

AN ACT  
RELATING TO GAME AND FISH; PROVIDING CLARIFICATION ON  
REGISTRATION REQUIREMENTS AND SERVICE FEES; AMENDING A  
SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 17-2A-3 NMSA 1978 (being Laws 1996, Chapter 89, Section 5, as amended) is amended to read:

"17-2A-3. HUNTING GUIDES AND OUTFITTERS. --

A. Effective April 1, 1997, it is unlawful to be a hunting guide or outfitter in New Mexico without being registered, except for a private landowner or his authorized agent who outfits or guides pursuant to a landowner permit issued by the department of game and fish for the landowner's property or for the landowner's shared private and public unit.

B. The state game commission shall adopt regulations by September 1, 1997 to govern the granting of non-interim registration, permits and certificates to hunting guides and outfitters and to regulate the operations and professional conduct of registered hunting guides and outfitters. Regulations shall be adopted in accordance with the following procedures and standards:

(1) the commission shall establish dates and locations for a public hearing and provide reasonable

prior public notice of a hearing. A public hearing shall be held at a place within any quadrant of the state affected by the proposed regulation when the commission determines there is substantial public interest in holding a hearing in that quadrant;

(2) a hearing shall be held within six months of the date a proposed regulation is issued;

(3) notice of a hearing shall:

(a) include the date, time and location of the hearing;

(b) include a statement of the recommended action;

(c) include an indication of the location and availability of the public file on the regulation;

(d) indicate where and by what date written and oral comments and testimony may be received; and

(e) specify that the public record shall remain open for comments for thirty days after the date of the final hearing; and

(4) the commission shall make its decision and take action based upon relevant and reliable evidence.

C. No person shall be allowed to work as a registered hunting guide or outfitter in New Mexico:

(1) without being registered by the state

game commission;

(2) if the person has had a guide or outfitter license, registration, permit or certificate revoked in another state;

(3) if the person has had a guide or outfitter license, registration, permit or certificate suspended in another state and it has not been reinstated;  
or

(4) if the person has been convicted of a felony.

D. The state game commission shall develop a point system for the suspension or revocation of a guide or outfitter registration. The point system shall be similar to the point system that governs individual hunting and fishing license privileges.

E. To be granted a registration to be a guide, an applicant shall, in addition to any other reasonable criteria adopted by the state game commission, and except as provided for persons granted an interim registration:

(1) be at least eighteen years of age; and  
(2) pass a written or oral examination approved by the department of game and fish at a date and time approved by the department.

F. A registered or interim registered guide shall work only under the supervision of a New Mexico registered or interim registered outfitter and in an area designated by

the registered or interim registered outfitter.

G. The department of game and fish may provide a registration for a temporary emergency guide, provided the registration is limited to a maximum seven-day period and is granted only in emergency circumstances as determined by the department. The fee for a temporary emergency guide registration is ten dollars (\$10.00).

H. To be granted a registration to be an outfitter, an applicant shall, in addition to any other reasonable criteria adopted by the state game commission, and except as provided for persons granted an interim registration:

- (1) be at least twenty-one years of age;
- (2) have operated as a New Mexico registered guide for at least three years or have been granted an interim outfitter's registration;
- (3) not be a convicted felon or have a history of violation of federal or state game and fish laws or regulations or federal or state guide or outfitter licensing or registration laws or regulations; and
- (4) pass a written or oral examination approved by the department of game and fish at a date and time determined by the department.

I. A registered outfitter shall:

- (1) provide proof of commercial liability insurance of at least five hundred thousand dollars

(\$500,000);

(2) responsibly supervise each registered guide working under his direction;

(3) provide a written contract for outfitting services, signed by the registered outfitter and identifying the outfitter's registration number, to each resident and nonresident who seeks to use the services of a registered outfitter;

(4) register with the taxation and revenue department and provide proof of that registration to the department of game and fish; and

(5) provide at least one registered guide or outfitter for every four or fewer resident or nonresident hunters who have contracted for an outfitter's guided services.

J. The department of game and fish shall provide to the taxation and revenue department a copy of each outfitter registration that is granted.

K. Except as provided in this subsection, no person shall be allowed to charge a processing or other fee to obtain for a resident or nonresident a license that is granted from a special drawing for a hunt on public lands pursuant to the provisions of Section 17-3-16 NMSA 1978, except that nothing in this subsection shall prohibit the department of game and fish from collecting an application fee. Persons involved in licensing services, booking

agencies or license brokering that do not provide direct guide and outfitter services shall not be required to register with the department of game and fish and may charge a fee, other than the application fee for a license, for their services.

L. A New Mexico resident registered outfitter shall be a registered outfitter who is a resident as defined in Section 17-3-4 NMSA 1978. The state game commission shall adopt regulations that set forth additional requirements and that shall include at a minimum that a resident registered outfitter shall maintain a business address in New Mexico and, except as provided in Subsection Q of this section, derive at least fifty percent of his guiding or outfitting income from guiding or outfitting in New Mexico, as determined by gross receipts or corporate or individual income tax returns for the immediately preceding three years.

M. The department of game and fish shall maintain for public distribution a list of New Mexico registered outfitters.

N. The annual registration fee for a registered guide in New Mexico is fifty dollars (\$50.00) for a resident and one hundred dollars (\$100) for a nonresident.

O. The annual registration fee to be a registered outfitter in New Mexico is five hundred dollars (\$500) for either a resident or a nonresident.

P. Annual registration fees for guides and

outfitters shall be deposited in the game protection fund.

Q. A resident interim registered or registered outfitter may apply for inactive status of his registration for any period in which he does not operate as an outfitter. The state game commission shall reactivate an outfitter registration at the request of the outfitter and upon proof that the outfitter complies with the provisions of this section and upon payment of the annual registration fee for the year the registration is being reinstated and payment of a reinstatement fee of not to exceed fifty dollars (\$50.00).

R. The state game commission shall adopt by September 1, 1996 interim regulations, consistent to the greatest extent practicable with the provisions of this section, to provide for the granting of interim registrations to guides and outfitters. The commission shall issue interim registrations prior to mailing applications for 1997 licensed hunts to persons who qualify for interim registration and submit applications to the department of game and fish.

S. A person adversely affected by an action, other than a regulation, taken pursuant to the provisions of this section, including the denial, suspension or revocation of a registration, license, permit or certificate, may seek review of the action pursuant to the provisions of the Uniform Licensing Act.

T. A person adversely affected by a regulation

adopted by the state game commission pursuant to this section may appeal to the court of appeals. All appeals shall be made upon the record at the hearing and shall be taken to the court of appeals within thirty days following the date of the action. The date of the action shall be the date of the filing of the regulation by the commission, pursuant to the provisions of the State Rules Act.

U. Upon appeal, the court of appeals shall set aside a regulation only if it is found to be:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record; or
- (3) otherwise not in accordance with law.

V. After a hearing and a showing of good cause by the appellant, a stay of a regulation being appealed may be granted:

- (1) by the state game commission; or
- (2) by the court of appeals if the state game commission denies a stay or fails to act upon an application for a stay within sixty days after receipt of the application.

W. The appellant shall pay all costs for any appeal found to be frivolous by the court of appeals. "



