

LEGISLATIVE PRESENTATION LETTER Utah Outfitter & Guide Association (U.O.G.A.)

January 20, 2026



[AUDIO: OVERVIEW](#)

Re: Repeal and Reenact of Title 23A, Chapter 4, Part 12 —

Outfitter and Guide Professional Licensure, Governance, and Operational Standards Act

The Utah Outfitter & Guide Association (U.O.G.A.) respectfully submits the enclosed legislative packet for your review in support of a comprehensive repeal and reenactment of Utah Code Title 23A, Chapter 4, Part 12. This proposal repeals the existing Certificate of Registration (COR) framework enacted under S.B. 149 (2025), nullifies H.B. 168 (2026) to the extent of conflict, repeals Rule R657-72, and reenacts Part 12 as a restored professional licensure and governance statute for outfitters and guides.

This packet is submitted for sponsor review, committee consideration, and legislative staff reference. It is intended to document the historical regulatory framework, statutory defects, administrative-law risks, and due-process failures created by the current registration regime, together with a fully drafted statutory replacement act titled:

“Utah Outfitter and Guide Professional Licensure, Governance, and Operational Standards Act.”

This proposal repeals and reenacts the entirety of Title 23A, Chapter 4, Part 12 and is designed to restore professional licensure, independent governance, defined entry standards, supervision standards, and procedural protections that previously governed outfitting and guiding in Utah from 2009 through 2019.

Purpose and Scope of This Packet

This packet is structured to:

- document statutory and regulatory defects created by S.B. 149 (2025) and Rule R657-72;
- document ultra vires administrative action in the design and administration of the COR system;
- document due-process failures, enforcement overreach, and structural governance defects;
- document the elimination of professional licensure safeguards without replacement;
- document fiscal and enforcement incentive risks;
- document federal land-use coordination defects; and
- present a complete statutory repeal-and-reenact replacement bill restoring professional licensure and governance.

This packet is not submitted as legal advice and is not offered as a directive to the Legislature. It is submitted to provide factual, legal, and structural context for legislative consideration of a comprehensive statutory correction.

Historical Regulatory Context

From 2009 through 2019, Utah regulated outfitters and guides as a licensed profession through the Division of Occupational and Professional Licensing (DOPL). Under that framework:

- a Utah state business license was required and verified;
- liability insurance was required and verified;
- CPR and first-aid certification was required and verified;
- board-approved examinations were required;
- documented field experience or equivalent education pathways were required; and
- professional discipline occurred through a licensing board subject to due-process protections.

Licensure status functioned as the primary regulatory gate for entry into the profession.

In 2020, professional licensure was eliminated and replaced with a registration-based structure administered through DOPL. From 2020 through 2024, although licensure was removed, business-license verification, liability-insurance verification, and registration as a prerequisite to operation remained in place.

Beginning with S.B. 149 (2025) and subsequent rulemaking under Rule R657-72, regulatory authority over outfitters and guides was transferred to the Division of Wildlife Resources (DWR). While enforcement authority, criminal penalties, participation limits, and fee

obligations were retained or expanded, multiple professional entry and verification safeguards previously administered under DOPL were removed or no longer verified through the regulatory system.

This packet does not dispute the Legislature's authority to regulate outfitting and guiding. It documents how the current structure has resulted in regulation without professional governance, producing instability for operators, enforcement subjectivity, and increased administrative complexity.

Ultra Vires and Administrative-Law Defects

The packet documents significant concerns regarding statutory delegation and administrative structure arising from the design and administration of the COR system. Title 23A vests regulatory and registration authority in the Division of Wildlife Resources. Neither S.B. 149 nor Rule R657-72 authorizes the design or administration of licensing infrastructure by law-enforcement units or internal reassignment of licensing authority within the executive branch.

To the extent that COR system design, database control, compliance logic, or fee administration has been assumed by or through the Utah Division of Law Enforcement, those practices raise serious ultra vires and administrative-law alignment concerns appropriate for legislative clarification.

These structural defects implicate core separation-of-functions principles governing licensing and enforcement regimes and increase the risk of legally challengeable enforcement actions, invalid administrative decisions, and retroactive fiscal exposure.

What This Bill Does

The enclosed bill responds to these defects by repealing the COR framework and reenacting a comprehensive professional licensure system grounded in established administrative-law norms. The proposal restores a statutory licensing board, codifies entry qualifications and standards of practice, reestablishes neutral adjudicative due process, and structurally separates professional governance from wildlife law enforcement.

It is designed to cure constitutional, due-process, and ultra vires defects created by the current framework, while preserving the Legislature's authority to regulate compensated hunting activities through a coherent and legally defensible professional model.

Packet Organization

To support a structured review, the enclosed packet is organized into discrete sections addressing statutory history, implementation practice, and proposed statutory replacement. It includes: a presentation overview; an executive summary; documentation of implementation and rule issues arising under Rule R657-72; an analysis of due-process and state-liability risks; an ultra vires

review of statutory delegation and administrative structure; a statutory crosswalk comparing S.B. 149, H.B. 168, and the proposed act; the full repeal-and-reenact bill text; proposed conforming amendments to related Title 23A provisions; and appendices containing the session laws and implementing rules.

The packet identifies the respective roles of the Division of Wildlife Resources, the Division of Law Enforcement, the Department of Natural Resources Executive Office, and the Department of Technology Services in the design and administration of the current framework.

For members and staff who prefer a guided overview, optional section-by-section audio briefings are available and indexed at the front of the packet.

Request for Sponsorship and Oversight Review

Given the structural and legal significance of the defects documented in this packet, U.O.G.A. respectfully asks whether you would consider serving as a sponsor for this repeal-and-reenact legislation or assisting in initiating a formal committee review of the current framework.

In particular, a focused oversight or informational hearing to receive testimony from the Division of Wildlife Resources, the Division of Law Enforcement, the Department of Natural Resources Executive Office, and the Department of Technology Services would provide the Legislature with a clear record of statutory intent, administrative authority, and implementation practice.

Your guidance on the most appropriate procedural path for advancing this review would be greatly appreciated.

Status of Independent Review

For your awareness, a request for review has already been submitted to the Office of the Utah Attorney General concerning statutory alignment and administrative structure under the current framework. In addition, a request for a financial audit has been submitted to examine fee routing, fund custody, and inter-division transfers associated with the COR program. These requests are intended to independently assess statutory compliance and fiscal

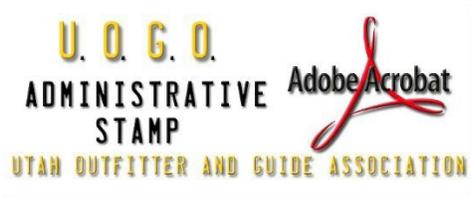
alignment and are currently pending.

Closing

U.O.G.A. appreciates your time and consideration of this proposal, particularly given the current legislative-session timeline and the limited window for sponsorship and committee scheduling. We stand ready to provide any technical assistance, statutory drafting support, or testimony that may be helpful as you evaluate this legislation and the accompanying materials.

With Deep Gratitude and Respect,

Tyler K. Miller
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[AUDIO: TAB A](#)

TAB A

— EXECUTIVE SUMMARY —

Repeal and Reenact of Title 23A, Chapter 4, Part 12 **Utah Outfitter and Guide Professional Licensure, Governance, and Operational Standards Act**

Purpose

This packet supports a comprehensive repeal and reenactment of Utah Code Title 23A, Chapter 4, Part 12, replacing the current Certificate of Registration (COR) framework enacted under S.B. 149 (2025) and modified by H.B. 168 (2026) with a restored professional licensure and governance structure for outfitters and guides.

The repeal-and-reenact bill included in this packet is titled:

“Utah Outfitter and Guide Professional Licensure, Governance, and Operational Standards Act.”

This act repeals the entirety of Part 12 and reenacts it as a professional licensure regime, restoring statutory standards of entry, professional governance, due-process protections, and regulatory separation between licensing and enforcement functions.

Summary of Structural Defects Under Current Law

S.B. 149 (2025) eliminated professional licensure for outfitters and guides and replaced it with a registration-based Certificate of Registration (COR) system administered through the Division of Wildlife Resources (DWR) and implemented by Rule R657-72.

This structure retains or expands:

- criminal penalties;
- wildlife-law enforcement integration;
- participation limits;
- fee obligations; and
- administrative compliance

requirements; while eliminating:

- professional licensure;
- independent licensing board governance;
- defined entry qualifications;
- professional discipline procedures;
- adjudicative due-process protections; and
- structural separation between licensing and enforcement functions.

As a result, the current framework regulates a professional services industry primarily through wildlife-law enforcement mechanisms rather than professional governance standards.

Delegation and Governance Misalignment

S.B. 149 vests Certificate of Registration authority in “the division,” defined in Title 23A as the Division of Wildlife Resources (DWR). Rule R657-72 likewise places COR issuance and administration in “the division.”

However, multiple outfitters report that the COR system was designed and operationalized through the Utah Division of Law Enforcement (DNR-LE), rather than through DWR. Outfitters report direct design-phase communications with DNR-LE personnel concerning:

- registration requirements;
- compliance mechanics;
- operational implementation; and
- system functionality.

Several outfitters report no corresponding design-phase engagement with DWR.

To the extent program design, technical infrastructure, or operational administration has been assumed by enforcement personnel, this creates statutory-alignment and structural-governance concerns appropriate for legislative clarification.

Due-Process and Structural Governance Defects

The current registration framework retains criminal penalties, enforcement authority, operator caps, and fees, while eliminating professional licensure, independent board governance, adjudicative due-process protections, and structured entry standards.

As a result:

- technical compliance questions are resolved through enforcement pathways;
- professional standards are interpreted through rule and enforcement discretion;
- no neutral licensing board exists to adjudicate competency or discipline;
- no professional due-process forum exists separate from enforcement; and
- minor hunting-license violations may be used to trigger collateral professional consequences.

The requirement that an outfitter personally maintain a valid hunting license creates a structural dependency whereby minor personal hunting violations may be used to collapse an outfitter's business operations, raising proportionality and due-process concerns.

Rule Dependency and Regulatory Fragility

Rule R657-72 supplies substantive operational detail not codified in statute, including:

- definitions;
- supervision standards;
- compliance mechanics;
- registration conditions; and
- enforcement triggers.

This creates statutory under-specification, regulatory fragility, and elevated litigation exposure. Material professional standards are customarily codified in statute rather than supplied through rule.

Federal Land-Use Coordination Defects

The current framework fails to align state licensure and governance with federal land-use authorization structures administered by the U.S. Forest Service and Bureau of Land Management.

The absence of a professional licensure framework undermines:

- federal carrying-capacity determinations;
- environmental impact study assumptions;
- special-use permit compliance structures; and
- intergovernmental regulatory coordination.

Legislative Solution Presented

This packet includes a complete repeal-and-reenact bill titled:

“Utah Outfitter and Guide Professional Licensure, Governance, and Operational Standards Act.”

This bill:

- repeals Title 23A, Chapter 4, Part 12;
- eliminates the COR registration framework;
- restores professional licensure;
- creates a statutory licensing board;
- establishes entry qualifications and competency pathways;
- codifies supervision standards and responsible charge;
- provides professional discipline under the Utah Administrative Procedures Act;
- separates licensure governance from wildlife-law enforcement;
- limits rulemaking authority;
- prohibits enforcement-linked revenue incentives;
- aligns state licensure verification with federal land-use authorization; and
- provides conforming amendments, coordinating clauses, and contingent operation.

Status of Independent Review

Requests for:

- Attorney General review;
- financial audit;
- statutory-alignment review; and
- GRAMA records (including Registered Outfitters and Registered

Guides) have already been submitted and are pending.

Legislative clarification at this stage can prevent:

- protracted litigation;
- enforcement invalidation;
- retroactive fiscal liability; and
- institutional regulatory instability.

This packet does not accuse any agency or individual of wrongdoing. It documents statutory misalignment, structural governance defects, and due-process failures that warrant legislative correction.

Bottom Line

The repeal-and-reenact framework presented in this packet offers a structurally clean statutory reset that restores professional licensure, independent governance, due-process protections, and regulatory stability.

[AUDIO: TAB B](#)

TAB B

— IMPLEMENTATION & RULE ISSUES — Post-Enactment Review of S.B. 149 (2025) and Rule R657-72

Purpose of This Tab

This tab documents implementation defects, regulatory dependencies, and statutory-rule misalignment arising from the enactment of S.B. 149 (2025) and its implementing rule, R657-72.

The information presented is descriptive and non-advocacy and is intended to assist legislators and staff in understanding how the current framework has functioned in practice.

This tab does not assess policy intent, fault, or litigation posture. It documents observed statutory-rule gaps, structural ambiguities, and implementation inconsistencies that warrant legislative correction.

Scope and Sources

The issues summarized below are based on:

- statutory provisions enacted in S.B. 149 (2025);
 - implementing and amended provisions of Rule R657-72;
 - compliance questions arising during early implementation;
 - observed administrative practices following the transfer of regulatory authority to the Division of Wildlife Resources; and
 - reported stakeholder communications during COR program design and rollout.
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Issue 1 — Statutory-Rule Misalignment Regarding COR Authority

S.B. 149 vests Certificate of Registration (COR) authority in “the division,” defined in Title 23A as the Division of Wildlife Resources (DWR). Rule R657-72 likewise places COR

issuance and administration in “the division.”

However, multiple outfitters report that the COR system was designed and operationalized through the Utah Division of Law Enforcement (DNR-LE), rather than through DWR. Outfitters report direct design-phase communications with DNR-LE personnel concerning:

- registration requirements;
- compliance mechanics;
- operational implementation; and
- system functionality.

Several outfitters report no corresponding design-phase engagement with DWR.

To the extent program design, technical infrastructure, or operational administration has been assumed by enforcement personnel rather than regulatory staff, this creates statutory-alignment and structural-governance concerns appropriate for legislative clarification.

Issue 2 — Delegation Ambiguity and Executive-Branch Misalignment

Neither S.B. 149 nor Rule R657-72 expressly authorizes:

- law-enforcement design of the COR system;
- law-enforcement control of registration databases;
- enforcement administration of licensing infrastructure; or
- internal executive reassignment of COR authority.

Utah administrative-law principles require express statutory delegation of agency authority. Rules may not expand statutory authority. Internal executive practice may not override legislative assignments.

To the extent COR design or administration has been assumed by enforcement personnel rather than by DWR, this reflects delegation ambiguity and executive-branch misalignment that warrant statutory clarification.

Issue 3 — Absence of a Professional Governance Structure

S.B. 149 eliminated professional licensure without restoring a professional governance framework.

The current framework:

- retains criminal penalties;
- retains enforcement authority;
- retains participation limits; and
- retains fee

obligations; while

eliminating:

- independent licensing board governance;
- defined entry qualifications;
- professional discipline procedures;
- adjudicative due-process protections; and
- structural separation between licensing and enforcement functions.

This creates a regulatory structure governing professional services primarily through wildlife-law enforcement mechanisms rather than professional governance standards.

Issue 4 — Due-Process Defects in Compliance and Discipline

Under the current framework:

- no neutral licensing board exists;
- no independent adjudicative forum exists for licensure discipline;
- enforcement personnel interpret and apply professional standards;
- compliance determinations are resolved through enforcement pathways; and
- minor hunting-license violations may be used to trigger collateral professional consequences.

The requirement that an outfitter personally maintain a valid hunting license creates a structural dependency whereby minor personal hunting violations may be used to dismantle an outfitter's business operations.

This raises proportionality and due-process concerns.

Issue 5 — Rule Dependency and Regulatory Fragility

Rule R657-72 supplies substantive operational detail not codified in statute, including:

- definitions;
- supervision standards;
- compliance mechanics;
- registration conditions; and
- enforcement triggers.

This creates:

- statutory under-specification;
- regulatory fragility;
- inconsistent application; and
- elevated litigation exposure.

Material professional standards are customarily codified in statute rather than supplied through rule.

Issue 6 — Enforcement Incentive and Fund-Governance Risks

The current framework routes COR fees into funds accessible by law-enforcement units. This creates:

- enforcement-linked financial incentives;
- structural conflicts of interest; and
- appearance of regulatory capture.

Professional licensure systems customarily firewall licensing revenues from enforcement units.

These enforcement-incentive risks are codified through Title 23A, Section 3-216, which routes COR fee revenues into funds accessible by law-enforcement units.

Issue 7 — Federal Land-Use Coordination Defects

The current framework fails to align state licensure and governance with federal land-use authorization structures administered by the U.S. Forest Service and Bureau of Land Management.

This threatens:

- federal carrying-capacity determinations;
 - environmental impact study assumptions;
 - special-use permit compliance structures; and
 - intergovernmental regulatory coordination.
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Issue 8 — Operator Cap Ambiguity

S.B. 149 imposes operator caps without statutory clarification of:

- scope of application;
- supervision standards; or
- responsible-charge mechanics.

This produces inconsistent enforcement and operational uncertainty.

Issue 9 — Lack of Statutory Entry Standards

The current framework provides no statutory gateway to industry entry.

There are no codified requirements for:

- field experience;
- examinations;
- CPR or first-aid certification;
- insurance verification; or
- professional competency standards.

This undermines industry professionalism, public-safety safeguards, and regulatory legitimacy.

Restoration of Prior Statutory Entry Standards.

From 2009 through 2019, Utah regulated outfitters and guides as a licensed profession under Title 58, Chapter 79. During that period, statute required applicants to demonstrate skill and ability, complete education and training, and qualify under standards established by the division in collaboration with a licensing board.

The repeal-and-reenact act restores this statutory gateway to professional entry by codifying minimum qualifications in statute, including field experience or competency pathways,

standardized examinations with a minimum passing score, CPR and first-aid certification, liability insurance, and hunter education.

This restores the professional licensure model previously used in Utah and cures the current framework's absence of a statutory entry gateway.

Issue 10 — Rulemaking Scope Creep

Rule R657-72 supplies substantive regulatory obligations not expressly authorized by S.B.

149. Rules may not expand statutory authority.

This creates statutory-rule alignment risk and heightened litigation exposure.

Issue 11 — Personal License Suspension → Business Collapse Dependency

Title 23A, Section 5-309 permits suspension or revocation of personal hunting privileges to be used as a basis for collateral professional consequences.

Under the current framework:

- minor personal hunting violations;
- unrelated wildlife infractions; or
- technical licensing errors

may be used to dismantle an outfitter's business operations.

This creates:

- proportionality defects;
- due-process concerns; and
- excessive-penalty risk.

Professional licensure discipline should be adjudicated by a neutral licensing board, not triggered automatically through wildlife-law enforcement mechanisms.

Summary

S.B. 149 and Rule R657-72 created a registration-based regulatory structure governing professional outfitting and guiding services without professional governance, statutory entry standards, due-process protections, or separation between licensing and enforcement functions.

The structure exhibits:

- statutory-rule misalignment;
- delegation ambiguity;
- structural governance defects;
- due-process vulnerabilities;
- enforcement-incentive risks;
- regulatory fragility; and
- elevated litigation exposure.

These defects cannot be cured through incremental rulemaking or cleanup amendments.

They require a comprehensive statutory repeal-and-reenact framework restoring professional licensure, governance, and due-process protections.

[AUDIO: TAB C](#)

TAB C

— DUE PROCESS, GOVERNANCE, AND INSTITUTIONAL LIABILITY RISKS —

Structural Constitutional Risk Assessment of S.B. 149 (2025) and Rule R657-72

TAB C constitutes the primary legal-risk and constitutional analysis memorandum supporting this packet. It consolidates and presents the two independent and compounding defect lines identified in the Final Master Legal Risk Memorandum:

- (1) the originating constitutional defect arising from elimination of professional licensure and due-process governance in 2020; and
- (2) the independent ultra vires defect arising from misaligned delegation and enforcement-centered administration in 2025.

Either defect is sufficient to invalidate the current framework. Together they create cumulative structural constitutional exposure that cannot be cured through cleanup legislation.

Purpose of This Tab

This tab documents the structural constitutional vulnerabilities, governance defects, and state-liability exposure arising from:

- elimination of professional licensure and protected property interests; and
- replacement of that structure with a registration-based, enforcement-centered regime under S.B. 149 (2025) and Rule R657-72.

The analysis is descriptive and institutional. It does not assess policy intent, fault, or litigation posture. It identifies constitutional and administrative-law risk exposure that warrants comprehensive legislative correction.

Issue 1 — Originating Constitutional Defect: Elimination of Professional Licensure and Protected Property Interests (2020)

From 2009 through 2019, Utah regulated outfitters and guides as a licensed profession, providing:

- state-issued professional licenses;
- independent licensing board governance;
- codified entry standards;
- board-adjudicated discipline;
- hearing rights under the Utah Administrative Procedures Act; and
- proportional sanctioning standards.

A professional license constitutes a protected property interest under both state and federal due-process doctrine.

In 2020, the Legislature eliminated professional licensure while retaining:

- criminal penalties;
- regulatory obligations;
- operational restrictions; and
- enforcement authority.

No neutral professional governance framework was restored.

The current structure provides:

- no professional license;
- no neutral licensing board;
- no independent adjudicative tribunal;
- no codified sanctioning standards; and
- no dedicated professional appeal mechanism.

This constitutes an **originating structural due-process defect**: regulation of a profession without a license, without a neutral tribunal, and without constitutionally adequate procedural safeguards.

This defect is not merely procedural risk. It is an existing constitutional deficiency.

Issue 2 — Structural Concentration of Regulatory, Adjudicative, and Enforcement Authority

Under the current framework:

- regulatory interpretation;
- registration authority;
- compliance determination;
- investigation; and
- enforcement

are functionally concentrated within wildlife-law enforcement structures.

This collapses the traditional separation between:

- licensing authority;
- adjudicative authority; and
- enforcement authority.

Such concentration:

- eliminates neutral professional governance;
- increases enforcement subjectivity; and
- heightens structural due-process vulnerability.

Utah administrative-law principles recognize functional separation of regulatory, adjudicative, and enforcement functions as a constitutional safeguard against arbitrary or biased decision-making.

Issue 3 — Lack of Statutory Entry Standards and Professional Gateway

The current framework contains no statutory gateway to industry entry.

There are no codified requirements for:

- field experience;
- examinations;
- CPR or first-aid certification;
- insurance verification; or
- demonstrated professional competency.

This undermines:

- public-safety protections;
- occupational liberty safeguards;

- fair competition; and
- regulatory legitimacy.

Elimination of licensure without replacement of statutory entry standards deepens the originating due-process defect.

Historical Statutory Comparison.

From 2009 through 2019, Utah Code Title 58, Chapter 79 required statutory entry qualifications for hunting guides and outfitters, including demonstrated skill and ability and completion of education and training established by rule in collaboration with a licensing board.

The repeal-and-reenact act restores this constitutional baseline by codifying the existence of minimum professional qualifications in statute and delegating only procedural details to rule. This cures the due-process defect created when professional licensure and statutory entry standards were eliminated without replacement.

Issue 4 — Disproportionate Collateral Sanctioning Risk

The current structure permits:

- minor personal hunting-license violations;
- technical compliance errors; or
- unrelated wildlife violations

to trigger collateral professional consequences, including loss of registration status.

This collapse mechanism is codified through Title 23A, Section 5-309, which permits professional consequences based on personal hunting-license violations.

This creates:

- disproportionate sanctioning risk;
- arbitrary business-destruction exposure; and
- excessive-penalty vulnerability.

Issue 5 — Statutory Under-Specification and Rule Dependence

Material professional standards are supplied primarily through Rule R657-72 rather than statute, including:

- core definitions;
- supervision standards;
- compliance mechanics; and
- enforcement triggers.

This creates:

- statutory vagueness;
- regulatory fragility;
- inconsistent application; and
- elevated rule-invalidity risk.

Courts disfavor regimes that delegate substantive professional standards entirely to rulemaking without clear legislative guidance.

Issue 6 — Independent Ultra Vires Defect: Delegation and Governance Misalignment (2025)

S.B. 149 vests Certificate of Registration authority in “the division,” defined as the Division of Wildlife Resources.

However, multiple outfitters report that:

- program design;
- technical infrastructure; and
- operational administration

were undertaken by personnel within the Division of Law Enforcement.

To the extent material design or administration has been exercised by a non-delegated entity, this creates an **independent ultra vires defect**.

This defect is jurisdictional. If proven:

- rules may be void ab initio;
- registrations may be invalid; and
- enforcement actions may be enjoined.

This defect is separate from, and cumulative to, the originating due-process defect.

Issue 7 — Structural Bias and Enforcement-Incentive Risk

COR fee revenues are routed into funds accessible by law-enforcement units.

This creates:

- enforcement-linked financial incentives;
- structural conflicts of interest; and
- appearance of regulatory capture.

Professional licensure systems customarily firewall licensing revenues from enforcement.

The absence of such safeguards creates presumptive due-process vulnerability.

Issue 8 — State Liability Exposure

The combined defects expose the state to:

- structural due-process claims;
- occupational-liberty claims;
- ultra vires challenges;
- equal-protection claims; and
- arbitrary-and-capricious enforcement claims.

Prolonged operation under a structurally defective regime increases:

- injunction risk;
 - rule invalidation risk; and
 - retroactive fiscal exposure.
-

Issue 9 — Federal Land-Use Coordination Risk

The absence of a professional licensure framework undermines:

- federal carrying-capacity assumptions;
- environmental review predicates; and
- special-use permit coordination.

This increases intergovernmental conflict and regulatory instability.

Issue 10 — Institutional Regulatory Instability

Absent structural correction, the Legislature should reasonably expect:

- continued cleanup cycles;
- escalating litigation exposure;
- inconsistent enforcement;
- market exit of experienced operators; and
- delegitimization of the regulatory program.

Incremental amendments cannot cure foundational governance and constitutional defects.

Summary and Required Legislative Cure

S.B. 149 and Rule R657-72 created a registration-based regulatory structure governing a professional services industry:

- without a professional license;
- without neutral professional governance;
- without statutory entry standards;
- without adequate due-process protections; and
- with misaligned delegation and enforcement-centered administration.

This framework exhibits **two independent constitutional defects**:

1. an originating due-process defect arising from elimination of licensure in 2020; and
2. an independent ultra vires defect arising from unauthorized administration in 2025.

Either defect is sufficient to invalidate the program.

These defects cannot be cured through cleanup legislation or rulemaking.

They require a comprehensive statutory repeal-and-reenact restoring:

- professional licensure;
- board governance;
- statutory entry standards;
- UAPA discipline; and
- proper separation between regulation and enforcement.

[AUDIO TAB D:](#)

TAB D

— DELEGATION, ULTRA VIRES, AND GOVERNANCE ALIGNMENT RISKS —

Structural Delegation and Jurisdictional Risk Assessment of S.B. 149 (2025) and Rule R657-72

Subject: Design and Administration of the COR System under S.B. 149 (2025)

Authorities: Utah Code Title 23A, Chapter 4, Part 12; Utah Admin. Rule R657-72

Prepared for: House and Senate Natural Resources, Agriculture, and Environment Committees

Purpose: Oversight review of statutory delegation, administrative structure, and governance alignment

TAB D constitutes the ultra vires and delegation analysis memorandum supporting this packet. It addresses the second independent defect line identified in the Final Master Legal Risk Memorandum:

the risk that material design, administration, or implementation of the Certificate of Registration framework has been exercised by entities or personnel not delegated authority by statute, rendering the regulatory program jurisdictionally defective.

This defect is independent of, and cumulative to, the originating due-process defect documented in Tab C.

Purpose of This Tab

This tab documents delegation misalignment, sub-delegation risk, and ultra vires exposure arising from:

- statutory allocation of authority under S.B. 149 (2025); and
- evidence that enforcement personnel participated in program design and administration.

The analysis identifies jurisdictional risk that may render:

- Rule R657-72 void ab initio;
- registrations invalid; and
- enforcement actions subject to injunction.

This tab does not assess intent or fault. It evaluates structural delegation compliance.

Issue 1 — Statutory Allocation of Authority Under S.B. 149

S.B. 149 vests Certificate of Registration authority in “the division,” defined as the Division of Wildlife Resources.

The statute delegates:

- regulatory authority to DWR;
- rulemaking authority to the Wildlife Board; and
- enforcement authority to the Division of Law Enforcement.

The statute does **not** delegate:

- program design authority to enforcement;
- administrative control to enforcement; or
- rule-drafting authority to enforcement.

Delegated authority may not be transferred by practice, convenience, or internal arrangement.

Issue 2 — Evidence of Enforcement-Led Program Design and Administration

Multiple outfitters report that:

- COR technical architecture;
- registration system design;
- operational workflows; and
- compliance mechanics

were developed or administered by personnel within the Division of Law Enforcement.

Public presentations, RAC meeting transcripts, and outreach materials reflect:

- enforcement explanation of program design;
- enforcement receipt of stakeholder input; and
- enforcement representation of administrative control.

To the extent these facts are substantiated, they indicate that material program design and administration may have been exercised by a non-delegated entity.

Issue 3 — Sub-Delegation and Ultra Vires Doctrine

Under Utah law:

- agencies may exercise only authority expressly delegated by statute;
- delegated authority may not be sub-delegated without statutory authorization; and
- acts taken without authority are void.

If material aspects of:

- program design;
- technical administration; or
- operational control

were exercised by enforcement rather than the delegated regulatory authority, this constitutes an **ultra vires defect**.

This is a jurisdictional defect, not a procedural irregularity.

Issue 4 — Consequences of Ultra Vires Defect

If an ultra vires defect is established:

- Rule R657-72 may be void ab initio;
- registrations issued under that rule may be invalid;
- enforcement actions reliant on COR status may be enjoined; and
- fee collections may lack lawful basis.

Courts treat ultra vires defects as threshold jurisdictional failures.

Issue 5 — Governance Alignment and Institutional Risk

Even absent judicial invalidation, misaligned delegation creates:

- regulatory instability;
- inconsistent administration;

- audit and oversight vulnerability; and
- elevated litigation exposure.

Programs administered outside their delegated structure are institutionally fragile.

Issue 6 — Relationship to Originating Due-Process Defect

This ultra vires defect is independent of the originating due-process defect documented in Tab C.

The current framework thus exhibits **two separate structural failures**:

1. regulation of a profession without licensure or neutral governance; and
2. potential exercise of regulatory authority by a non-delegated enforcement entity.

Either defect is sufficient to invalidate the program.

Together they create compounded constitutional and institutional exposure.

Summary and Required Legislative Cure

S.B. 149 and Rule R657-72 created a regulatory program whose:

- governance structure is misaligned with statutory delegation;
- administration may have been assumed by non-delegated entities; and
- legal validity is jurisdictionally vulnerable.

These defects cannot be cured through:

- cleanup legislation;
- internal agency reorganization; or
- post hoc rule amendments.

They require a comprehensive statutory repeal-and-reenact that:

- realigns governance in statute;
- abolishes the COR framework;
- restores professional licensure; and
- reassigns authority expressly and exclusively.

[AUDIO TAB E:](#)

TAB E

— STATUTORY CROSSWALK —

S.B. 149 (2025) · H.B. 168 (2026) · Rule R657-72 · Repeal-and-Reenact Act

Purpose of This Crosswalk

This crosswalk identifies statutory and regulatory changes enacted in S.B. 149 (2025), proposed in H.B. 168 (2026), and implemented through Rule R657-72, and maps those changes against the structural corrections contained in the proposed repeal-and-reenact framework titled:

Utah Outfitter and Guide Professional Licensure, Governance, and Operational Standards Act

This crosswalk is intended to:

- clarify statutory lineage and dependency;
- identify governance and due-process defects;
- flag delegation ambiguity and alignment risks;
- identify enforcement-incentive risks; and
- demonstrate why incremental cleanup legislation cannot cure foundational structural defects.

1. Regulatory Framework

S.B. 149 (2025):

- Eliminated professional licensure.
- Created a Certificate of Registration (COR) regime.
- Embedded outfitter and guide regulation into Title 23A.
- Assigned COR authority to “the division” (DWR).

H.B. 168 (2026):

- Retains COR.
- Expands enforcement integration.
- Reassigns fund custody.
- Creates a Poaching Mitigation Fund.

Rule R657-72:

- Implements COR.
- Establishes registration mechanics.
- Codifies enforcement-centric administration.
- Creates affiliation rosters.

Repeal-and-Reenact Act:

- Repeals COR.
 - Restores professional licensure.
 - Reestablishes neutral governance.
 - Separates licensure from wildlife enforcement.
 - Replaces the COR-based regulatory structure.
-

2. Governance Authority

S.B. 149 (2025):

- Vests COR authority in “the division.”
- Does not create a licensing board.
- Collapses regulatory and enforcement functions.

H.B. 168 (2026):

- Preserves division-centric governance.
- Expands enforcement access to licensure-related funds.

Rule R657-72:

- Operationalizes COR through DNR administrative units.
- Preserves enforcement-centric implementation.

Repeal-and-Reenact Act:

- Creates the Utah Outfitter and Guide Licensing Board.
 - Restores neutral professional governance.
 - Separates licensing from wildlife enforcement.
-

3. Entry Standards and Professional Gateway

S.B. 149 (2025):

- Eliminates licensure entry standards.
- Eliminates examinations.
- Eliminates competency pathways.
- Eliminates CPR / first-aid requirements.
- Eliminates insurance verification.

H.B. 168 (2026):

- Does not restore professional entry standards.

Rule R657-72:

- Implements COR without professional gateway safeguards.

Repeal-and-Reenact Act:

- Restores examinations.
 - Restores competency pathways.
 - Restores CPR / first-aid.
 - Restores insurance verification.
 - Restores statutory professional entry standards.
-

4. Contract Governance

S.B. 149 (2025):

- Does not require written outfitter-client contracts.
- Permits oral and implied agreements.

H.B. 168 (2026):

- Does not cure contract ambiguity.

Rule R657-72:

- Does not require a written controlling contract.

Repeal-and-Reenact Act:

- Requires written outfitter-client hunting contracts.
 - Establishes the written hunting contract as the controlling agreement governing field operations and responsible charge.
 - Removes reliance on oral or implied agreements for defining professional authority. Requires written outfitter-client hunting contracts.
-

5. Operator Limits and Participation

S.B. 149 (2025):

- Imposes operator caps.
- Fails to define pursuit vs. recovery phases.
- Fails to exclude support personnel.

H.B. 168 (2026):

- Retains operator caps.
- Does not cure phase ambiguity.

Rule R657-72:

- Implements operator limits without phase boundaries.
- Permits enforcement discretion.

Repeal-and-Reenact Act:

- Defines pursuit phase.
 - Defines recovery phase.
 - Excludes support personnel.
 - Terminates operator limits at lawful harvest and tagging.
-

6. Responsible Charge and Supervision

S.B. 149 (2025):

- Collapses supervision standards.
- Permits ambiguous responsibility chains.

H.B. 168 (2026):

- Does not restore responsible-charge architecture.

Rule R657-72:

- Codifies ambiguous supervision.

Repeal-and-Reenact Act:

- Restores responsible charge.
 - Limits the exercise of responsible charge to licensed outfitters and licensed guides acting under this part.
 - Codifies supervision standards.
-

7. Unlicensed Practice

S.B. 149 (2025):

- Retains criminal penalties.
- Weakens professional enforcement logic.

H.B. 168 (2026):

- Does not cure unlicensed-practice gaps.

Rule R657-72:

- Implements COR-centric enforcement.

Repeal-and-Reenact Act:

- Restores professional licensure.
 - Codifies unlicensed practice.
 - Preserves criminal prosecution authority.
-

8. Title Protection

S.B. 149 (2025):

- Retains title-usage ambiguities.

H.B. 168 (2026):

- Does not cure title-protection defects.

Rule R657-72:

- Preserves registration-era title ambiguity.

Repeal-and-Reenact Act:

- Restores title protection.
 - Prohibits misuse of “outfitter” and “guide.”
-

9. Due Process and Adjudication

S.B. 149 (2025):

- Collapses licensure into enforcement logic.
- Eliminates board adjudication.

H.B. 168 (2026):

- Does not restore due-process structure.

Rule R657-72:

- Routes discipline into DWR adjudication pathways.

Repeal-and-Reenact Act:

- Anchors discipline to UAPA.
- Restores board adjudication.
- Requires written findings.
- Requires proportional sanctions.

10. Enforcement Separation

S.B. 149 (2025):

- Blurs licensing and enforcement functions.

H.B. 168 (2026):

- Deepens enforcement integration.

Rule R657-72:

- Codifies enforcement-centric administration.

Repeal-and-Reenact Act:

- Separates licensing from enforcement.
- Firewalls licensure governance from enforcement functions.

11. Fund Governance — 23A-3-216

S.B. 149 (2025):

- Routes COR fees into a fund accessible by enforcement.

H.B. 168 (2026):

- Expands law-enforcement fund access.
- Creates a Poaching Mitigation Fund.

Rule R657-72:

- Implements COR fee routing.

Repeal-and-Reenact Act:

- Rewrites 23A-3-216.
- Firewalls licensure revenues from enforcement use.
- Redirects funds exclusively to licensure governance and board-administered licensure functions.

12. Personal License Suspension Dependency — 23A-5-309

S.B. 149 (2025):

- Permits collateral business collapse.

H.B. 168 (2026):

- Does not cure the dependency.

Rule R657-72:

- Preserves personal-license dependency.

Repeal-and-Reenact Act:

- Separates personal hunting privileges from professional licensure.
 - Requires board adjudication for licensure discipline.
-

13. Restitution Discipline Bleed-Through — 23A-5-312

S.B. 149 (2025):

- Permits restitution-triggered licensure collapse.

H.B. 168 (2026):

- Does not cure restitution bleed-through.

Rule R657-72:

- Preserves enforcement-centric discipline.

Repeal-and-Reenact Act:

- Separates restitution from licensure discipline.
 - Requires board adjudication for licensure consequences.
-

14. Federal Authorization Alignment

S.B. 149 (2025):

- Does not define federal coordination boundaries.

H.B. 168 (2026):

- Does not cure federal permit conflicts.

Rule R657-72:

- Requires federal permits without defining state enforcement scope.

Repeal-and-Reenact Act:

- Verifies federal authorization existence only.
 - Prohibits independent state enforcement of federal permit terms.
-

15. Aviation Enforcement Nexus

S.B. 149 (2025):

- Permits aviation-based enforcement without a statutory nexus.

H.B. 168 (2026):

- Does not cure aviation overreach.

Rule R657-72:

- Preserves aviation enforcement ambiguity.

Repeal-and-Reenact Act:

- Requires a direct nexus to compensated outfitting or guiding services.
-

16. Anti-Circumvention

S.B. 149 (2025):

- Permits proxy guiding.
- Permits shadow operations.

H.B. 168 (2026):

- Does not cure circumvention.

Rule R657-72:

- Preserves affiliation loopholes.

Repeal-and-Reenact Act:

- Codifies anti-circumvention provisions.
 - Prohibits proxy and indirect operations.
-

17. Rule R657-72

S.B. 149 (2025):

- Implemented COR.

H.B. 168 (2026):

- Expands enforcement integration.

Repeal-and-Reenact Act:

- Repeals Rule R657-72.
 - Authorizes new rules solely to implement this licensure framework under this part.
-

18. Certificate of Registration (COR)

S.B. 149 (2025):

- Creates COR.

H.B. 168 (2026):

- Preserves and expands COR.

Rule R657-72:

- Implements COR.

Repeal-and-Reenact Act:

- Repeals COR.
 - Eliminates spotters.
 - Restores professional licensure.
-

19. H.B. 168 (2026)

S.B. 149 (2025):

- Creates COR.

H.B. 168 (2026):

- Expands enforcement funding.
- Retains COR.
- Deepens governance defects.

Repeal-and-Reenact Act:

- Controls to the extent of conflict.
-

20. Delegation Alignment

S.B. 149 (2025):

- Vests COR authority in DWR.

Rule R657-72:

- Implements COR through DNR administrative units.

Observed Practice:

- COR program design and administration reported through DNR–Law Enforcement personnel.

Repeal-and-Reenact Act:

- Restores neutral governance.
 - Separates licensing from enforcement.
 - Cures delegation ambiguity.
-

21. Coordinating Clause

Repeal-and-Reenact Act:

- Controls over conflicting legislation.
- Prevents same-session collision with H.B. 168

AUDIO TAB F:

TAB F

**UTAH OUTFITTER AND GUIDE
PROFESSIONAL LICENSURE, GOVERNANCE,
AND OPERATIONAL STANDARDS ACT**

Chapter 12 — Repeal and Reenact (Governance Reassignment)

Section 1. Repeal and reenactment.

Title 23A, Chapter 4, Part 12, Outfitter and Guide Regulation, is repealed and reenacted to read:

**Part 12. Utah Outfitter and Guide Professional Licensure,
Governance, and Operational Standards Act**

23A-4-1201. Title.

This part is known as the “**Utah Outfitter and Guide Professional Licensure, Governance, and Operational Standards Act.**”

23A-4-1202. Legislative findings; intent; governance reassignment.

(1) The Legislature finds that:

(a) outfitting and guiding are compensated professional services involving client safety, navigation in hazardous environments, and lawful participation in regulated wildlife activities;

(b) from 2009 through 2019, outfitters and guides were regulated under a professional licensure model that included defined entry standards, independent board governance, and adjudicative due-process protections;

- (c) subsequent legislative actions removed professional licensure while retaining or expanding regulatory oversight, enforcement authority, criminal penalties, and fees;
 - (d) regulation of professional services without a corresponding professional governance framework increases institutional risk, enforcement subjectivity, and administrative instability; and
 - (e) clear statutory standards reduce reliance on ad hoc enforcement and rule interpretation.
- (2) It is the intent of the Legislature to:
- (a) reassign professional governance authority for outfitters and guides to a licensure-based framework under this part;
 - (b) restore professional standards of entry, scope of practice, supervision, and discipline;
 - (c) separate professional licensure and discipline from wildlife administration and field law enforcement;
 - (d) preserve the statutory authority of the Division of Wildlife Resources over wildlife law and of the Division of Law Enforcement over wildlife enforcement, unrelated to professional licensure; and
 - (e) avoid conflict with programs administered by the Division of Outdoor Recreation.
- (3) Nothing in this section authorizes the Division of Wildlife Resources, the Division of Law Enforcement, or the Wildlife Board to regulate, condition, supervise, suspend, revoke, or discipline professional licensure under this part except as expressly provided in this part and exercised exclusively through the board.
- (4) This part is enacted as a structural reset and not as a continuation of a prior registration, certificate, or enforcement-centric regulatory framework.

23A-4-1203. Definitions.

As used in this part:

- (1) “Board” means the Utah Outfitter and Guide Licensing Board created under this part.
- (2) “Division” (DNR-DWR) means the Division of Wildlife Resources within the Department of Natural Resources.
- (3) “Division of Law Enforcement” (DNR-LAW) means the Division of Law Enforcement within the Department of Natural Resources.
- (4) “Division of Outdoor Recreation” (DNR-DOR) means the Division of Outdoor Recreation within the Department of Natural Resources.

(5) “Outfitter” means a person licensed under this part who provides outfitting services for compensation

(6) “Guide” means an individual licensed under this part who provides guide services only as designated in a hunting contract by a licensed outfitter.

(7) “Operator” means a licensed outfitter or a licensed guide under this part.

(8) “Outfitting services” means professional services provided by a licensed outfitter or licensed guide while acting in responsible charge of a client, including planning, supervising, and directing the client’s participation in a hunt for compensation, and does not include transportation, lodging, meals, equipment rental, packing, filming, scouting, animal handling, or other ancillary or logistical services when those services are provided independently and without the exercise of responsible charge

(9) “Guide services” means professional field services provided by a licensed guide under the responsible charge of a licensed outfitter, consisting of supervising, directing, and assisting a client during the pursuit phase of a hunt for compensation, and does not include incidental assistance, support personnel activities, transportation, packing, filming, scouting, animal handling, or other ancillary services that do not involve the exercise of responsible charge

(10) “Support personnel” means individuals, whether compensated or not, who provide logistical, transportation, packing, camp, culinary, filming, scouting, animal handling, or other ancillary assistance and who do not exercise responsible charge or otherwise act as an operator under this part.

(11) “Pursuit phase” means the period during which a client actively pursues wildlife until lawful take **and tagging (electronic or physical)** or cessation of pursuit for that day.

(12) “Recovery phase” means activities occurring after lawful take, including tracking, retrieval, field care, and transportation of harvested wildlife to the client’s personal vehicle and custody.

(13) “Compensation” means anything of value, direct or indirect, monetary or nonmonetary, received or expected in exchange for outfitting or guiding services. Compensation does not include incidental or de minimis assistance not provided pursuant to a commercial agreement or expectation of remuneration.

(14) “Hunting contract” means a written agreement between a client and a licensed outfitter

that defines the scope of outfitting and guiding services to be provided, establishes the field operations plan for the hunt, and designates one licensed outfitter as the primary holder of responsible charge and may designate one or more licensed guides authorized to exercise responsible charge to the extent specified in the contract.

- (15) “Responsible charge” means having the direct and primary professional responsibility for a client’s welfare and compliance with law while supervising and directing guide services at the time and location services are provided, including the authority and ability to immediately direct or intervene to protect client safety and ensure compliance with applicable law.

23A-4-1203.1. Responsible charge — designation; scope; limitations.

(1) Only a licensed outfitter may originate responsible charge for a client under this part.

(2) A licensed outfitter may designate in a hunting contract one licensed guide to exercise responsible charge on the outfitter’s behalf for a defined hunt, permit, time period, or field operation.

(3) A designation of responsible charge under this section shall:

- (a) be in writing in the hunting contract;
- (b) identify the licensed guide designated;
- (c) define the scope and duration of the designation; and
- (d) be limited to services authorized under this part.

(4) A licensed guide may exercise responsible charge only if expressly designated under Subsection (2) and only within the scope and duration specified in the hunting contract.

(5) A licensed guide who is not designated under this section may provide guide services only under the supervision of the person exercising responsible charge.

(6) A licensed guide may not originate responsible charge independently and may not accept a client for guide services for compensation except under the responsible charge of a licensed outfitter.

(7) A licensed outfitter retains ultimate professional responsibility for all outfitting and guiding services provided under the outfitter’s license, including services performed by a designated guide.

(8) A person may not exercise responsible charge except as expressly authorized under this section.

23A-4-1203.5. Preemption of assistance-based regulation.

- (1) Notwithstanding any other provision of this title, incidental assistance, locating, or monitoring of wildlife by a person who is not an operator does not constitute:
 - (a) regulated conduct under this part;
 - (b) hunting, outfitting, guiding, or unlawful assistance under any other provision of this title;
 - or
 - (c) a violation of this title based solely on that incidental assistance, locating, or monitoring.
 - (2) A person may not be cited, charged, disciplined, or penalized under this title for incidental assistance, locating, or monitoring of wildlife unless the person is an operator engaging in compensated outfitting or guiding services.
 - (3) Nothing in this section legalizes unlicensed practice or compensated proxy guiding.
-

23A-4-1203.7. Supremacy of this part; exclusive licensure framework.

- (1) Notwithstanding any other provision of this title, this part governs the professional licensure, regulation, supervision, and discipline of outfitters and guides.
- (2) In the event of a conflict between this part and any other provision of Title 23A, this part controls to the extent of the conflict.
- (3) Except as expressly provided in this part, no provision of this title, no rule of the Wildlife Board, and no administrative practice may regulate, condition, supervise, suspend, revoke, or discipline professional licensure of outfitters or guides.
- (4) Any participation limits, headcount limits, supervision standards, or definitions adopted in other provisions of this title are superseded by this part.
- (5) Only a licensed outfitter or licensed guide designated under a written hunting contract may exercise responsible charge under this part.

(6) Any certificate of registration, registration status, roster designation, or credential issued under prior law or rule has no legal effect after the effective date of this part except as expressly provided in Section 23A-4-1203.9.

23A-4-1203.9. Abolition of Certificate of Registration; transition of infrastructure to licensure.

(1) Abolition of Certificate of Registration.

(a) Any certificate of registration, registration status, roster designation, or credential issued or maintained under prior law or Rule R657-72 is void on the effective date of this part.

(b) No person may be licensed, registered, certified, regulated, or disciplined under any certificate of registration framework for outfitters, guides, or hunting services after the effective date of this part.

(c) No state agency may issue, renew, enforce, or rely upon a certificate of registration for purposes of regulating outfitting or guiding after the effective date of this part.

(2) Elimination of legal effect.

No right, privilege, duty, penalty, enforcement authority, or disciplinary consequence arising solely from a certificate of registration framework survives the effective date of this part.

(3) Preservation and transfer of infrastructure.

Notwithstanding Subsections (1) and (2), any electronic systems, databases, application platforms, verification portals, roster structures, or administrative infrastructure developed or maintained for the prior registration program shall be preserved and transferred for use solely in administering professional licensure under this part.

(4) Conversion to licensure registry.

(a) The division shall convert any existing electronic registration registry into a professional licensure registry identifying:

- (i) each licensed outfitter;
- (ii) each licensed guide;
- (iii) license status and expiration date; and
- (iv) current outfitter–guide responsible charge designations filed under written hunting contracts.

(b) The registry shall be maintained under the supervision of the board for licensure governance purposes only.

(5) Public license verification.

The division shall maintain a public, electronic license verification system for professional licensure issued under this part and may not maintain or publish any registration-based credential or status.

(6) Transition rulemaking.

The division, in consultation with the board, may adopt transition rules necessary to:

- (a) migrate electronic records from the prior registration system into the licensure system;
- (b) reclassify registrants as applicants for licensure as provided by rule; and
- (c) terminate all registration-based workflows.

(7) Limitation.

Nothing in this section authorizes the continuation of any certificate of registration regime, enforcement authority, fee structure, or disciplinary process inconsistent with professional licensure under this part.

23A-4-1205. Utah Outfitter and Guide Licensing Board — creation; authority.

(1) There is created the Utah Outfitter and Guide Licensing Board.

(2) The board shall:

- (a) establish licensure qualifications and competency pathways **as provided in Section 23A-4-1206**;
- (b) approve examinations and training standards;
- (c) issue and renew licenses;
- (d) conduct professional discipline proceedings; and
- (e) issue final licensure decisions and final disciplinary orders.

(4) The board may not exercise wildlife administration or field law-enforcement authority.

(5) The division shall provide staff support to the board.

23A-4-1206. Qualifications and standards of licensure.

(1) An applicant for licensure under this part shall:

- (a) submit an application in a form prescribed by the board and the division; and
- (b) pay the licensure fee established under this part.

(2) In addition to Subsection (1), the board shall establish minimum professional qualifications for licensure under this part, which shall include at a minimum:

(a) for outfitter licensure, documented field experience or completion of a board-approved competency-based pathway demonstrating professional capacity to provide outfitting services;

(b) for guide licensure, documented field experience, completion of a board-approved apprenticeship or mentorship pathway, or other competency-based pathway demonstrating professional capacity to provide guide services under responsible charge;

(c) current CPR and first-aid certification issued by a nationally recognized provider, as defined by rule;

(d) proof of liability insurance in amounts established by rule, which amounts shall be reasonable, related to client safety and customary industry risk, and may not be used to create punitive or exclusionary barriers to entry;

(e) passage of a standardized competency examination or standardized competency assessment that:

(i) is developed and approved by the board;

(ii) is designed to test knowledge of wildlife law, professional standards, client safety, supervision, and ethical obligations;

(iii) is offered by:

(A) the Utah Outfitter and Guide Association;

(B) a nationally or regionally recognized professional testing service; or

(C) another testing entity approved by the board by rule;

(iv) is administered by a contracted testing agency, the Utah Outfitter and Guide Association, or another board-approved testing administrator; and

(v) requires a minimum passing score of 80 percent;

(f) a current hunter education certificate issued by Utah or a substantially equivalent hunter education program recognized by rule; and

(g) compliance with standards of professional conduct and grounds for discipline established under this part, including Section 23A-4-1218.

(3) The board may establish by rule, consistent with the qualifications established in Subsection (2):

- (a) examination format, content weighting, and administration procedures;
- (b) practical skills assessment requirements;
- (c) reciprocity and equivalency standards for applicants licensed in other jurisdictions;
- (d) procedures for reexamination and retesting; and
- (e) documentation and verification standards for field experience and competency pathways.

(4) The board may not waive the examination or competency assessment requirement except as expressly authorized by rule for applicants holding substantially equivalent licensure issued by another jurisdiction.

23A-4-1207. Scope of practice; supervision.

- (1) A guide shall operate under the responsible charge of a licensed outfitter or a licensed guide designated under Section 23A-4-1203.1.
- (2) Continuous physical proximity is not required if the guide retains the ability to immediately direct or intervene to protect client safety and ensure compliance with law.
- (3) Supervision may not be provided solely by remote communication when the client is in the field actively pursuing wildlife.

23A-4-1208. Professional discipline; due process.

- (1) Professional discipline under this part shall be conducted in accordance with Title 63G, Chapter 4, Utah Administrative Procedures Act. Professional discipline shall be based on violations of licensure standards established under Section 23A-4-1206 and Section 23A-4-1218.
- (2) The board shall conduct adjudicative proceedings and issue final orders supported by written findings and conclusions based on the record.
- (3) A violation of responsible charge designation or supervision requirements under this part constitutes professional misconduct subject to discipline under this part and does not, by itself, constitute a criminal offense.

23A-4-1208.5. Exclusive jurisdiction over professional licensure discipline.

(1) Notwithstanding any other provision of this title, professional discipline, suspension, restriction, or revocation of outfitter or guide licensure issued under this part may be imposed only through a disciplinary proceeding conducted under this part and Title 63G, Chapter 4.

(2) No hearing officer, wildlife law-enforcement officer, court, or other agency may suspend, revoke, restrict, or otherwise impose professional licensure consequences except as a party to a proceeding conducted under this part.

(3) A conviction, plea in abeyance, diversion agreement, restitution order, or suspension of personal hunting privileges does not, by itself, constitute grounds for professional discipline.

(4) Suspension or revocation of a person's hunting, fishing, or permit privileges under this title does not automatically suspend, revoke, or restrict a professional license under this part.

(5) Nothing in this section limits the authority of the state to prosecute criminal wildlife violations or impose criminal penalties.

23A-4-1209. Rulemaking authority — limits.

(1) The division may, in consultation with the board, make rules under Title 63G, Chapter 3, to implement this part.

(2) Rules may not expand regulated conduct beyond this part.

(3) Rules may not regulate outdoor recreation activities within the jurisdiction of the Division of Outdoor Recreation unless expressly authorized by statute.

23A-4-1209.5. Prohibition on reenactment of repealed regulatory framework.

(1) No state agency may reenact, re-adopt, or enforce any provision of Rule R657-72 as it existed on or before July 1, 2026.

(2) No state agency may adopt any rule substantially similar in substance or effect to any provision of Rule R657-72.

(3) No state agency may adopt any rule that recreates or implements a Certificate of Registration framework for outfitters, guides, or spotters.

(4) No state agency may adopt any rule that regulates incidental assistance, locating, or monitoring of wildlife by non-operators beyond the scope authorized by this part.

(5) This section may be enforced by declaratory or injunctive relief.

23A-4-1210. Title use; unlicensed practice.

(1) A person may not use the title “outfitter,” “guide,” or a designation implying licensure under this part unless licensed under this part.

(2) Providing outfitting or guiding services for compensation without a license constitutes unlicensed practice.

(3) A licensed guide who provides guide services for compensation outside the scope of authority designated under Section 23A-4-1203.1 is engaged in unlicensed practice for purposes of this section.

(4) A licensed guide may not advertise, offer, or hold out to provide guide services except under the responsible charge of a licensed outfitter and pursuant to a hunting contract designating that outfitter.

23A-4-1211. Fees; funding safeguards.

(1) Fees shall be reasonably related to the cost of licensure and governance, shall be proportionate, and may not be punitive.

(2) Fees may not be structured to create enforcement-linked financial incentives.

(3) Funds collected under this part may not be used for any wildlife law-enforcement operations, investigations, or prosecutions.

(4) Reimbursement is limited to documented administrative costs.

23A-4-1212. License classifications.

The board may establish license classifications based on scope of services and supervision needs and may not use classifications to expand wildlife privileges.

23A-4-1213. License term; renewal.

Licenses are issued for terms established by rule and may require proof of continued competency, insurance, and compliance including continued compliance with the qualifications and standards established under Section 23A-4-1206.

23A-4-1214. Continuing education.

Continuing education may be required when reasonably related to professional competency and safety.

23A-4-1215. Records and reporting.

Records required under this part shall be limited to professional operations and may not duplicate wildlife reporting requirements.

23A-4-1216. Advertising and representations.

(1) A person may not advertise, hold out, represent, or imply that the person offers outfitting or guiding services unless:

(a) the person is licensed under this part; and

(b) if the person is a licensed guide, the advertised services are offered only pursuant to a written hunting contract under the responsible charge of a licensed outfitter or while exercising responsible charge if expressly designated to do so in that contract.

(2) A licensed guide may not advertise, hold out, represent, or imply that the guide offers independent guide services or guide services not subject to the responsible charge of a licensed outfitter.

(3) Any advertisement, solicitation, or representation by a licensed guide shall clearly identify the licensed outfitter under whose responsible charge the guide will provide services.

(4) A violation of this section constitutes unprofessional conduct and is grounds for professional discipline under this part.

23A-4-1217. Operator limits during pursuit — per-permit standard.

- (1) During the pursuit phase, no more than three operators may be engaged with respect to any single client or permit holder at any time.
- (2) An operator may not be counted toward more than one client's operator limit at the same time.
- (3) Only an operator who is lawfully exercising responsible charge under Section 23A-4-1203.1, or who is acting under the direct and immediate supervision of the person exercising responsible charge, and who is physically present and actively providing guide services during the pursuit phase, may be counted toward a client's operator limit.
- (4) No support personnel, drivers, pilots, packers, cooks, camera operators, landowners, or other non-operators may be counted toward any operator limit.
- (5) Operator limits do not apply during the recovery phase.
- (6) In the event of a conflict between this section and any other provision of this title regarding operator limits or participation thresholds, this section controls.

23A-4-1218. Grounds for professional discipline.

Grounds include fraud, unsafe practices, violations of licensure standards, circumvention of this part, or conduct demonstrating unfitness to practice.

23A-4-1219. Disciplinary sanctions; proportionality.

Sanctions must be proportionate to the violation and supported by written findings.

23A-4-1220. Investigations.

Investigations under this part are administrative and do not confer law-enforcement authority.

23A-4-1221. Coordination with law enforcement.

Professional discipline and wildlife enforcement remain separate functions; coordination is permitted for informational purposes only.

23A-4-1222. Federal authorization — coordination.

(1) As a condition of licensure under this part, a licensed outfitter or guide who conducts outfitting or guiding services on federal public land shall maintain any federal land-use authorization required by federal law.

(2) The division may verify the existence of a required federal land-use authorization for licensure coordination purposes only and may not independently interpret, administer, enforce, or condition licensure on the terms of any federal permit.

(3) Licensure action under this part for failure to maintain a required federal land-use authorization may be taken only upon issuance of a final, non-appealable determination of noncompliance by the federal agency with jurisdiction.

(4) Nothing in this section authorizes the division, the board, the Division of Law Enforcement, or the Wildlife Board to independently interpret, administer, or enforce federal permit terms.

23A-4-1223. Aviation; nexus required.

Aviation-related conduct may be considered under this part only when a direct nexus exists between the aviation activity and compensated outfitting or guiding services.

This section governs consideration of aviation-related conduct for professional licensure purposes under this part and does not limit criminal enforcement under this title.

23A-4-1224. Anti-circumvention.

A person may not evade this part through proxy arrangements, indirect compensation, or the use of unlicensed persons to provide regulated services.

23A-4-1225. Confidentiality.

Investigations and disciplinary proceedings are confidential as provided by law.

23A-4-1226. Judicial review.

Final board action is subject to judicial review under Title 63G, Chapter 4.

23A-4-1227. Stakeholder review.

Before material changes to professional standards, fees, or operational requirements, the division shall convene stakeholder review and document consideration of input.

23A-4-1228. Interagency cooperation.

Nothing in this part restricts cooperation among the division, Division of Law Enforcement, and Division of Outdoor Recreation within their respective statutory authority.

23A-4-1229. Transition and savings.

- (1) Actions lawfully taken under prior law remain valid.
- (2) Persons registered under prior law may qualify for licensure only upon meeting the qualifications and standards established under Section 23A-4-1206, as provided by rule.
- (3) No person shall be subject to retroactive professional discipline, fee liability, licensure denial, suspension, revocation, or other penalty based solely on conduct occurring before the effective date of this part that was lawful under prior law.
- (4) Nothing in this section limits the authority of the state to prosecute criminal violations or impose criminal penalties otherwise authorized by law.

23A-4-1230. Severability.

If any provision of this part is held invalid, the remainder remains effective.

23A-4-1231. Effective date.

This part takes effect July 1, 2026.

SESSION-LAW SECTIONS

Section 2. Abolition of Certificate of Registration and spotter framework.

- (1) Any statutory or regulatory category of “Certificate of Registration” for outfitters, guides, or hunting services is repealed.
 - (2) The category of “spotter” created or recognized in S.B. 149 (2025), Rule R657-72, or any other provision of Title 23A is repealed.
 - (3) No person may be licensed, registered, certified, regulated, or disciplined as a spotter under this title.
 - (4) No rule, policy, or administrative practice may recreate or implement a spotter category.
 - (5) Any reference to a Certificate of Registration or spotter in statute, rule, policy, or administrative practice is void.
 - (6) Any certificate, registration, roster listing, or designation issued or maintained as a “spotter” credential is void on the effective date of this act.
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Section 3. Repeal of Rule R657-72.

Rule R657-72, Outfitter and Guide Regulation, is repealed effective July 1, 2026.

Section 4. Conforming amendment — 23A-3-216. Guide and Outfitter Fund.

Title 23A, Chapter 3, Section 216 is amended to read:

23A-3-216. Guide and Outfitter Fund.

- (1) There is created an expendable special revenue fund known as the “Guide and Outfitter Fund.”
- (2) The Guide and Outfitter Fund consists of:
 - (a) revenue from fees collected under Title 23A, Chapter 4, Part 12;
 - (b) money appropriated by the Legislature; and
 - (c) interest, dividends, or other income earned on fund money.
- (3) Money in the Guide and Outfitter Fund shall be used solely to:
 - (a) administer professional licensure under Title 23A, Chapter 4, Part 12;
 - (b) support board governance, examinations, licensure processing, compliance inspections, and adjudicative proceedings conducted under Part 12; and
 - (c) provide administrative support services by the Division of Wildlife Resources for licensure functions only.

(4) Money in the Guide and Outfitter Fund may not be used for wildlife law-enforcement activities, investigations, criminal prosecutions, or field enforcement operations.

(5) Nothing in this section limits the authority of the Division of Wildlife Resources or the Division of Law Enforcement to enforce wildlife laws under this title.

Section 5. Conforming amendment — 23A-5-309. Taking protected wildlife illegal — criminal penalty.

Title 23A, Chapter 5, Section 309 is amended to read:

23A-5-309. Taking protected wildlife illegal — criminal penalty.

(1) Except as authorized under this title or a rule, proclamation, or order of the Wildlife Board, a person may not:

(a) take protected wildlife;

(b) possess protected wildlife unlawfully;

(c) sell or purchase protected wildlife; or

(d) engage in activities related to protected wildlife in violation of this title.

(2) A person who knowingly engages in unlicensed professional outfitting or unlicensed professional guiding in violation of Chapter 4, Part 12 commits a violation under this section.

(3) A conviction under this section does not, by itself, constitute grounds for professional discipline under Chapter 4, Part 12.

(4) Criminal penalties under this section are in addition to, and not a substitute for, professional discipline imposed under Chapter 4, Part 12.

Section 6. Conforming amendment — 23A-5-312. Restitution — disposition of money.

Title 23A, Chapter 5, Section 312 is amended to read:

23A-5-312. Restitution — disposition of money.

(1) When a person is adjudged guilty of illegal taking, possession, or destruction of protected wildlife, the court may order restitution.

(2) Restitution ordered under this section shall be based on values established by statute or Wildlife Board rule.

(3) Restitution collected under this section shall be deposited into the Wildlife Resources Account unless otherwise provided by statute.

(4) Restitution imposed under this section does not substitute for professional discipline imposed under Chapter 4, Part 12.

(5) Professional discipline, including suspension or revocation of licensure, shall be governed exclusively by Chapter 4, Part 12 and may not be imposed under this section.

Section 7. Coordinating clause; contingent operation.

If another act enacted during the same legislative session conflicts with this act regarding professional licensure of outfitters or guides, this act controls to the extent of the conflict.

Appendix — Prior Licensure Entry Standards (2009–2019)”

Title 58, Chapter 79 (2009) — Statutory Entry Standards

58-79-302 required applicants for licensure as a hunting guide or outfitter to:

- submit an application;
- pay a licensure fee;
- demonstrate good moral character;
- possess a high degree of skill and ability; and
- complete education and training established by rule in collaboration with a licensing board.

The repeal-and-reenact act restores this statutory model by modernizing and strengthening entry standards through codified examinations, competency pathways, safety certification, and board-governed licensure.