

**LETTER OPINION  
2008-L-09**

June 11, 2008

Mr. Terry Steinwand  
Director  
Game and Fish Department  
100 North Bismarck Expressway  
Bismarck, ND 58501

Dear Mr. Steinwand:

Thank you for your letter asking whether an operator of a shooting preserve must be licensed as an outfitter under N.D.C.C. ch. 20.1-03. For the reasons explained below, it is my opinion that a shooting preserve operator is an “outfitter” within the meaning of N.D.C.C. ch. 20.1-03 and must therefore obtain an outfitter’s license.

**ANALYSIS**

Chapter 20.1-12, N.D.C.C., governs private shooting preserves and requires, among other things, that a person have a permit from the Game and Fish Department in order to operate a shooting preserve.<sup>1</sup> But nothing in N.D.C.C. ch. 20.1-12 indicates whether a shooting preserve operator must also be licensed as an outfitter under N.D.C.C. ch. 20.1-03. With two exceptions,<sup>2</sup> N.D.C.C. ch. 20.1-03 requires all outfitters to be licensed by the department.<sup>3</sup> So, in order to answer your question, it is necessary to determine whether a shooting preserve operator is an “outfitter” under N.D.C.C. ch. 20.1-03.

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<sup>1</sup> N.D.C.C. § 20.1-12-02.

<sup>2</sup> N.D.C.C. § 20.1-03-36.1(4) (“A license is not required for a person to provide services on real property that person owns or leases for the primary pursuit of bona fide agricultural interests or for a nonprofit organization registered with the secretary of state.”).

<sup>3</sup> N.D.C.C. § 20.1-03-36 (“An individual may not act as a guide or outfitter or advertise or otherwise represent to the public as a guide or outfitter without first securing a license . . . .”); see N.D.C.C. § 20.1-03-37(6) (listing requirements for business associations).

The primary objective in construing a statute is to ascertain the Legislature's intent by looking at the language of the statute itself.<sup>4</sup> If the language is "clear and unambiguous, the legislative intent is presumed clear from the face of the statute."<sup>5</sup> When construing a statute, a word defined in the code will be given that meaning.<sup>6</sup>

Although "outfitter" is not defined in N.D.C.C. ch. 20.1-03, it is defined in N.D.C.C. § 20.1-01-02. Under this statute, "outfitter" includes any person who provides facilities, services, or land for the conduct of outdoor activities, such as hunting, in exchange for consideration.<sup>7</sup> This definition applies throughout N.D.C.C. title 20.1, "unless the context otherwise requires."<sup>8</sup> Because nothing in N.D.C.C. ch. 20.1-03 indicates that "outfitter" should have a different meaning than that given in N.D.C.C. § 20.1-01-02, this definition applies to the use of the word in N.D.C.C. ch. 20.1-03.

Section 20.1-01-02, N.D.C.C., also defines "shooting preserve" for purposes of N.D.C.C. title 20.1. Under this statute, a "shooting preserve" is "any privately owned or leased acreage [hectarage] on which hatchery-raised game birds are released to be hunted for a fee over an extended season."<sup>9</sup> So, a person operating a shooting preserve under N.D.C.C. ch. 20.1-12 necessarily provides facilities, services, or land for hunting in exchange for consideration and therefore falls within N.D.C.C. § 20.1-01-02's

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<sup>4</sup> Overboe v. Farm Credit Servs., 623 N.W.2d 372, 375 (N.D. 2001).

<sup>5</sup> Overboe, 623 N.W.2d at 375.

<sup>6</sup> N.D.C.C. § 1-02-02; N.D.A.G. 2004-L-22; see N.D.C.C. § 1-01-09 (The definition of a word in one statute will apply throughout the code, "except when a contrary intention plainly appears.").

<sup>7</sup> N.D.C.C. § 20.1-01-02(30) ("'Outfitter' means a person that holds the person's business operation out to the public for hire or consideration; provides facilities or services for consideration; maintains, leases, or otherwise provides compensation for the use of land and which receives compensation from a third party for use of that land; or otherwise uses equipment or accommodations for consideration for the conduct of outdoor recreational activities, including hunting animals or birds and fishing on lakes, reservoirs, rivers, and streams. An outfitter may act as a guide. The term does not include a person holding title or an equitable interest in business operations if the purpose of the business operation is to provide food or lodging to the general public, chamber of commerce activities, travel agencies, or others that offer free information to attract outdoor and recreational use of their communities.").

<sup>8</sup> N.D.C.C. § 20.1-01-02(30); see N.D.C.C. § 1-02-02 ("any words explained in this code are to be understood as thus explained").

<sup>9</sup> N.D.C.C. § 20.1-01-02(42).

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broad definition of “outfitter.”<sup>10</sup> Accordingly, it is my opinion that a shooting preserve operator is an “outfitter” within the meaning of N.D.C.C. ch. 20.1-03. And, because a shooting preserve operator is an outfitter within the meaning of N.D.C.C. ch. 20.1-03, it is my further opinion that a shooting preserve operator must – unless exempt under N.D.C.C. § 20.1-03-36.1 – obtain an outfitter’s license as required by that chapter.

Sincerely,

Wayne Stenehjem  
Attorney General

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This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.<sup>11</sup>

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<sup>10</sup> See Idaho Op. Atty. Gen. no. 78-34, 1978 WL 22963 (determining that similar definition of “outfitter” was broad enough to include educational facilities).

<sup>11</sup> See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).