

Opinion: Nevada encroaching on rights of professional photographers

By Carolyn E. Wright

As an attorney in the Lake Tahoe area who represents photographers and who also is a photographer, I am concerned about the rights of photographers.



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The Nevada Division of State Parks will have a public hearing at the Richard Bryan Building, 901 S. Stewart St., Carson City, 2nd floor Tahoe hearing room, on March 31 from 3-5pm for amended regulations relating to park entrance fees for photographers with commercial photography permits. The good news is there will be no fee increase associated with the amendments. The bad news is that, while reviewing the proposed changes, I learned that Nevada defines commercial photography as:

[P]hotography engaged in for financial gain, including, without limitation, the sale of a photographic image as a product or for use in advertising, motion pictures, television productions or portfolios and the archiving of an image by a person who uses photographic skills, equipment or resources to provide a photographic product for sale.

It's disappointing that Nevada defines commercial photography by the purpose of the photography rather than by the activities that may affect the park and visitors, as is done with the National Park Service. Go online for more information.

But it gets worse. Currently, the website for the Nevada Administrative Code ("NAC") 407.050 states:

4. For each day or partial day that a person engages in commercial photography in a park, the Division will charge and collect the following fee according to the total number of vehicles or the total number of persons, whichever results in a higher fee:

Number of Vehicles or Persons Fee Per Day

2 to 5 vehicles or 6 to 25 persons.....
\$200

6 to 10 vehicles or 26 to 50 persons.....
350

11 to 15 vehicles or 51 to 75
persons..... 500

16 to 20 vehicles or 76 to 100
persons..... 800

21 to 50 vehicles or 101 to 400
persons..... 2,100

More than 50 vehicles or more than 400
persons..... 3,500

. . .

6. The Division will not charge a fee pursuant to this section for:

(a) Commercial photography engaged in by one to five persons

in a single vehicle

So when I took this photo at Sand Harbor State Park in 2009, I didn't need a permit because I was shooting alone.



2013 Revisions

But the NAC website is not up to date. Last year, the NAC made changes to the code that have not been posted online but are available directly from the Department of Conservation and Natural Resources. And the changes aren't good:

1. The definition of commercial photography now includes portraits.

2. The fees have been divided into classes. Class A is now: 1 to 3 vehicles or 2 to 15 persons and the fee is \$50 a day.

3. New provisions have been added that state:

7. A person may request an annual class A commercial photography permit . . . [for] a fee of \$500. . . . A person to whom is issued an annual class A commercial photography permit shall:

(a) Pay the entrance fee required pursuant to NAC 407.055 each time he or she enters a park to engage in commercial photography;

(b) Maintain adequate insurance coverage for the entire period he or she holds such a permit and provide proof to the Division of such coverage; and

(c) Contact in advance the office of the park that he or she intends to use to confirm the availability of the areas where the person intends to engage in commercial photography.

Proposed Revision for 2014

So, the only substantive proposed change for 2014 relating to photographers is that the Code will be clarified so that:

The Division will waive the entrance fee for the park (referenced in paragraph 7 (a) above) upon payment of the fee for an Annual Class A photography permit.

Which is, at least, a little good news.

Therefore, a photographer is supposed to pay \$50/day or \$500/year to take photos in Nevada State Parks, which includes Cave Rock State Park, the Spooner backcountry area, and Sand



Harbor State Park in Lake Tahoe. But the photographer's activity and impact on the park and other visitors likely is no different than that of a hobbyist photographer. Taking family vacation photos usually doesn't affect the park or its visitors any more than taking portraits for seniors or engaged couples. Taking landscape or wildlife photos for later sale doesn't affect the park or its visitors than it does for sharing the photos on Facebook. Given the literal interpretation of the statute, I was not violating the law when I took my friends' engagement photos (example shown above) last October because it was my gift to them. But if I had charged them for the shoot, as I have for other clients, then I should have paid the State Park fee.

State legislators, please understand that photographers usually don't use the park any differently than anyone else. So we shouldn't have to pay more than anyone else. Instead, please modify the code so that it is similar to the National Parks guidelines.

Persons wishing to comment upon this proposed action of State Parks may appear at the scheduled public hearing or may provide their comments, data, views or concerns in written form to Division of State Parks, 901 S. Stewart St., Suite

5005, Carson City, NV 89701-5248. Written submissions must be received on or before March 31.

Carolyn E. Wright is a licensed attorney dedicated to the legal needs for photographers. She provides free legal information online.