

**STATE OF NEW YORK
DEPARTMENT OF STATE**

DETERMINATION

In the matter of a request that Licensed Hunting Guide be designated as an eligible profession for the purchase, sale, and use of body armor.

Date of designation: November 1, 2024

Legal framework

To purchase or take possession of body armor in New York State, an individual or entity must be engaged or employed in an eligible profession.¹ Pursuant to Executive Law section 144-a, the Department of State (Department) has created a process whereby individuals and entities may request that the profession in which they engage be added to the Department’s list of eligible professions.² The Department has received a request that the profession “licensed hunting guide” be designated as an eligible profession. Prior to adding a profession to the list of eligible professions, the Department must first determine whether the duties of the profession may expose an individual engaged in such profession to serious physical injury that may be prevented or mitigated by the wearing of body armor, or whether the duties of the profession are necessary to facilitate the lawful purchase, sale, or use of body armor.

Requests

After receiving the request that “licensed hunting guide” be designated as an eligible profession, notice of this eligible profession request was published on the Department’s website on March 13, 2024, whereby the public was invited to submit additional requests relating to this profession. No other requests relating to this request have been received by the Department.

In providing a description of the duties of the profession the requestor refers to a New York State licensed guide and provides a link to the New York State Department of Environmental Conservation’s (DEC) webpage covering the Licensed Guide Program.³ The requestor indicates the requirements associated with the profession include holding a valid New York State issued license, with related certifications. The requestor describes the duties specifically to include taking amateur or first-time hunters armed with firearms in groups of one to five into the wilderness to hunt deer, bear, and other game including coyote, bobcat, and waterfowl.

¹ New York Penal Law §270.21.

² See 19 NYCRR Chapter XIX, Part 905, generally.

³ <https://dec.ny.gov/regulatory/permits-licenses/fish-wildlife-plant/licensed-guide-program>

Findings of fact and analysis

The Licensed Guide Program administered by DEC is governed by section 11-0533 of the New York State Environmental Conservation Law (titled, “licensing of guides”). Under that section of law, a “guide” is a person who offers services for hire part or all of which includes directing, instructing, or aiding another in fishing, hunting, camping, hiking, white water canoeing, rafting or rock and ice climbing,⁴ and with limited exceptions not applicable to this request, all guides engaging in the business of guiding on all lands and waters of the state are required to have a license issued by DEC.⁵ DEC licensed guides must wear in plain sight identification furnished by DEC while engaged in guiding.⁶ The requestor provided with the application an image of the requestor’s DEC-issued License to Guide. DEC maintains a DEC Licensed Guides Search function on its website and search results from that database verify that the requestor holds an active license as a guide for Camping, Fishing, Hiking, and Hunting issued by DEC.

For a profession to be deemed eligible, the duties of the profession must sometimes require individuals engaged or employed in that profession to be exposed to serious physical injury that may be prevented or mitigated by the wearing of body armor, or if the duties of the profession are necessary to facilitate the lawful purchase, sale, or use of body armor. Because the profession of licensed hunting guide does not involve facilitation of the lawful purchase, sale, or use of body armor, the relevant inquiry for this request is the question of whether the duties of the profession of licensed hunting guide must sometimes require individuals engaged or employed in that profession to be exposed to serious physical injury that may be prevented or mitigated by the wearing of body armor.

Previous, approved requests to add a profession to the List of Eligible Professions have discussed duties specific to that profession that may expose an individual to gunfire, such as the handling of live firearms, guarding valuable items or sensitive locations, or in-person enforcement activities. These are duties that, in their inherent nature, involve a likelihood of exposure to gunfire. In addition to such duties inherently exposing an individual to gunfire, some approved requests also offered verifiable, documented evidence such as past instances of injury that may have been prevented or mitigated by the wearing of body armor. Taken altogether, the evidence provided by a requestor is vital to the Department’s understanding of the profession and its informed determination about whether a profession is eligible pursuant to Executive Law § 144-a.

The duties of the profession of a licensed hunting guide are described by the requestor as taking small groups of amateur or first-time hunters armed with loaded firearms into the wilderness to hunt deer, bear, and other game including coyote, bobcat, and waterfowl. The requestor indicates that large caliber rifles and small caliber weapons are commonly used by clients during a guided hunt. The requestor adds that first-time hunters commonly engage in actions that can put a licensed hunting guide in danger of being shot, no matter how much training they have. DEC regulations governing the Licensed Guide Program identify several license eligibility

⁴ NYS Environmental Conservation Law § 11-0533(1).

⁵ NYS Environmental Conservation Law § 11-0533(2).

⁶ NYS Environmental Conservation Law § 11-0533(6).

requirements, including a test that with questions on laws and regulations pertaining to hunting, meat and trophy care, game identification, hunter safety, and hunting techniques.⁷

Determination

The information set forth above supports a determination by the Department that the duties of the profession of Licensed Hunting Guide sometimes require individuals engaged or employed in that profession to put themselves in dangerous situations that may expose them to serious physical injury, and that such serious physical injury may be prevented or mitigated by the wearing of body armor.

Based on the foregoing facts and the requirements of Executive Law §144-a and 19 NYCRR Part 905, the Department has designated the profession of Licensed Hunting Guide, as referenced by section 11-0533 of the New York State Environmental Conservation Law, as an eligible profession for the purchase, sale, and use of body armor and adds such profession to the Department's list of eligible professions.

⁷ 6 NYCRR 197.6(c)(1).