

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 24.171.502 outfitter) PROPOSED AMENDMENT
qualifications)

TO: All Concerned Persons

1. On June 8, 2015, at 2:00 p.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment of the above-stated rule.

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 May 29, 2015, to advise us of the nature of the accommodation that you need. Please contact Steve Gallus, Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsout@mt.gov (board's e-mail).

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

24.171.502 OUTFITTER QUALIFICATIONS (1) An applicant for an outfitter license shall have the qualifications to provide all services and use all equipment necessary to provide the functions of an outfitter that the license will authorize the applicant to provide. In addition, the applicant shall have:

(a) for a fishing outfitter applicant applying on or after January 1, 2016:

(i) a minimum of three years and 120 days of verified experience as a licensed guide working for a licensed outfitter in this state, guiding clients and using methods for pursuing fish; or

(ii) a minimum of three years and 120 days of verified experience as a licensed outfitter in another state guiding clients and using methods for pursuing fish, subject to approval by the board; or

(b) for all other applicants:

~~(a)~~ (i) 100 days of verified experience as a licensed guide working for a licensed outfitter in this state, guiding clients in pursuing the types of game and using methods for which licensure is sought by the applicant ~~(hunting or fishing)~~; or

~~(b)~~ (ii) 100 days of verified experience as a licensed outfitter in another state guiding clients in pursuing the types of game and using the methods for which licensure is sought by the applicant ~~(hunting or fishing)~~, subject to approval by the board; ~~and~~

~~(c) the qualifications to provide all services and use all equipment necessary to provide the functions of an outfitter that the license will authorize the outfitter to provide.~~

(2) through (4) remain the same.

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

IMP: 37-47-201, 37-47-302, 37-47-304, 37-47-307, 37-47-308, MCA

REASON: Unlike hunting guides, fishing guides are quite capable of accumulating the currently required number of experience days to become a licensed outfitter within a single calendar year. Some reasons not unique to fishing guides include the growing demand for outfitter services and the availability of multiple experience waivers. However, fishing guides also have a much longer season to acquire experience compared to the general hunting season.

The board notes that the in-field experience requirement is the sole one-time objective qualifier of a fishing outfitter applicant's practical knowledge and capability regarding equipment handling, river and waterbody conditions, associated hazards, and fishing techniques in order to provide and supervise licensed guides in providing quality fishing services while protecting the public health, safety, and welfare. Therefore, to promote an improved competence in the profession, it is reasonably necessary to amend the experience requirement for outfitter qualification with fishing endorsement to reflect the historical approach and intent of multi-season, multi-year experience required as a licensed guide before graduating to a licensed outfitter.

Requiring multiple seasons of experience will allow guides to develop more maturity over time and ensure more experience working with clients and engaging with other members of the public in the field. Guides with more in-field experience under the mentoring of outfitters are expected to develop a greater capacity for working well with others, especially as public resources fall under increased pressure, and those guides will be better prepared to assume the added responsibilities placed upon outfitters. The board finds that increased experience in the field with clients will result in more skilled and knowledgeable guides and will lead to improved experiences for their clients and the members of the general public in the field.

In addition, the board finds this rule amendment an implementation of its "policy, intent, and purpose," according ARM 24.171.101(2), to "provide quality regulatory functions and services to the profession it regulates and the public in order to promote, maintain, and preserve an ever-improving high degree of competence in the profession, satisfaction in the public, and an everlasting environment in which the profession operates."

4. 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) 841-2305, or e-mail to dlibsout@mt.gov, and must be received no later than 5:00 p.m., June 12, 2015.

5. An electronic copy of this notice of public hearing is available at www.outfitter.mt.gov (department and board's web site). 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.

6. 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 that 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) 841-2305; e-mailed to dlibsout@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.171.502 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsout@mt.gov.

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

BOARD OF OUTFITTERS
ROBIN CUNNINGHAM, CHAIRPERSON

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 4, 2015