

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

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 24.171.401 fees, 24.171.412) ADOPTION, AND REPEAL
safety provisions, 24.171.2301)
unprofessional conduct and)
misconduct, the adoption of NEW)
RULE I provisional guide license, and)
the repeal of 24.171.604 emergency)
guide license)

TO: All Concerned Persons

1. On June 24, 2010, the Board of Outfitters (board) published MAR notice no. 24-171-29 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 1472 of the 2010 Montana Administrative Register, issue no. 12.

2. On July 15, 2010, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the July 23, 2010, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: One commenter noted that ARM 24.171.2301 is incorrectly numbered in the heading of the notice as 23.171.2301.

RESPONSE 1: The board acknowledges the error and has corrected the rule number in the header of this final notice.

COMMENT 2: One commenter questioned whether the board intends to create a new type of guide license through the proposed rule changes. The commenter suggested that the board amend the rules further to clarify the board's intent to create a separate method for obtaining an inactive guide license similar to that available for outfitters.

RESPONSE 2: The board confirms that the intent of the rule changes is to provide a process for obtaining an inactive guide license and that the board never intended to create a new licensure type. Consistent with the comments and the board's intent, the board is amending ARM 24.171.401, 24.171.2301, and New Rule I (24.171.605) accordingly.

4. The board has amended ARM 24.171.412 exactly as proposed.

5. The board has amended ARM 24.171.401 and 24.171.2301 with the following changes, stricken matter interlined, new matter underlined:

- 24.171.401 FEES (1) through (1)(i)(i) remain as proposed.
- | | |
|---|-----|
| (ii) initial processing of provisional <u>inactive</u> guide license | 50 |
| (iii) activation of provisional <u>inactive</u> guide license | 100 |
| (iv) renewal of provisional <u>inactive</u> guide license | 50 |
- (j) through (2) remain as proposed.

AUTH: 37-1-131, 37-1-134, 37-1-319, 37-47-201, 37-47-306, MCA

IMP: 37-1-134, 37-1-141, 37-1-319, 37-47-304, 37-47-306, 37-47-307, 37-47-308, 37-47-310, 37-47-316, 37-47-317, 37-47-318, MCA

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT (1) through (1)(o) remain as proposed.

(p) not use a ~~provisional~~ guide prior to ensuring that the ~~form evidencing initial licensure~~ guide license is fully signed and dated;

(q) not use a ~~provisional~~ guide with an inactive license, unless the proper fee is mailed within the time provided by rule; or

(r) not fail to return any ~~provisional~~ inactive guide license that is not activated during the license year.

(2) through (2)(d) remain as proposed.

(e) not act as a guide under a ~~provisional~~ guide license, unless and until the guide and the outfitter have first signed and dated the ~~sworn statement~~ guide license evidencing that the license is active; and

(f) not act as a guide under a ~~provisional~~ guide license, unless the proper fee is mailed within the time provided by rule.

(3) remains as proposed.

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

IMP: 37-1-312, 37-1-316, 37-1-319, 37-47-201, 37-47-341, MCA

6. The board has adopted NEW RULE I (24.171.605), with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (24.171.605) PROVISIONAL GUIDE LICENSE (1) An outfitter may endorse up to three additional guides each license year who are designated by the outfitter on the application form as "~~provisional~~ inactive guides" under this rule.

(2) A An inactive guide license must be issued to the outfitter on behalf of a ~~provisional~~ guide if the application is complete, routine, and accompanied by all supporting documentation required by the application, ~~and~~ along with the initial processing or renewal fee for a ~~provisional~~ an inactive guide license. A ~~provisional~~ An inactive guide license will not be issued if the application is incomplete, nonroutine, or not accompanied by all supporting documentation required by the application, ~~and~~ along with the initial processing or renewal fee.

(3) ~~The provisional guide license is not active when issued.~~ A provisional An inactive guide license is active only after the guide and the outfitter sign and date the guide license. The fee for activation of ~~the provisional~~ an inactive guide license must be sent to the board office within ten days of activation.

(4) ~~A provisional~~ An inactive license may be renewed under this process.

(5) Each ~~provisional~~ inactive guide license issued by the board to an outfitter shall be either activated or returned to the board office on or before December 31 of the license year.

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

IMP: 37-1-131, 37-1-319, 37-47-201, 37-47-301, 37-47-303, 37-47-307,
MCA

7. The board has repealed ARM 24.171.604 exactly as proposed.

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 August 16, 2010