

1 HOUSE BILL NO. 486

2 INTRODUCED BY D. GALLIK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT AN OUTFITTER WHO ACTS AS A SPONSOR
5 FOR A NONRESIDENT HUNTER PURSUANT TO A CLASS B-10 OR CLASS B-11 LICENSE MUST PROVIDE
6 ASSURANCE IN THE SPONSOR APPLICATION THAT HUNTING CONDUCTED UNDER THE LICENSE WILL
7 OCCUR ON LANDS OPEN FOR COMPARABLE HUNTING BY THE GENERAL PUBLIC; PROVIDING THAT
8 IF THE SPONSORING OUTFITTER CONDUCTS HUNTING PURSUANT TO A CLASS B-10 OR CLASS B-11
9 LICENSE ON LANDS THAT ARE NOT OPEN FOR COMPARABLE HUNTING BY THE GENERAL PUBLIC,
10 THE SPONSORING OUTFITTER WILL BE INELIGIBLE TO ACT AS A SPONSOR FOR 5 YEARS; PROVIDING
11 THAT AN OUTFITTER'S FALSE OR MISLEADING STATEMENT IN AN OUTFITTER-SPONSORED
12 APPLICATION CONSTITUTES GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF THE
13 OUTFITTER'S LICENSE; AMENDING SECTIONS 37-47-341 AND 87-2-511, MCA; AND PROVIDING A
14 DELAYED EFFECTIVE DATE."

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

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18 **Section 1.** Section 37-47-341, MCA, is amended to read:

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

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

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

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

26 (4) having pleaded guilty to or been adjudged by a court guilty of a felony, including a case in which the
27 sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant
28 to law. A person may not apply for or hold an outfitter's, guide's, or professional guide's license during any period
29 of time in which a sentence for a felony has been deferred or suspended.

30 (5) one conviction or bond forfeiture as to a violation of the fish and game or outfitting laws or

1 regulations of any state or the United States;

2 (6) a substantial breach of a contract with a participant provided that the breach is established as a
3 matter of final judgment in a court of law;

4 (7) the willful employment of or contracting with an unlicensed guide or professional guide by an
5 outfitter;

6 (8) negligence or misconduct while acting as an outfitter, guide, or professional guide that causes an
7 accident or injury to the person or property of a participant;

8 (9) misconduct as defined by board rule; or

9 (10) making a false or misleading statement in an application filed in support of an outfitter-sponsored
10 license; or

11 ~~(10)~~(11) any violation of this chapter or a rule adopted pursuant to this chapter."
12

13 **Section 2.** Section 87-2-511, MCA, is amended to read:

14 **"87-2-511. (Temporary) Sale and use of Class B-10 and Class B-11 licenses.** (1) The department
15 shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with a number of authorized Class B-10
16 and Class B-11 licenses, as determined under 87-1-268, reserved for applicants using the services of a licensed
17 outfitter and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt
18 with a resident sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

19 (2) Each application for a resident-sponsored license under subsection (1) must contain a written
20 affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name
21 of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be
22 accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

23 (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;

24 (b) submit to the department, in a manner prescribed by the department, complete records of who
25 hunted with the resident sponsor, where they hunted, and what game was taken; and

26 (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for
27 providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and
28 this title.

29 (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the
30 sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

1 If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one
2 applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses
3 remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the
4 second applicant sponsored by each resident landowner. The department shall conduct a drawing for any
5 remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1)
6 to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department shall
7 conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11 license may
8 submit no more than 15 certificates of sponsorship in any license year.

9 (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written
10 affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the
11 applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt.
12 In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that
13 affirms that the outfitter will:

14 (a) accompany the applicant;
15 (b) provide guiding services for the species hunted by the applicant;
16 (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise
17 the applicant of game and trespass laws of the state;

18 (d) submit to the department, in a manner prescribed by the department, complete records of who
19 hunted with the outfitter, where they hunted, and what game was taken; ~~and~~

20 (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for
21 providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and
22 this title; and

23 (f) ensure that the applicant's hunting will take place on lands open to the general public for hunting at
24 the same times, in the same locations, and for the same species and sex of animals that are comparable to the
25 hunting opportunity that is provided under the outfitter-sponsored license.

26 (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the
27 affirmations of the applicant and outfitter required under subsection (4). If, after a hearing, the department
28 determines that an outfitter-sponsored license was used on lands not open to the general public for hunting at
29 the same times, in the same locations, and for the same species and sex of animals comparable to the hunting
30 opportunity provided to the outfitter-sponsored licensee, the sponsoring outfitter is ineligible to act as a license

1 sponsor for a period of 5 years. If the sponsoring outfitter is unavailable or if the applicant wishes to use the
2 services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used
3 with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance
4 written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

5 (6) A nonresident who hunts under the authority of a resident landowner-sponsored license shall
6 conduct all deer hunting on the deeded lands of the sponsoring landowner.

7 (7) Any permits or tags secured as a result of obtaining a Class B-10 or Class B-11 license through an
8 outfitter sponsor are valid only when hunting is conducted with a licensed outfitter.

9 (8) The department shall make the reserved outfitter-sponsored Class B-10 and Class B-11 licenses
10 that remain unsold available as provided in 87-1-268.

11 (9) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be issued
12 by a drawing among all applicants for the respective unreserved licenses. (Terminates March 1, 2006--sec. 6,
13 Ch. 544, L. 1999.)

14 **87-2-511. (Effective March 1, 2006) Sale of Class B-10 and Class B-11 licenses.** (1) The department
15 shall offer the Class B-10 and Class B-11 licenses for sale on March 15, with 5,600 of the authorized Class B-10
16 licenses and 2,000 Class B-11 licenses reserved for applicants using the services of a licensed outfitter and
17 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their intent to hunt with a resident
18 sponsor on land owned by that sponsor, as provided in subsections (2) and (3).

19 (2) Each application for a resident-sponsored license under subsection (1) must contain a written
20 affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the name
21 of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be
22 accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:

- 23 (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;
24 (b) submit to the department, in a manner prescribed by the department, complete records of who
25 hunted with the resident sponsor, where they hunted, and what game was taken; and
26 (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for
27 providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and
28 this title.

29 (3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the
30 sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

1 (4) Each application for an outfitter-sponsored license under subsection (1) must contain a written
2 affirmation by the applicant that the applicant will hunt with a licensed outfitter for all big game hunted by the
3 applicant under the license and must indicate the name of the licensed outfitter with whom the applicant will hunt.
4 In addition, the application must be accompanied by a certificate that is signed by a licensed outfitter and that
5 affirms that the outfitter will:

6 (a) accompany the applicant;

7 (b) provide guiding services for the species hunted by the applicant;

8 (c) direct the applicant's hunting for all big game hunted by the applicant under the license and advise
9 the applicant of game and trespass laws of the state;

10 (d) submit to the department, in a manner prescribed by the department, complete records of who
11 hunted with the outfitter, where they hunted, and what game was taken; ~~and~~

12 (e) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for
13 providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47, and
14 this title; and

15 (f) ensure that the applicant's hunting will take place on lands open to the general public for hunting at
16 the same times, in the same locations, and for the same species and sex of animals that are comparable to the
17 hunting opportunity that is provided under the outfitter-sponsored license.

18 (5) An outfitter-sponsored license under subsection (1) is valid only when used in compliance with the
19 affirmations of the applicant and outfitter required under subsection (4). If, after a hearing, the department
20 determines that an outfitter-sponsored license was used on lands not open to the general public for hunting at
21 the same times, in the same locations, and for the same species and sex of animals comparable to the hunting
22 opportunity provided to the outfitter-sponsored licensee, the sponsoring outfitter is ineligible to act as a license
23 sponsor for a period of 5 years. If the sponsoring outfitter is unavailable or if the applicant wishes to use the
24 services of separate outfitters for hunting different species of game, an outfitter-sponsored license may be used
25 with a substitute licensed outfitter, in compliance with the affirmations under subsection (4), upon advance
26 written notification to the board by the sponsoring licensed outfitter or the substitute outfitter.

27 (6) The department shall make the reserved Class B-10 and Class B-11 licenses that remain unsold
28 on April 15 available to nonresident applicants without restriction as to hunting with a licensed outfitter or resident
29 sponsor.

30 (7) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) and all unsold

1 reserved licenses that are available under subsection (6) must be issued by a drawing among all applicants for
2 the respective unreserved licenses."

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4 NEW SECTION. **Section 3. Effective date.** [This act] is effective March 1, 2006.

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