfitter or is calculated merely to offset some or all of the actual costs of the river trip.

(b) "Regulated trip" does not include a trip in which a person is providing river-running services exclusively for family or friends as part of a social gathering of such family or friends.

(6) "River outfitter" means any person advertising to provide or providing river-running services in the nature of facilities, guide services, or transportation for the purpose of river-running; except that "river outfitter" does not include any person whose only service is providing motor vehicles, vessels, and other equipment for rent, any person whose only service is providing instruction in canoeing or kayaking skills, or any person who is providing river-running services exclusively for family or friends.

(7) "Trip leader" means any guide whose job responsibilities include being placed in charge of a river trip.

(8) "Vessel" means every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.

33-32-103 – Powers and Duties of the Board

The board shall promulgate rules to govern the licensing of river outfitters, to regulate river outfitters, guides, trip leaders, and guide instructors, to ensure the safety of associated river-running activities, to establish guidelines to enable a river outfitter, guide, or trip leader, to make a determination that the condition of the river constitutes a hazard to the life and safety of certain persons, and to carry out the purposes of this article. The board may promulgate rules specifically outlining the procedures to be followed by the board and by the enforcement section of the division in the event of a death or serious injury during a regulated trip. The board shall e-mail a notice of every proposed rule to each licensee. The board shall adopt rules regarding notification to outfitters of certain division personnel changes within ten days of the change and safety training standards and customer and outfitter interaction training standards for division rangers who monitor regulated trips.

33-32-103.5 – Powers of the Director

The director of the division may grant variances from regulations adopted by the board pursuant to section 33-32-103 to any river outfitter on a case-by-case basis if the director determines that the health, safety, and welfare of the general public will not be endangered by the issuance of such variance.

33-32-104 – License Required – Fee

(1) No person shall act in the capacity of a paid river outfitter or advertise or represent himself or herself as a river outfitter in this state without first obtaining a river outfitter's license in accordance with rules prescribed by the board.

(2) An applicant for a river outfitter's license shall meet the minimum qualifications pursuant to section 33-32-105 and shall apply on a form prescribed by the board. All applicants shall pay a nonrefundable license fee to be determined by the board, which fee shall be adequate to cover the expenses incurred for inspections, licensing, and enforcement required by the provisions of this article, and shall renew such license pursuant to a schedule adopted by the board upon payment of the fee. License terms shall not exceed three years. The board may offer licenses that differ in the length of their terms and may stagger the length of license terms so that approximately equal numbers of licensees renew their licenses each year.

(3) Every river outfitter's license shall, at all times, be conspicuously placed on the premises set forth in the license.

33-32-105 – Minimum Qualifications and Conditions for a River Outfitter’s License

(1) A river outfitter's license may be granted to any river outfitter, either within or without this state, meeting the following minimum qualifications and conditions:

- (a) The river outfitter, if a corporation, shall be incorporated pursuant to the laws of this state or duly qualified to do business in this state.
- (b) The river outfitter shall submit to the board evidence of liability insurance in the minimum amount of three hundred thousand dollars' combined single limit for property damage and bodily injury.
- (c) The river outfitter shall meet the safety standards for river-running established by the board by regulation.

33-32-105.5 – Minimum Qualifications of Guides, Trip Leaders & Guide Instructors

(1) Individuals providing the services of guides, trip leaders, or guide instructors shall have the following minimum qualifications and such additional qualifications as the board may establish by rule:

- (a) Guides shall be eighteen years of age or older, possess a valid standard first-aid card, be trained in cardiopulmonary resuscitation, and have fifty hours of training on the river as a guide from a qualified guide instructor.
- (b) Trip leaders shall be eighteen years of age or older, possess a valid standard first-aid card, be trained in cardiopulmonary resuscitation, and have logged at least five hundred river miles, of which at least two hundred fifty river miles shall have been logged while acting as a qualified guide and no more than two hundred fifty river miles shall have been logged while acting as a guide on non-regulated trips. Miles from non-regulated trips shall be documented and signed by the trip leader under penalty of perjury, and the licensee shall retain the documents during the term of the trip leader's employment.
- (c) Guide instructors shall be eighteen years of age or older, possess a valid standard first-aid card, be trained in cardiopulmonary resuscitation, and have logged at least fifteen hundred river miles, of which at least seven hundred fifty river miles shall have been logged while acting as a qualified guide.

33-32-106 – Equipment Required – Employees Required to Meet Minimum Qualifications

(1) All licensed river outfitters shall provide the river-outfitting equipment required by regulations promulgated by the board, and said equipment shall be in a serviceable condition for its operation as required by the regulations promulgated by the board.

(2) All river outfitters who employ or contract with guides, trip leaders, or guide instructors shall employ or contract only with such individuals who meet the qualifications provided in section 33-32-105.5 (1) and provided by those regulations promulgated by the board.

33-32-107 – River Outfitters – Prohibited Operations – Penalties

(1) (a) No river outfitter shall operate a river-outfitting business without a valid license as prescribed by section 33-32-104 or without insurance as provided in section 33-32-105 (1) (b). Any river outfitter that violates this paragraph (a):

(I) Commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;

(II) Is liable for an administrative penalty of five times the annual licensing fee established pursuant to section 33-32-104 (2).

(b) If the river outfitter is a corporation, violation of this subsection (1) shall result in the officers of said corporation jointly and severally committing a class 2 misdemeanor, and said officers shall be punished as provided in section 18-1.3-501, C.R.S.

(2) It is unlawful for any river outfitter, guide, trip leader, or guide instructor to:

(a) Violate the safety equipment provisions of section 33-13-106. Any person who violates the provisions of this paragraph (a) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one hundred dollars; except that any person who fails to have one personal flotation device for each person on board as required by section 33-13-106 (3) (a) commits a class 3 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(b) Operate a vessel in a careless or imprudent manner without due regard for river conditions or other attending circumstances, or in such a manner as to endanger any person, property, or wildlife. Any person who violates the provisions of this paragraph (b) is guilty of a class 3 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(c) Operate a vessel with wanton or willful disregard for the safety of persons or property. Any person who violates the provisions of this paragraph (c) is guilty of a class 2 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(3) (Deleted by amendment, L. 94, p. 1229, § 6, effective July 1, 1994.)

(4) (a) No river outfitter or guide shall operate or maintain physical control of or allow any other person to operate or maintain physical control of a vessel on a regulated trip if such river outfitter, guide, or person is under the influence of alcohol or any controlled substance or any combination thereof, as specified in section 33-13-108.1.

(b) Any person who violates this subsection (4) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

33-32-108 – Enforcement

(1) (a) Every peace officer, as defined in this section, has the authority to enforce the provisions of this article and in the exercise of such authority is authorized to stop and board any vessel.

(b) As used in this section, "peace officer" means any parks and recreation officer or division of wildlife officer or any sheriff or city and county law enforcement officer certified by the Colorado law enforcement training academy.

(2) (a) Any actual expenses incurred by a governmental entity for search and rescue efforts stemming from any river running activity conducted for consideration by a river outfitter pursuant to the provisions of this article shall be reimbursed by said river outfitter. Such expenses shall include but not be limited to hours worked, fuel, a reasonable fee for use of equipment, and equipment repair or replacement costs, if any.

(b) Pursuant to the provisions of paragraph (a) of this subsection (2), any expenses incurred by governmental entities stemming from search and rescue efforts which are reimbursed by a river outfitter shall be distributed as follows:

(I) If to local law enforcement agencies, on a pro rata basis in proportion to the amount of assistance rendered thereby;

(II) If to the division of parks and outdoor recreation, credited to the parks and outdoor recreation cash fund, created in section 33-10-111;

(III) If to the division of wildlife, credited to the wildlife cash fund, created in section 33-1-112.

(3) (a) (I) If an authorized representative of the division conducts an inspection or investigation and determines that any provision of this article or any regulation promulgated pursuant to this article has been violated and that such violation creates or may create an emergency condition which may have a significant adverse effect on the health, safety, or welfare of any person, then such authorized representative shall immediately issue an order to the violating party to cease and desist the violating activity.

(II) Any order issued pursuant to this paragraph (a) shall set forth:

(A) The section of this article or the regulation promulgated pursuant to this article allegedly violated;

(B) The factual basis for the allegation of a violation; and

(C) A mandate that all violating activities cease immediately.

(III) (A) The recipient of any cease and desist order issued pursuant to this paragraph (a) may request a hearing to determine whether a violation of this article or of any regulation promulgated pursuant to this article has actually occurred if such request is made in writing within thirty days after the date of the service of the cease and desist order.

(B) Any hearing conducted pursuant to this subparagraph (III) shall be in accordance with article 4 of title 24, C.R.S.

(b) If a person fails to comply with a cease and desist order issued pursuant to paragraph (a) of this subsection (3), the director may request the attorney general or the district attorney for the judicial district in which the alleged violation occurred to bring an action for a temporary restraining order and for injunctive relief to enforce such cease and desist order.

(c) No stay of a cease and desist order may be issued until a hearing at which all parties are present has been held.

33-32-109 – Denial, Suspension or Revocation of License – Disciplinary Actions

(1) The board may deny, suspend, or revoke a river outfitter license, place a licensed river outfitter on probation, or issue a letter of admonition to a licensed river outfitter if the applicant or holder:

(a) Violates section 33-32-105 or 33-32-106 or uses fraud, misrepresentation, or deceit in applying for or attempting to apply for licensure;

(b) Unlawfully acts as a river outfitter if such violation results in a conviction;

(c) Advertises as a river outfitter in this state without first obtaining a river outfitter license;

(d) Violates any provision of law regulating the practice of river outfitting in another jurisdiction if such violation resulted in disciplinary action against the applicant or holder. Evidence of such disciplinary action shall be prima facie evidence for the possible denial of a license or other disciplinary action in this state if the violation resulting in the disciplinary action in such other jurisdiction would be grounds for disciplinary action in this state.

(e) Violates section 18-4-503 or 18-4-504, C.R.S., resulting in two or more second or third degree criminal trespass convictions within any three- to five-year period while acting as a river outfitter or guide; except that the board shall be governed by section 24-5-101, C.R.S., when considering any such conviction;

(f) Violates section 33-32-105.5 (1) by employing any person as a guide who fails to meet the requirements of such section; or

(g) Violates any order of the division or board or any other provision of this article or any regulations established under this article.

(2) A plea of nolo contendere or a deferred prosecution shall be considered a violation for the purposes of this section.

(3) (a) Any proceeding to deny, suspend, or revoke a license granted under this article or to place a licensee on probation shall be pursuant to sections 24-4-104 and 24-4-105, C.R.S. Such proceeding may be conducted by an administrative law judge designated pursuant to part 10 of article 30 of title 24, C.R.S.

(b) Any proceeding conducted pursuant to this subsection (3) shall be deemed final for purposes of judicial review. Any appeal of any such proceeding shall be made to the court of appeals pursuant to section 24-4-106 (11), C.R.S.

(4) The board may deny an application for a river outfitter license or a renewal of a river outfitter's license if the applicant does not meet the requirements specified in section 33-32-105 or 33-32-106.

33-32-110 – Advisory Committee – Repeal

(1) The board shall appoint a river outfitter advisory committee, consisting of two river outfitters and one representative of the division. The committee shall review and make recommendations concerning rules and proposed rules promulgated pursuant to this article.

(2) (a) This section is repealed, effective July 1, 2019.

(b) Prior to its repeal, the advisory committee shall be reviewed as provided for in section 2-3-1203, C.R.S.

33-32-111 – Fees – River Outfitters Cash Fund

All fees collected under this article shall be transmitted to the state treasurer who shall credit the same to the river outfitters cash fund, which fund is hereby created. The general assembly shall make annual appropriations from such fund for the direct and indirect costs of administration of this article.

33-32-112 – Repeal of Article

This article and the licensing function of the division are repealed, effective September 1, 2019. Prior to such termination, the licensing function shall be reviewed as provided for in section 24-34-104, C.R.S.