

OUTFITTERS and GUIDES LICENSING BOARD POLICY MANUAL	POLICY NUMBER: 2002	PAGE NUMBER: 1 of 7
	SUBJECT: Investigation and Scoring of Sole Proprietor Outfitter, Designated Agent and Guide License Applications with Felony, Fish and Game and Flagrant Violations, Misdemeanor and Infraction History & Failure To Disclose Information Requirements	Drafted: 05/12/11 Adopted: 1/20/16 Revised: 1/20/16 Reformatted:

1. OVERVIEW

The Outfitters and Guides Licensing Act contains certain statutes regarding the licensing of applicants as outfitters and guides. The Board's administrative jurisdiction extends to those persons applying to be licensed or who - are licensed to conduct outfitting and guiding services in the state of Idaho. Although the Board does not have direct administrative jurisdiction over unlicensed outfitters and guides, the Board's enforcement staff does have statutory authority to investigate complaints involving illegal outfitting and/or guiding.

The Board has determined that the Board's obligation of safeguarding the health, safety, welfare, and freedom from injury or danger of those persons utilizing the services of outfitters and guides, and for the conservation of wildlife and range resources requires a careful consideration of allocating Board financial and personnel resources to investigate violations of the Idaho Outfitters and Guides Act. With this in mind, it is the policy of the Board that applicants for a license shall be investigated regarding their past criminal convictions and such criminal history shall be scored by use of an objective scoring system to be processed by the Enforcement staff and moved forward at the discretion of the Executive Director.

Current rule states: *The Executive Director may grant and issue all routine temporary authorizations, license applications, amendments and related matters when the applicant does not have any convictions for fish and game violations or other violations of the grounds enumerated in Section 36-2113(a), Idaho Code, has not falsified or provided any misleading information to the Board, and otherwise qualifies for licensure.* This policy provides direction on how these matters will be handled.

The Executive Director has the discretion to deviate from this policy in order to safeguard the health, safety, welfare, and freedom from injury or danger of those persons utilizing an outfitted or guided activity. This includes the discretion to defer or deny or to issue a license to any applicant upon sufficient cause separate from the scoring system as explained below.

2. APPLICABLE STATUES AND RULES

Idaho Code 36-2113 (a) (b) & IDAPA 25.01.01.010.01 & .02 & IDAPA 25.01.01.064.01 & .02.

3. APPLICATION REVIEW, TYPE OF APPLICATIONS:

- a. New License Applications: Those applications from individuals never before licensed will require full disclosure of any and all state and/or federal felony and misdemeanor convictions and all flagrant fish and game violations issued in any state. A background check will be performed on each individual application, including Idaho State Police (ISP)

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and Idaho Department of Fish and Game (IDFG) criminal history, court repository history and federal violation history.

- b. Re-licensure License Applications: Those applications from individuals who were licensed in the preceding license year must disclose all felony, misdemeanor, fish and game, convictions and federal violations issued in any state since their last license was issued. For those who report a conviction violation, a background check will be performed including ISP and IDFG criminal history, court repository history and federal violation history since the last license.
- c. Lapsed License Applications: Those applications from previously licensed individuals who were not licensed in the preceding license year must also report any and all state and/or federal felony, misdemeanor, IDFG violations issued in any state since their last license was issued.

Note: Felony, misdemeanor, convictions and flagrant fish and game violations are explained below.

4. REVIEW/INVESTIGATION CRITERIA:

A background check will be performed on the individual application as outlined above. This will include court repository history checks, and possible federal violation history if needed. Only convictions by the applicant will be considered, not the initial charges brought against the applicant. A withheld judgment, plea agreement or no contest (Alford) plea agreement, court conviction, fine or fee payment, bond forfeiture, and probation are considered a “conviction”.

Those applicants who have previously disclosed violations or convictions which have been entered and appear in IOGLB’s data system and where no new violations or convictions within the last five years license have been determined will be renewed.

The following will not be considered in the evaluation of an application including:

- a. Minor moving/non-moving violations, speeding, registration violations, open container, insurance, equipment and parking violations, and similar minor violations.
- b. Minor fish and game infractions as specified by Idaho Code 36-1401(a)1, shall include but are not limited to: fishing w/barbless hook, possess/transport of wildlife, chumming, hunt or fish without required stamp or tag, unattended poles, fish w/more than approved lines, snagging fish, fish exceed bag limit, size limit, evidence of sex, check station requirements, fail to report on trapped furbearer, and other minor fish or game violations.

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- c. Minor misdemeanors and infractions will not be considered in the evaluation of an application. These shall include but are not limited to: Convictions such as littering, dog complaints, jaywalking, open container alcohol, minor moving/non-moving traffic violations, along with motor vehicle violations such as for expired registration, expired license, equipment violations, basic rule, speed, and other similar minor violations.

The following applications will be denied or deferred to the Board by the Director:

- a. All applications with felony convictions.
- b. All applications with Flagrant Fish and Game convictions as specified by Idaho Code 36-1401(b)(c), 36-1402(b)(c)(d)(e), 36-1404(a) to (g), and 36-1501(a) to (f) will be denied or deferred to the Board by the Director including:
 - i. Selling/offering to sell/exchange/purchase of wildlife parts killed illegally, release into wild wildlife (bears, wolves, felines, swine, peccaries), spotlighting taking game animals after sunset, unlawful taking of 2 or more big game animals in 12 months, hunt or fish or purchase with license revoked, taking in closed season, taking big game animal w/rifle in archery or muzzleloader area, selling wildlife parts, release of exotic wildlife, killing and wasting of wildlife, illegal outfitting, unlawful taking big game with rim fire firearms, unlawful purchase of license, trespassing in violation of signage, release of live fish into water bodies, license revocation, lacy act violations, or similar major fish or game violations.
 - ii. Accumulative Convictions: Three (3) or more Fish and Game violations within ten (10) years which include license revocation or reimbursable damage assessment or any magistrate court revocation of hunting/fishing/trapping licenses and/or civil penalties imposed, etc.

Misdemeanor convictions will be considered in evaluation of any new application, or if the occurrence was in the last five years on a renewal application as follows:

- a. Traffic: Major moving/non-moving violations, inattentive/careless driving, reckless driving, DUI, DWP, accidents failure to notify, leaving accident scene, eluding an officer, and other major traffic related violations.
- b. Other: Assault, battery, alcohol and/or drug offenses, probation violations, petit theft, malicious injury to property, domestic battery, trespass, illegal outfitting, firearm offenses, injury to child, sex offenses, possess/consume an alcoholic beverage under 21 years of age.
- c. Fish and Game: fishing or hunting w/o license, shoot from public highway, failure to tag big game animal, public safety violations, improper handling of firearms, trespass, exceed bag

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limit of game birds, waterfowl, big game animals, illegal outfitting, probation violations, and other major violations.

Prior convictions of the Idaho Outfitters and Guide Act, IC 2113 will be considered in evaluation of a lapsed license application or if the occurrence was in the last five years on a renewal application.

5. SCORING CONVICTIONS:

A score for each applicant will be tabulated and marked on their application.

Convictions will be numerically scored according to the conviction date and type of violation as follows:

Misdemeanor will score five (5) points.

If the occurrence of the misdemeanor conviction is within the last five years, based on the current date of the application specifically, five (5) additional points will be given for each misdemeanor on the applicant's record.

Five (5) additional points will be given for convictions of IC 2113.1. – 14 as explained above.

Therefore, a total score of as low as 5 to as high as 15, is possible for each conviction.

Those who score less than 25 would be licensed without further review. Those who score 25 to less than 50 would have closer review by the Director. Those who score higher than 50 are reviewed by Director and may at the discretion of the Executive Director be deferred to be heard by the Board or may be denied and afforded the right to hearing before the Board as explained in the Licenses Deferred or Denied section below.

Example # 1: (12/07/15)

Conviction for DUI in 2002	5 points for misdemeanor
	0 points for less than 5 years
	0 points for IDFG violation
Total	5

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Example #2: (12/07/15)

Conviction for not tagging deer in 2015 5 points for misdemeanor
5 points for less than 5 years
5 points for IDFG violation
Total 15

Example #3: (12/07/15)

Conviction for speeding in 2007, 0 points for vehicular infraction (speed)
DUI in 2012, and assault in 2014 5 points for misdemeanor (DUI)
5 points for less than 5 years (DUI)
5 points for misdemeanor (assault)
5 points for less than 5 years (assault)
0 points for IDFG violation
Total 20

6. FAILURE TO DISCLOSE INFORMATION:

The Board considers an applicant’s failure to disclose information on an application or during licensure to be inappropriate significant violation of the Outfitter and Guides Act. Under Idaho Code – 36-2113 and 36-2116, such conduct is grounds to deny a license. The Board can file a complaint with a County prosecutor and the person could be convicted of a misdemeanor. This may be done by the Executive Director after consulting with the Board.

Not disclosing misdemeanor, felony, flagrant Fish and Game convictions and federal violations on an application can bring client/public safety and welfare concerns in to play and must be addressed during licensure, therefore:

Applicants who fail to disclose criminal convictions for new licensure may, at the discretion of the Executive Director, be denied and handled as explained in the Licenses Deferred or Denied section below.

Applicants who fail to disclose criminal convictions received since their previous license may at the discretion of the Executive Director, be charged with a violation of IC – 36-2113.1 - Providing False and Misleading Information to the Board in Order to Procure a License which will be handled as follows:

- a. They may, at the discretion of the Executive Director, be issued a warning on the first violation,

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- b. They may, at the discretion of the Executive Director, be issued a citation with \$200 fine for the second violation with notification that if requested in writing within 21 days *from the day of receiving the citation*, they will be awarded an opportunity to appear before the Board.
- c. They may, at the discretion of the Executive Director, be formally charged, a formal complaint filed with a disciplinary hearing scheduled before the Board at a subsequent meeting.

Designated Agents submitting application on behalf of guides who fail to disclose criminal convictions will be handled as follows:

- a. They may, at the discretion of the Executive Director, be issued a warning on the first violation,
- b. They may, at the discretion of the Executive Director, be issued a citation with \$200 fine for the second violation with notification that if requested in writing within 21 days *from the day of receiving the citation*, they will be awarded an opportunity to appear before the Board.
- c. They may, at the discretion of the Executive Director, be formally charged, a formal complaint filed with a disciplinary hearing scheduled before the Board at a subsequent meeting.

7. LICENSES DEFERRED OR DENIED

All applicants whose license is deferred by the Executive Director will be granted an opportunity to appear before the Board and will be scheduled by staff for the next subsequent Board meeting.

All applicants whose license is denied by the Executive Director will be formally notified. The following language shall be provided to an applicant in the letter of denial signed by the Executive Director:

“An applicant aggrieved by a denial of his application shall have twenty-one (21) days from the day of receiving such notice of denial in which to submit a written request for a hearing before the board to review such action. Upon receipt of such request, the board shall hold a hearing as provided in chapter 52, title 67, Idaho Code.”

“Your request should state why you believe the Board should hear an appeal and the explanation of the conviction required by the guide application is required to be attached.”

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8. ADMINISTRATION OF SPECIAL PROCESSING FEES:

Special Processing Fees will be assessed. Fee amounts for the following applications are \$50 for guides; \$75 for designated agents and \$100 for outfitters

- a. All applications that require more than one cumulative hour of staff time to process due to incomplete information.
- b. All applications that require further investigative review by IOGLB Enforcement either incomplete/false information, or by criminal/administrative disciplinary history.
- c. All applications where criminal violations have been partly disclosed.
- d. All applications that are deferred to the IOGLB Board.
- e. All applications that are issued an administrative violation by citation, or prosecuted administratively with the IOGLB Board.
- f. Note: see IC 36-2113 and IDAPA 25.01.01.015.07

9. FACESHEETING AND DOCUMENTING VIOLATIONS:

Background history of convictions, criminal history, IOGLB disciplinary history done as the result of the Executive Director's action or following Board action will be logged on the IOGLB computer database currently managed by the IOGLB Education and Enforcement Supervisor.

As of the 2014 - 2015 licensing year, all applicants licensed during that period have been background history checked and this information logged in the journal and violations tabs associated to that individual's license history currently entered in the IOGLB database.