

CHAPTER 30-04-03 GUIDES AND OUTFITTERS

Section

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30-04-03-01. License required.

Determined repealed by the office of the legislative council under North Dakota Century Code section 28-32-06 because statutory authority supersedes the rule under North Dakota Century Code section 20.1-03-37.

30-04-03-02. Fee and residence.

Repealed effective April 1, 2006.

30-04-03-03. License nontransferable.

Repealed effective April 1, 2006.

30-04-03-04. License to be carried.

Repealed effective April 1, 2006.

30-04-03-05. License inspection.

Repealed effective April 1, 2006.

30-04-03-06. Licensee provides rules.

Repealed effective April 1, 2006.

30-04-03-07. Advance charge list.

Each licensed outfitter, prior to consummation of contract for service, shall furnish to each client a printed form listing in detail all acts of service and any other accommodations which the outfitter will provide for the fee received, and such form shall specify the charge per day for such service or accommodations.

History: Repealed effective January 1, 1997; reinstated November 1, 1997; amended effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-02-15

30-04-03-08. Receipt required.

Each licensed outfitter, upon payment received for service, shall immediately issue to the payee a receipt showing the amount received and shall indicate "for guide or outfitting service" and the period for which the service was rendered, and the receipt shall bear the outfitter's signature and complete permanent address.

History: Amended effective April 1, 1986; repealed effective January 1, 1997; reinstated November 1, 1997; amended effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-02-02, 20.1-02-15, 20.1-03-36.2, 20.1-03-38

30-04-03-09. Records.

Repealed effective April 1, 2006.

30-04-03-10. License revocation.

Repealed effective April 1, 2006.

30-04-03-11. Violations forbidden.

Repealed effective January 1, 1997.

30-04-03-12. General penalty.

Any person violating a provision of this chapter for which a penalty is not specifically provided is guilty of a noncriminal offense and shall pay a one hundred dollar fee.

History: Effective September 1, 1989; amended effective April 1, 2006.

General Authority: NDCC 20.1-02-04

Law Implemented: NDCC 20.1-02-04

30-04-03-13. Hunting guide and hunting outfitter examination.

If an applicant is required to take the written examination to be eligible for a hunting guide or hunting outfitter license in North Dakota, the applicant must preregister for the examination with the department. Dates, times, and locations of the examinations shall be announced to the public by news release and be available as a notice on the department's web site.

History: Effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-03-38

30-04-03-14. Initial application for guide and outfitter license.

An initial applicant for a guide or outfitter license shall submit a completed application on a form provided by the department and the fees required under North Dakota Century Code section 20.1-03-36.1. Information requested on the form must be completed and signed by the applicant. Providing false or misleading information requested on the application may be grounds to deny the issuance of a license for the calendar year of the application. The applicant shall also provide:

1. If the applicant is applying for a hunting guide or hunting outfitter license, proof the applicant is currently certified in adult cardiopulmonary resuscitation or its equivalent and in standard or first aid or its equivalent. A photocopy of certification will be sufficient proof of training.
2. If the applicant is applying for a hunting outfitter license, proof that the applicant has held a hunting guide license in North Dakota or any other state for two years. Such proof shall be in the form of information generated by the state of licensure.
3. A signed certification on a form provided by the department that the applicant has not been convicted of a state or federal criminal game or fish violation in the last three years from the date of the application or whose license to hunt or fish is under suspension or revocation in North Dakota or any other state.
4. A statement in an application for a hunting guide license listing the dates the applicant has legally hunted in North Dakota for three years before the date of the application. The department may require the applicant to explain how three years of practical field experience gained by hunting have directly contributed to the applicant's experience and competency as a guide and how the three years have influenced the applicant's capability to perform essential duties associated with guiding and outfitting as defined in North Dakota Century Code section 20.1-01-02. The director reserves the right to request additional information to supplement the applicant's submission.
5. Proof of insurance shall be in the form of a certificate of liability insurance from the insuring entity certifying that the applicant and the applicant's business operation are covered by general liability insurance against loss or expense due to accident or injury from outfitting services, at a minimum of one hundred thousand dollars per individual and three hundred thousand dollars per accident.
6. An applicant for a hunting outfitter license must include a listing of all land to be used by the outfitter to provide services. Acreage reports shall include the name of the landowner and lessor, the number of acres of land, and the location of the land by county.
7. An applicant for a hunting guide license must include a written notice from an employing or contracting licensed outfitter that the applicant will be retained to provide guiding services during the term of the applicant's license period. A licensed hunting guide may provide services to more than one hunting outfitter, but shall provide written notice from each outfitter to the department.

History: Effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-03-37

30-04-03-15. Applicant to renew hunting guide's or outfitter's application.

A hunting guide or hunting outfitter who was licensed in North Dakota during the previous year and who seeks license renewal shall not be required to retake the hunting guide and hunting outfitter examination. All applicants for renewal, however, shall complete the application form provided by the department and provide:

1. If the applicant seeks a hunting guide or hunting outfitter license renewal, proof the applicant is currently certified in adult cardiopulmonary resuscitation or its equivalent and in standard or first aid or its equivalent.
2. A signed certification on a form provided by the department that the applicant has not been convicted of a state or federal criminal game or fish violation in the last year from the date of the application for renewal or whose license to hunt or fish is under suspension or revocation in North Dakota or any other state.
3. Insurance - new certificate. A licensed hunting guide or outfitter shall notify the department within ten days of any change to the information reported under this section.
4. The department may require additional documentation to substantiate the information provided in this section before approving an applicant for initial licensure or license renewal.
5. If the applicant is renewing a hunting outfitter license, the applicant must provide a report of any day lease or freelance acres used in the previous year giving the number of acres used and the county in which those acres were located if the applicant held a day lease or freelance permit and a list of land to be used by the applicant to provide services during the application year with the same information required in an initial application.
6. If the applicant is renewing a hunting guide license, the applicant must provide written certification from an employing or contracting licensed outfitter in the same manner required in an initial application.

History: Effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-03-37

30-04-03-16. Failure to renew license.

The department may not issue a license to a person who held a guide or outfitter license and who has failed to renew the license under this chapter for two or more consecutive years unless the person again meets the qualifications for initial issuance of the license.

History: Effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-03-38

30-04-03-17. Hunting guide and hunting outfitter examination.

Any written examination required will be administered from at least one regional department office on the assigned time and date. Once an applicant has passed the written examination, the applicant must become licensed by the end of the following calendar year. To pass the written test, a score of eighty percent must be achieved. A person who fails to obtain the license by the end of the following calendar year or fails to maintain a hunting guide or hunting outfitter license for two calendar years or more after obtaining a license, in addition to the annual eligibility requirements, must retake the written examination before being issued another hunting guide or hunting outfitter license. A hunting guide or hunting outfitter, whose license has been revoked, in addition to the annual eligibility requirements, must successfully retake the written examination before being issued a new license under this section.

History: Effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-03-38

30-04-03-18. Guide requirements.

It is the responsibility of a licensed guide and outfitter acting as a guide to:

1. Ensure that the appropriate tags are attached to any game or fish taken by a client and all game or fish transported is prepared in compliance with applicable state and federal laws.
2. Ensure that the proper licenses and game tags are in the client's possession before the hunt begins.
3. Take every reasonable measure to assure the safety of the client.
4. Promptly report any violation of state or federal law or regulation governing wildlife, game, and fish that occur during the guiding activity to any law enforcement officer or the department.
5. Use every lawful means at the licensee's disposal to retrieve a wounded animal while it is in danger of escaping.
6. Advise clients and employees involved in a hunt of all applicable state and federal statutes and regulations related to the hunting or fishing activity to be conducted.

History: Effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-03-27, 20.1-03-38, 20.1-04-06, 20.1-05-02, 20.1-05-03

30-04-03-19. Hunt or fish records.

The licensed outfitter shall keep a complete and current record of all transactions as a guide or outfitter, including a hunt or fish record for each hunting or fishing client. The records shall be kept by the outfitter for at least three years and shall be subject to inspection at any time on demand of the director, the director's authorized personnel, or any law enforcement officer. A copy of these records must be submitted to the director no later than thirty days following expiration of the license. The department shall provide the hunt or fish record form to all licensed outfitters. The records shall be kept and maintained in North Dakota. The information on the department form must include, at a minimum:

1. The client's name, address, and hunting or fishing license number.
2. The contracting outfitter's name and original signature attesting to the accuracy of the information supplied on the hunt or fish record form.
3. The names of all hunting guides, hunting outfitters, or fishing outfitters who will accompany the client in the field.
4. For each guided client, at the conclusion of the hunting or fishing trip, the licensed outfitter shall complete the applicable remaining portions of the hunt or fish record, including:
 - a. The dates the client was in the field.
 - b. The species of game hunted or fish pursued.
 - c. For each animal, bird, or fish species taken, the:
 - (1) Date taken.
 - (2) Number of each species taken.
 - d. For each fish species taken, the:
 - (1) Name of the waterbody where the fish were taken.

(2) County where the fish were taken.

History: Effective April 1, 2006; amended effective October 1, 2020.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-03-38

30-04-03-20. Falsification of required records.

Any person completing or maintaining required records containing knowingly false information shall be deemed to have made a false statement in a governmental matter and is liable under subdivision c of subsection 2 of North Dakota Century Code section 12.1-11-02.

History: Effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 12.1-11-02(2)(c)

30-04-03-21. Automatic guide license suspension.

If a hunting outfitter has the hunting outfitter's license suspended or revoked, a hunting guide's license under that operation shall be given notice and may not provide guiding services until employment is obtained from another licensed hunting outfitter and written notice of the new employment or contract is provided to the department. Any hunting guide providing services after being notified that the outfitter is no longer licensed shall be deemed providing guiding services with a suspended license.

History: Effective April 1, 2006.

General Authority: NDCC 20.1-02-04(2), 20.1-03-38(1)

Law Implemented: NDCC 20.1-03-39

30-04-03-22. Bona fide pursuit of agricultural interests.

To be exempt from regulation as an outfitter under North Dakota Century Code section 20.1-03-36.1, the person must provide services on real property that person owns or leases for the "primary pursuit of bona fide agricultural interests". The following definitions apply:

1. "Agriculture" means the production of food, feed, and fiber and other goods by the systematic growing or harvesting of plants, animals, and other life forms and includes aquaculture, cultivation, animal husbandry, and horticulture.
2. "Bona fide" means that the person earnestly intends to devote the land primarily to an agricultural pursuit. In determining a person's intent, a person's use of buildings associated with hunting, such as a hunting facility or accommodation, is generally incompatible with a primary pursuit of agricultural interest, but rather shows that the person's intent is to primarily use the land for hunting.
3. "Primary pursuit" means that the person is:
 - a. Actively engaged in the agricultural interest, which does not include the passive ownership of land. Receiving payment on account of agricultural land enrolled in the federal conservation reserve program does not constitute the active pursuit of agriculture by itself, rather, the individual must also be actively engaged in farming or ranching; and
 - b. Primarily engaged in the agricultural interest, which means the individual's farming or ranching activities must be of the first rank, importance, or value.

History: Effective April 1, 2009.

General Authority: NDCC 20.1-02-04

Law Implemented: NDCC 20.1-01-02, 20.1-02-15, 20.1-03-36.2, 20.1-03-37, 20.1-03-38