

HOUSE BILL NO. 274

INTRODUCED BY GREEF, ROSENDALE, SONJU

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE LICENSING OF OUTFITTERS
5 AND GUIDES; ELIMINATING THE PROFESSIONAL GUIDE LICENSE; REVISING POWERS AND DUTIES OF
6 THE BOARD OF OUTFITTERS; REVISING REPORTING REQUIREMENTS; REVISING QUALIFICATIONS AND
7 APPLICATION AND EXAM REQUIREMENTS; CLARIFYING THE LIMIT ON ONE LICENSE PER INDIVIDUAL;
8 REVISING PENALTIES; REVISING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-47-101, 37-47-201,
9 37-47-301, 37-47-302, 37-47-303, 37-47-304, 37-47-305, 37-47-306, 37-47-307, 37-47-310, 37-47-311,
10 37-47-341, 37-47-343, 37-47-401, 37-47-402, 37-47-403, 37-47-404, AND 87-6-702, MCA; AND REPEALING
11 SECTIONS 37-47-103, 37-47-316, AND 37-47-318, MCA."

12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14

15 **Section 1.** Section 37-47-101, MCA, is amended to read:16 **"37-47-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following
17 definitions apply:18 (1) "Accompany" means to go with or be together with a participant as an escort, companion, or other
19 service provider, with an actual physical presence in the area where the activity is being conducted and within
20 sight or sound of the participant at some time during the furnishing of service.21 ~~————(2) "Base of operations" means the primary physical location where an outfitter receives mail and~~
22 ~~telephone calls, conducts regular daily business, and bases livestock, equipment, and staff during the hunting~~
23 ~~season.~~24 ~~(3)(2)~~ "Board" means the board of outfitters provided for in 2-15-1773.25 ~~————(4) "Camp" means each individual facility or group of facilities that an outfitter uses to lodge a client for~~
26 ~~a client's trip or uses to lodge a client in the operating area designated in the outfitter's operations plan, including~~
27 ~~a motel, campground, bed and breakfast, lodge, tent camp, cabin, camper, trailer, or house.~~28 (3) "Business entity" means any version of a proprietorship, partnership, corporation, or limited liability
29 company.30 ~~(5)(4)~~ "Consideration" means something of value given or done in exchange for something of value given

1 or done by another.

2 ~~(6)(5)~~ "Department" means the department of labor and industry provided for in Title 2, chapter 15, part
3 17.

4 ~~———— (6) "Designated agent" means a person employed by or who has contracted independently with a
5 licensed outfitter and who has been authorized in such capacity to represent, book clients for, quote prices for,
6 and arrange hunting and fishing trips for the outfitter in accordance with this chapter and rules adopted pursuant
7 to this chapter.~~

8 ~~(7)(6)~~ "Guide" means a person who is employed by or who has contracted independently with a licensed
9 outfitter and who accompanies a participant during outdoor recreational activities that are directly related to
10 activities for which the outfitter is licensed.

11 ~~(8)(7)~~ "License year" means the period indicated on the face of the license for which the license is valid.

12 ~~(9)(8)~~ "Net client hunter use" or "NCHU" means the most actual number of clients authorized to be
13 served by an outfitter in any NCHU license category in any license year, as documented by verifiable client logs
14 or other documents maintained by the board pursuant to 37-47-201 on private and state land and on any federal
15 land where an outfitter's use of the federal land is not limited by some means other than NCHU.

16 ~~———— (10) "Nonresident" means a person other than a resident.~~

17 ~~(11)(10)(9)~~ "Outfitter" means any person, except a person providing services on real property that the
18 person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle
19 or pack animal, facilities, camping equipment, vehicle, watercraft, or other conveyance, or personal service
20 for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that
21 person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide
22 ~~or professional guide~~ in accompanying that person.

23 ~~(12)(11)(10)~~ "Participant" means a person using the services offered by a licensed outfitter.

24 ~~———— (13) "Professional guide" means a guide who meets experience, training, and testing qualifications for
25 designation as a professional guide, as set by board rule.~~

26 ~~———— (14) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under
27 87-2-102."~~

28

29 **Section 2.** Section 37-47-201, MCA, is amended to read:

30 **"37-47-201. Powers and duties of board relating to outfitters, guides, and professional guides.**

1 The board shall:

2 (1) cooperate with the federal government in matters of mutual concern regarding the business of
3 outfitting and guiding in Montana;

4 (2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;

5 (3) establish outfitter standards, ~~guide standards,~~ and professional guide standards;

6 (4) adopt:

7 (a) rules to administer and enforce this chapter, including rules prescribing all requisite qualifications for
8 licensure as an outfitter, ~~guide,~~ or professional guide. Qualifications for outfitters ~~must~~ may include training,
9 testing, experience ~~in activities similar to the service to be provided,~~ and knowledge of rules of governmental
10 bodies pertaining to outfitting ~~and condition and type of gear and equipment, and the filing of an operations plan.~~

11 (b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health,
12 safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing
13 or offering to practice as an outfitter, ~~guide,~~ or professional guide;

14 (c) rules specifying components and standards for review and approval of ~~proposed new~~ operations
15 plans involving hunting use. ~~Approval is not required when part or all of an existing operations plan is transferred~~
16 ~~from one licensed outfitter to another licensed outfitter.;~~

17 (d) rules establishing outfitter reporting requirements. ~~The reports must be filed annually and report~~
18 ~~actual leased acreage actively used by clients during that year and actual leased acres unused by clients during~~
19 ~~that year, plus any other information designated by the board and developed in collaboration with the department~~
20 ~~of fish, wildlife, and parks or the review committee established in 87-1-269 that is considered necessary to~~
21 ~~evaluate the effectiveness of the hunter management and hunting access enhancement programs.;~~ THE REPORTS
22 MUST BE FILED ANNUALLY AND REPORT CLIENT NAMES, OUTFITTERS AND GUIDES PROVIDING CLIENT SERVICES AND THE
23 LICENSE NUMBERS OF THOSE OUTFITTERS AND GUIDES, AND DATES OF CLIENT SERVICES, AND ANY OTHER INFORMATION
24 REQUIRED BY THE BOARD BY RULE, AND PRIVATE LAND ACREAGE WHERE LICENSED OUTFITTERS ARE AUTHORIZED BY THE
25 LANDOWNER TO OPERATE, INCLUDING EXCLUSIVE ARRANGEMENTS AND LEASE AGREEMENTS.

26 (5) hold hearings and proceedings to suspend or revoke licenses of outfitters, ~~guides,~~ and professional
27 guides for due cause; and

28 ~~———(6) maintain records of actual clients served by all Montana outfitters that fulfill the requirements of~~
29 ~~subsection (4)(d);~~

30 ~~(7)~~(6) maintain records of net client hunter use."

1

2 **Section 3.** Section 37-47-301, MCA, is amended to read:

3 **"37-47-301. License required -- services performed -- standards.** (1) A person may not act as an
4 outfitter, ~~guide, or professional guide~~ or advertise or otherwise represent to the public that the person is an
5 outfitter, ~~guide, or professional guide~~ without first securing a license in accordance with the provisions of this part.

6 (2) Whenever an outfitter is engaged by a participant, the outfitter shall keep ~~and submit~~ AND SUBMIT
7 records as required by the board.

8 (3) Outfitters, ~~and guides, professional guides,~~ and other employees of an outfitter may not shoot, kill,
9 or take big game animals for or in competition with those employing them while acting as outfitters, guides,
10 ~~professional guides,~~ or employees of an outfitter.

11 (4) Outfitters utilizing lands under the control of the United States government shall obtain the proper
12 permits required by the government office responsible for the area in which the outfitter intends to operate and
13 shall comply with ~~environmental protection standards~~ all applicable rules and regulations established for these
14 lands.

15 (5) Outfitters may not willfully and substantially misrepresent their facilities, prices, equipment, services,
16 or hunting or fishing opportunities.

17 (6) Outfitters and their ~~contractors,~~ employees, ~~designated~~ agents, and representatives shall take every
18 reasonable measure to provide ~~their~~ the outfitter's advertised services ~~to their clients.~~

19 (7) An outfitter may not hire or retain a guide ~~or professional guide~~ who does not hold a current license
20 as provided under this part."

21

22 **Section 4.** Section 37-47-302, MCA, is amended to read:

23 **"37-47-302. Outfitter's qualifications.** An applicant for an outfitter's license or renewal of a license must
24 meet the following qualifications:

25 (1) be 18 years of age or older, be physically capable and mentally competent to perform the duties of
26 an outfitter, and meet experience, training, and testing requirements as prescribed by board rule; and

27 (2) own, hold under written lease, or contract for or represent a ~~company, corporation, or partnership~~
28 business entity who owns, holds under written lease, or contracts for the equipment and facilities that are
29 necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and the
30 outfitter's clients. ~~(all~~ All equipment and facilities are subject to inspection at all reasonable times and places by

1 the board or its designated agent); and
 2 ~~———— (3) have demonstrated a respect for and compliance with the laws of any state or of the United States~~
 3 ~~and all rules promulgated under those laws related to fish and game, conservation of natural resources, and~~
 4 ~~preservation of the natural ecosystem without pollution of the ecosystem."~~

5
 6 **Section 5.** Section 37-47-303, MCA, is amended to read:
 7 **"37-47-303. Guide's and professional guide's qualifications.** (1) An applicant for a guide's or
 8 professional guide's license must meet the following qualifications:

9 (a)(1) be 18 years of age or older and be physically capable and mentally competent to perform the
 10 duties of a guide or professional guide; and
 11 (b)(2) be endorsed and recommended by an outfitter with a valid license, unless otherwise qualified
 12 under guide or professional guide standards established by the board pursuant to 37-47-201(4); ~~and~~
 13 ~~———— (c) have been issued a valid wildlife conservation license.~~

14 ~~———— (2) In addition to the requirements listed in subsection (1), an applicant for licensure as a professional~~
 15 ~~guide must meet additional experience requirements, to be set by board rule, and may be required to show proof~~
 16 ~~of training or pass a qualifying examination when required by board rule; AND~~
 17 (3) HAVE BEEN ISSUED A VALID WILDLIFE CONSERVATION LICENSE."

18
 19 **Section 6.** Section 37-47-304, MCA, is amended to read:
 20 **"37-47-304. Application.** (1) Each applicant for an outfitter's, ~~guide's,~~ or professional guide's license
 21 shall apply for a license on a form furnished by the department.

22 (2) The application for an outfitter's license ~~forms the basis for the outfitter's operations plan and must~~
 23 include:

24 (a) the applicant's full name, ~~residence,~~ address, conservation license number, driver's license number,
 25 ~~birth date, physical description,~~ CONSERVATION LICENSE NUMBER, and telephone number;

26 ~~———— (b) the address of the applicant's principal place of business in the state of Montana;~~

27 ~~———— (c) the amount and kind of property and equipment owned and used in the outfitting business of the~~
 28 applicant;

29 ~~———— (d) the experience of the applicant, including:~~

30 ~~(i)~~(b) the applicant's years of experience as an outfitter, ~~guide,~~ or professional guide; and

- 1 ~~_____ (ii) the applicant's knowledge of areas in which the applicant has operated and intends to operate; and~~
 2 ~~_____ (iii) the applicant's ability to cope with weather conditions and terrain;~~
 3 ~~_____ (e) a signed statement of the licensed outfitter for each guide and professional guide to be employed or~~
 4 ~~retained as an independent contractor, stating that the guide or professional guide is to be employed by the~~
 5 ~~outfitter and stating that the outfitter recommends the guide or professional guide for licensure;~~
 6 (c) components of the outfitter's operations plan as required by board rule, which may include:
 7 ~~(f)(i) an affidavit by the outfitter to the board that the amount and kind of equipment listed on the~~
 8 ~~application is in fact that is owned, leased, or contracted for by the applicant; is in good operating condition, and~~
 9 ~~is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant; and~~
 10 ~~_____ (g) a statement of the maximum number of participants to be accompanied at any one time;~~
 11 ~~_____ (h) the written approval of the appropriate agency or landowner on whose lands the applicant intends~~
 12 ~~to provide services or establish hunting camps; and~~
 13 ~~_____ (i) the boundaries of the proposed operation, stating when applicable:~~
 14 ~~_____ (i) the name and portion of river;~~
 15 ~~_____ (ii) the county of location;~~
 16 ~~_____ (iii) the legal owner of the property;~~
 17 ~~_____ (iv) the name of the ranch;~~
 18 ~~_____ (v) the proposed service, including the type of game sought;~~
 19 ~~_____ (vi) the name of the agency granting use authority; and~~
 20 ~~_____ (vii) other means of identifying boundaries as established by board rule.~~
 21 (ii) a description of any land, water body, or portion of a water body that will be utilized by the applicant
 22 while providing services.

23 (3) An application for an outfitter's license must be in the name of an individual person only. An
 24 application involving ~~corporations, proprietorships, or partnerships~~ a business entity must be made by one
 25 individual person who qualifies under the provisions of this part. A license issued pursuant to this part must be
 26 in the name of that person. Any revocation or suspension of a license is binding upon the individual person and
 27 the ~~corporation, proprietorship, or partnership~~ business entity for the use and benefit of which the license was
 28 originally issued.

29 (4) Application must be made to and filed with the board.

30 (5) Only one application for an outfitter's license may be made in any license year. If an application is

1 denied, subsequent applications by the same applicant for the license year involved are void, except as provided
2 in 37-47-308."

3

4 **Section 7.** Section 37-47-305, MCA, is amended to read:

5 **"37-47-305. Outfitter's examination.** Each applicant for an outfitter's license, after meeting the
6 experience and training specifications and other qualifications set by this chapter or rules adopted pursuant to
7 this chapter, is entitled to take and must pass a standard examination administered by the board or its agent. The
8 examination must require general and sufficient knowledge displaying and indicating ability to perform the
9 services contemplated with efficiency and with safety to the health and welfare of participants. The examination
10 must test the applicant's knowledge of subjects that apply to the type of license applied for and may include the
11 following subjects:

- 12 (1) federal and state fish and game laws and regulations;
13 ~~————(2) practical woodsmanship;~~
14 ~~————(3) general knowledge of big game;~~
15 ~~————(4) field preparation of trophies;~~
16 ~~————(5) care of game meat;~~
17 ~~————(6) use of outfitter's gear as listed on the application;~~
18 ~~————(7) knowledge of area and terrain;~~
19 ~~————(8) knowledge of firearms;~~
20 (9)(2) federal and state regulations as applicable to outfitting;
21 ~~————(10) first aid;~~
22 (11)(3) boat safety; and
23 (12)(4) water safety;
24 ~~————(13) care and safety of livestock."~~

25

26 **Section 8.** Section 37-47-306, MCA, is amended to read:

27 **"37-47-306. Fees.** (1) The board shall establish fees commensurate with costs as provided in 37-1-134.
28 (2) Applications must be accompanied by a license fee as specified by board rule.
29 ~~————(3) If a nonresident license applicant resides in a state that requires residents of the state of Montana~~
30 ~~to pay in excess of the amount established by the board for a similar license, then the fee for the nonresident~~

1 outfitter's, guide's, or professional guide's license must be the same amount as the higher fee charged in the state
 2 where the nonresident license applicant resides. A nonresident hunting outfitter is subject to the same rules and
 3 regulations that apply to a resident hunting outfitter.

4 ~~(4)~~(3) The license fees must be deposited in the state special revenue fund and must be used by the
 5 board to investigate the applicant, to enforce this part, and for administrative costs, subject to 37-1-101(6)."

6

7 **Section 9.** Section 37-47-307, MCA, is amended to read:

8 **"37-47-307. Investigation of applicant -- issuance or denial of license.** (1) The department shall
 9 investigate each applicant for an outfitter's, ~~guide's,~~ or professional guide's license. The board shall determine
 10 the applicant's qualifications.

11 (2) The board may deny or refuse to issue any new license or to renew any previous license if the
 12 applicant does not meet the qualifications stated in this chapter or rules adopted pursuant to this chapter. In the
 13 event that any application for a license is denied or refused, the board shall immediately notify the applicant,
 14 setting forth in the notice the grounds upon which the denial or refusal is based.

15 (3) A licensee in good standing is entitled to a new license for the ensuing license year upon complying
 16 with the provisions of this chapter or rules adopted pursuant to this chapter and upon completing an application
 17 for license renewal on a form provided by the board.

18 (4) This section may not be interpreted to conflict with 37-1-138."

19

20 **Section 10.** Section 37-47-310, MCA, is amended to read:

21 **"37-47-310. Transfer or amendment of outfitter's license -- transfer of river-use days to new owner
 22 of fishing outfitter business.** (1) An outfitter's license may not be transferred.

23 (2) An individual person may, upon proper showing, have that person's outfitter's license amended to
 24 indicate that the license is being held for the use and benefit of a named ~~proprietorship, partnership, or
 25 corporation~~ business entity.

26 (3) Subject to approval by the board, a person designated by the family of an outfitter who is deceased
 27 or incapacitated due to physical or mental disease or injury or who is unable to carry out the responsibilities of
 28 an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting
 29 services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee
 30 obtains an outfitter license.

1 (4) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that have
 2 been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on restricted-use
 3 streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or transfer of a fishing
 4 outfitter's business, the outfitter who sells or transfers the business shall notify the new owner that the use of any
 5 transferred river-use days is subject to change pursuant to rules adopted by the fish, wildlife, and parks
 6 commission and that a property right does not attach to the transferred river-use days."

7

8 **Section 11.** Section 37-47-311, MCA, is amended to read:

9 **"37-47-311. Limit one license.** (1) An individual may not hold more than one outfitter's license either
 10 for the individual's own benefit or for the use and benefit of a ~~partnership, limited liability partnership, limited~~
 11 ~~liability company, or corporation~~ business entity. However, the name of a ~~partnership, limited liability partnership,~~
 12 ~~limited liability company, or corporation~~ business entity may appear on more than one current outfitter's license.

13 (2) Subsection (1) does not prevent a licensee from:

14 (a) owning or operating more than one business entity under one license; and or

15 (b) filing within more than one operation operations plan filed with the board."

16

17 **Section 12.** Section 37-47-341, MCA, is amended to read:

18 **"37-47-341. Grounds for denial, suspension, or revocation of license.** A license or right to apply for
 19 and hold a license issued under this part may be denied, suspended, or revoked or other disciplinary conditions
 20 may be applied upon any of the following grounds:

21 (1) having ceased to meet all of the qualifications for holding a license, as required under this chapter
 22 and rules adopted pursuant to this chapter;

23 (2) fraud or deception in procuring a license;

24 (3) fraudulent, untruthful, or misleading advertising;

25 (4) having pleaded guilty to or been adjudged by a court guilty of a felony, including a case in which the
 26 sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant
 27 to law;

28 (5) one ~~felony~~ conviction or ~~multiple misdemeanor convictions or~~ bond forfeiture ~~as to a violation~~
 29 violations FOR A VIOLATION of the fish and game or outfitting laws or regulations of any state, ~~or~~ the United States,
 30 or other jurisdictions;

- 1 (6) a substantial breach of a contract with a participant provided that the breach is established as a
2 matter of final judgment in a court of law;
- 3 (7) the willful employment of or contracting with an unlicensed guide ~~or professional guide~~ by an outfitter;
- 4 (8) negligence or misconduct while acting as an outfitter, ~~guide~~, or ~~professional~~ guide that causes an
5 accident or injury to the person or property of a participant;
- 6 (9) misconduct as defined by board rule; or
- 7 (10) any violation of this chapter or a rule adopted pursuant to this chapter."
8

9 **Section 13.** Section 37-47-343, MCA, is amended to read:

10 **"37-47-343. Appeal procedure.** A person who feels aggrieved by a final order of the board denying
11 issuance of a license or suspending or revoking a license as an outfitter, ~~guide~~, or ~~professional~~ guide may petition
12 for judicial review as provided in Title 2, chapter 4, part 7."
13

14 **Section 14.** Section 37-47-401, MCA, is amended to read:

15 **"37-47-401. Purpose.** It is recognized that some activities conducted by outfitters, ~~guides~~, and
16 ~~professional~~ guides within the scope of their authorized services are inherently hazardous to participants
17 regardless of all feasible safety measures that may be taken. It is the purpose of this part to define those areas
18 of responsibility and affirmative acts or omissions for which outfitters, ~~guides~~, and ~~professional~~ guides are liable
19 for loss, damage, or injury and those risks for which the participant expressly assumes or is considered to have
20 voluntarily assumed the risk of loss or damage."
21

22 **Section 15.** Section 37-47-402, MCA, is amended to read:

23 **"37-47-402. Duties of outfitters, ~~guides~~, and ~~professional~~ guides.** An outfitter, ~~guide~~, or ~~professional~~
24 guide offering professional services in this state shall:

- 25 (1) act as would a reasonably prudent member of the profession while engaging in providing the services
26 authorized to be performed by a licensed member of the profession;
- 27 (2) comply with all standards adopted by board rule."
28

29 **Section 16.** Section 37-47-403, MCA, is amended to read:

30 **"37-47-403. Duties of participants.** (1) A participant shall:

1 (a) act as would a reasonably prudent person when engaging in the activities offered by a licensed
2 outfitter, ~~guide~~, or ~~professional~~ guide in this state;

3 (b) receive permission from the outfitter, ~~guide~~, or ~~professional~~ guide prior to embarking on any
4 self-initiated activity and inform the outfitter, ~~guide~~, or ~~professional~~ guide of the participant's plans and intentions
5 upon receiving permission to engage in the self-initiated activity.

6 (2) A participant may not:

7 (a) interfere with the running or operation of an outfitter's, ~~guide's~~, or ~~professional~~ guide's activities when
8 those activities conform to the standards of care set forth in 37-47-402;

9 (b) use the outfitter's, ~~guide's~~, or ~~professional~~ guide's equipment, facilities, or services unless the
10 participant has requested and received permission from the outfitter, ~~guide~~, or ~~professional~~ guide;

11 (c) knowingly, purposely, or negligently engage in any type of conduct that contributes to or causes injury
12 to the participant or any other person."

13

14 **Section 17.** Section 37-47-404, MCA, is amended to read:

15 **"37-47-404. Responsibility for violations of law.** (1) A person accompanying a hunting or fishing party
16 as an outfitter, ~~guide~~, or ~~professional~~ guide is equally responsible with any person or party engaging the person
17 as an outfitter for any violation of fish and game laws unless the violation is reported to a peace officer by the
18 outfitter, ~~guide~~, or ~~professional~~ guide and the outfitter, ~~guide~~, or ~~professional~~ guide was not an active participant.
19 An outfitter, ~~guide~~, or ~~professional~~ guide who willfully fails or refuses to report any violation of fish and game laws
20 is liable for the penalties provided in this chapter. If a guide or ~~professional~~ guide violates the laws or applicable
21 regulations relating to fish and game, outfitting, or guiding with actual or ~~implied~~ knowledge of an outfitter
22 engaging the guide or ~~professional~~ guide, the outfitter is legally responsible for the violation for all purposes under
23 the laws or regulations if the outfitter fails to report the violation to the proper authority.

24 (2) An outfitter, ~~guide~~, or ~~professional~~ guide shall report any violation or suspected violation of fish and
25 game laws that the outfitter, ~~guide~~, or ~~professional~~ guide knows or ~~reasonably should have known~~ has been
26 committed by the employees, contractors, designated agents, representatives, clients, or participants in the
27 outfitting or guiding activity. The violation or suspected violation must be reported to a peace officer at the earliest
28 possible opportunity.

29 (3) A person may not hire or retain an outfitter unless the outfitter is currently licensed in accordance with
30 the laws of the state of Montana. A person may not use the services of a guide or ~~professional~~ guide and a guide

1 ~~or professional guide~~ may not offer services unless the services are obtained through an endorsing outfitter."

2

3 **Section 18.** Section 87-6-702, MCA, is amended to read:

4 **"87-6-702. Outfitting without a license.** (1) (a) A person may not purposely or knowingly engage in
5 outfitting while not licensed pursuant to Title 37, chapter 47, or purposely or knowingly violate a licensing rule
6 adopted under Title 37, chapter 47.

7 (b) A person convicted of a violation of subsection (1)(a) is punishable by a fine of not less than \$200
8 or more than \$1,000 or imprisonment in the county jail for up to 1 year, or both. In addition, the person shall forfeit
9 any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap
10 in this state for a period set by the court. A sentencing court that imposes a period of license revocation shall
11 consider the provisions of subsection (3).

12 (2) (a) A person or entity that represents to any other person, any entity, or the public that the person
13 or entity is an outfitter and who commits the offense of outfitting without a license, as described in subsection
14 (1)(a), for any portion of 5 or more days for consideration within 1 calendar year for any person or for
15 consideration valued in excess of \$5,000 is punishable by a fine of not more than \$50,000 or imprisonment in the
16 state prison for up to 5 years, or both.

17 (b) A person convicted of a violation of subsection (2)(a) shall forfeit any current hunting, fishing, or
18 trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a minimum
19 of 5 years. A sentencing court that imposes a period of license revocation shall consider the provisions of
20 subsection (3).

21 (3) A sentencing court that imposes a period of license revocation pursuant to subsection (1)(b) or (2)(b)
22 shall consider and may impose any of the following conditions during the period of revocation:

23 (a) prohibiting the offender from:

24 (i) participating in any hunting, fishing, or trapping endeavor as a hunter, angler, trapper, scout, guide,
25 observer, or assistant;

26 (ii) brokering or participating in any lease of property for hunting, fishing, or trapping, either personally
27 or through an agent or representative;

28 (iii) participating in any seminar or show that is designed to promote hunting, fishing, or trapping;

29 (iv) purchasing or possessing any hunting, fishing, or trapping permits; and

30 (b) imposing any other reasonable condition or restriction that is related to the crime committed or that

1 is considered necessary for the rehabilitation of the offender or for the protection of the citizens or wildlife of this
2 state.

3 (4) A person convicted of a violation of this section shall reimburse the full amount of any fees received
4 to the person to whom illegal outfitting services were provided.

5 (5) As used in this section, the following definitions apply:

6 (a) "Consideration" means remuneration given in exchange for outfitting services supplied based on a
7 business relationship between parties, but not including reimbursement for shared trip expenses.

8 (b) (i) "Outfitting" means providing hunting or fishing services for consideration, including any saddle or
9 pack animal, facilities, camping equipment, personal service, or vehicle, watercraft, or other conveyance for any
10 person to hunt, fish, trap, capture, take, kill, or pursue any game, including fish. The term includes accompanying
11 that person, either part or all of the way, on an expedition for any of these purposes or supervision of a licensed
12 guide ~~or professional guide~~ in accompanying that person.

13 (ii) The term does not include:

14 (A) SERVICES PROVIDED BY PACKERS, WRANGLERS, COOKS, OR OTHER PARTIES UNDER THE DIRECT
15 EMPLOYMENT OF THE OUTFITTER; OR

16 (B) the provision of the services listed in subsection (5)(b)(i) by a person on real property that the person
17 owns for the primary pursuit of bona fide agricultural interests."

18
19 **NEW SECTION. Section 19. Repealer.** The following sections of the Montana Code Annotated are
20 repealed:

21 37-47-103. Publication of license information.

22 37-47-316. Transfer of net client hunter use upon transfer of operations plan.

23 37-47-318. Fees in addition to annual license fee -- allocation.

24 - END -