

BEFORE THE BOARD OF OUTFITTERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.171.602 guide or ) PROPOSED AMENDMENT AND  
professional guide license, ) ADOPTION  
24.171.604 emergency guide license, )  
24.171.2301 unprofessional conduct, )  
and the adoption of NEW RULE I )  
guide to hunter ratio )

TO: All Concerned Persons

1. On October 16, 2009, at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Outfitters (board) no later than 5:00 p.m., on October 13, 2009, to advise us of the nature of the accommodation that you need. Please contact Debbie Tomaskie, Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2373; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlilbsdout@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.171.602 GUIDE OR PROFESSIONAL GUIDE LICENSE (1) through (4) remain the same.

(5) An outfitter may not endorse an application or a license for a guide or professional guide in the same license year that the outfitter sponsors the applicant or licensee for an outfitter-sponsored license issued by the Montana Department of Fish, Wildlife and Parks.

AUTH: 37-1-131, 37-47-201, MCA  
IMP: 37-47-101, 37-47-201, 37-47-301, 37-47-303, 37-47-307, 37-47-308,  
MCA

REASON: The board determined it is reasonably necessary to amend ARM 24.171.602, 24.171.604, and 24.171.2301 to help prevent the abuse of outfitter-sponsored licenses. Abuse occurs when an outfitter sponsors a client to obtain a hunting license, then endorses that client to acquire a guide license, and then places the client in charge of a group of other clients (usually of the same party) in a "drop

camp" with no designated guide. Abuse also takes place when an outfitter sponsors a person for a hunting license and endorses the person as a guide, who then serves as a guide in exchange for the hunting license. Because this behavior is increasing and becoming the basis for an illegitimate bartering system in which outfitters are paying for guides, the board is proposing the amendments to prevent the inappropriate combination of outfitter-sponsored licenses with guide licenses to avoid the use of designated guides.

24.171.604 EMERGENCY GUIDE LICENSE (1) through (3) remain the same.

(4) An outfitter may not endorse an emergency guide application for a guide applicant in the same license year that the outfitter sponsors the applicant for an outfitter-sponsored license issued by the Montana Department of Fish, Wildlife and Parks.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-201, 37-47-301, 37-47-303, 37-47-307, MCA

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT

(1) through (2)(a) remain the same.

(b) not make agreements with clients concerning monetary consideration or services offered, or collect fees from clients, without the express consent of the supervising outfitter; ~~and~~

(c) not provide services to clients who have not been specifically referred to the guide or professional guide from the endorsing outfitter; ~~and~~

(d) not provide guiding services during the same license year in which an outfitter also sponsors the guide or professional guide for an outfitter-sponsored license issued by the Montana Department of Fish, Wildlife and Parks.

(3) remains the same.

AUTH: 37-1-131, 37-1-319, 37-47-201, MCA

IMP: 37-1-312, 37-1-316, 37-47-201, 37-47-341, MCA

REASON: Implementation cites are being amended to accurately reflect all statutes implemented through the rule.

4. The proposed new rule provides as follows:

NEW RULE I GUIDE TO HUNTER RATIO (1) When a licensed outfitter is providing guiding services to clients that hold outfitter-sponsored B-10 or B-11 licenses, the outfitter shall not exceed a ratio of one guide to four hunters.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-1-131, 37-47-201, 37-47-402, MCA

REASON: The board is proposing New Rule I to establish an enforceable standard for the minimum guide-to-hunter ratio when a licensed outfitter provides guiding

services with respect to outfitter-sponsored B-10 or B-11 licenses. The board is proposing this rule to address the growing abuse of outfitter-sponsored licenses and the risk to public safety and welfare by outfitters failing to provide adequate guides.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to [dlibsout@mt.gov](mailto:dlibsout@mt.gov), and must be received no later than 5:00 p.m., October 23, 2009.

6. An electronic copy of this Notice of Public Hearing is available through the department and board site on the World Wide Web at [www.outfitter.mt.gov](http://www.outfitter.mt.gov). The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to [dlibsout@mt.gov](mailto:dlibsout@mt.gov), or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. Tyler Moss, attorney, has been designated to preside over and conduct this hearing.

BOARD OF OUTFITTERS  
LEE KINSEY, CHAIRPERSON

/s/ DARCEE L. MOE  
Darcee L. Moe  
Alternate Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 14, 2009