AN ACT to amend the environmental conservation law, in relation to the licensing of guides

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The title of section 11-0533 of the environmental conservation law and subdivisions 1 and 5, are amended, subdivisions 7 and 8 are renumbered as subdivisions 11 and 12 and amended, and four new subdivisions 7, 8, 9, and 10, are added to read as follows:

§11-0533. [Licensing of] Guides and Outfitters

1. Definitions. As used in this section[.]:

a. [the] The term "guide" shall mean [a person] an individual who offers services for hire part or all of which includes directing, instructing, or aiding another in fishing, hunting, camping, hiking, white water canoeing, kayaking and rafting or rock and ice climbing.

b. The term "outfitter" shall mean any person soliciting to provide, or providing, for compensation, a guide.

5. A license as required under subdivision two of this section shall be issued for a period of five calendar years and the fee therefor shall be established by the department, not to exceed two hundred dollars for residents and five hundred dollars for non-residents.

7. No outfitter shall provide for guide services a guide who is not licensed pursuant to this section.

8. Every licensed guide or outfitter, prior to engaging in guiding or providing guides for service, shall provide a written disclosure to each client, which shall be signed by both the client and the guide, and state the dates and terms of the service to be provided, mode of transportation, costs of
service, ratio of clients to guides, and the guide’s policy regarding cancellation of the service provided and refund of any deposit.

9. No person shall engage in guiding while in an intoxicated condition, as defined in section 11-1201 of this article. No person shall engage in guiding when his or her ability to guide creates an unreasonable risk of injury or death to himself or herself, or other human life. Any person who guides while in an intoxicated condition or an impaired condition, as defined in section 11-1201 of this article, shall be subject to the same rules of evidence, standards, procedures and penalties established pursuant to sections 11-1205 and 11-1209 of this article as if they were hunting while intoxicated.

10. No outfitter shall knowingly provide guides who are, appear, or are suspected to be in an intoxicated or impaired condition, as defined in section 11-1201 of this article.

[7.] 11. For [Any] any licensed guide who violates any provision of this chapter or who makes any false statement or submits false documentation in his or her application for a license, or violates the penal law while guiding [shall], in addition to any other penalties, [immediately surrender his license to] the department[, which] may [be revoked by] suspend the [department] guide’s license for up to [one year following the date of such surrender] two years, or revoke the license; provided that such suspension or revocation shall become effective after a hearing or opportunity to be heard pursuant to the provisions of department regulations, unless a hearing is waived by the person. If the alleged violation is for guiding while in an intoxicated or impaired condition, or the guide refuses to take a breath test or chemical test, and there was a threat of harm or loss of life to the guide’s client, the department may immediately suspend the guide’s license pending any prosecution, provided that the department must offer the guide an opportunity to have a hearing within fifteen days. For purposes of this subdivision, “threat of harm or loss of life”
shall include taking a client boating, kayaking, canoeing, rafting, hunting with a firearm or bow, rock climbing or ice climbing while in an intoxicated or impaired condition.


§2. Section 71-0921 of the environmental conservation law is amended by adding three new subdivisions 14, 15 and 16 to read as follows:

14. Any person who violates subdivisions two, seven or ten of section 11-0533 of this chapter shall, in the case of a first conviction, be guilty of a class B misdemeanor and, upon conviction thereof, be punished by a fine not to exceed five thousand dollars or by imprisonment not to exceed ninety days, or both; in the case of a second or subsequent violation, such person shall be guilty of a class A misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed ten thousand dollars or imprisonment not to exceed one year, or both.

15. The department or a court may, for cause and after two or more violations of subdivision 7 or 10 of section 11-0533, suspend an outfitter’s privilege to provide guides for at least one year and no more than ten years. In determining the length of such suspension, the department or a court shall take into consideration the seriousness of the offense.

16. The department or a court may revoke the license of a guide, or the privilege of an outfitter to provide guides, for not less than five year upon a conviction of manslaughter or reckless endangerment while guiding by a guide or by a person acting as a guide while working for the outfitter.

§3 Section 71-0925 of the environmental conservation law is amended by adding a new subdivision 15 to read as follows:

15. If the violation was a violation of subdivision six, seven or eight of section 11-0533, not less than five hundred dollars.

§4. This act shall take effect immediately.