

HOUSE BILL NO. 458

INTRODUCED BY J. WELBORN, HARRIS, FLYNN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO OUTFITTING;
5 ELIMINATING NET CLIENT HUNTER USE EXPANSION; REVISING BOARD OF OUTFITTER DUTIES
6 REGARDING NET CLIENT HUNTER USE; ELIMINATING CERTAIN FEES; AMENDING SECTIONS 2-15-1773,
7 37-47-201, 37-47-316, AND 37-47-318, MCA; AND REPEALING SECTION 37-47-317, MCA."

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

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11 **Section 1.** Section 2-15-1773, MCA, is amended to read:
12 **"2-15-1773. Board of outfitters.** (1) There is a board of outfitters.
13 (2) The board consists of the following seven members to be appointed by the governor:
14 (a) one big game hunting outfitter;
15 (b) one fishing outfitter;
16 (c) two outfitters who are engaged in the fishing and hunting outfitting business;
17 (d) two sportspersons; and
18 (e) one member of the general public.
19 (3) ~~(a) A subcommittee composed of five members of the board shall review net client hunter use~~
20 ~~expansion requests as provided in 37-47-316, based on the criteria provided in 37-47-317, and report its~~
21 ~~determinations to the full board.~~ A favorable vote of at least a majority of all members of the board is required to
22 adopt any resolution, motion, or other decision.
23 ~~(b) The subcommittee must consist of the two hunting outfitters, the two sportspersons, and the one~~
24 ~~member of the public serving on the board pursuant to subsection (2).~~
25 (4) A vacancy on the board must be filled in the same manner as the original appointment.
26 (5) The members shall serve staggered 3-year terms and take office on the day they are appointed.
27 (6) The board is allocated to the department of labor and industry for administrative purposes only as
28 prescribed in 2-15-121.
29 (7) Each member of the board is entitled to receive compensation and travel expenses as provided for
30 in 37-1-133."

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

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

The board shall:

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

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

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

(4) adopt:

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

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

(c) rules specifying standards for review and approval of proposed new operations plans involving hunting use ~~or the proposed expansion of net client hunter use, as set forth in 37-47-316 and 37-47-317, under an outfitter's existing operations plan.~~ Approval is not required when part or all of an existing operations plan is transferred from one licensed outfitter to another licensed outfitter. ~~Rules adopted pursuant to this section must provide for solicitation and consideration of comments from hunters and sportspersons in the area to be affected by the proposal who do not make use of outfitter services.~~

(d) rules establishing outfitter reporting requirements. The reports must be filed annually and report actual leased acreage actively used by clients during that year and actual leased acres unused by clients during that year, plus any other information designated by the board and developed in collaboration with the department of fish, wildlife, and parks or the review committee established in 87-1-269 that is considered necessary to evaluate the effectiveness of the hunter management and hunting access enhancement programs.

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

(6) maintain records of actual clients served by all Montana outfitters that fulfill the requirements of

1 subsection (4)(d);

2 (7) maintain records of net client hunter use."

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4 **Section 3.** Section 37-47-316, MCA, is amended to read:

5 **"37-47-316. Request for net client hunter use expansion -- operation -- transfer Transfer of NCHU**

6 **net client hunter use upon transfer of operations plan.** ~~(1) An outfitter who wishes to establish or expand~~

7 ~~NCHU shall present an expansion request to the board. A newly licensed outfitter licensed after April 28, 2001,~~

8 ~~has 5 1/2 years from the date of first licensure to establish NCHU, unless the newly licensed outfitter is~~

9 ~~purchasing the business of an existing outfitter, in which case the provisions of subsection (5) apply. The board~~

10 ~~shall evaluate the request based on the criteria provided in 37-47-317.~~

11 ~~————(2) For any establishment or expansion of NCHU approved by the board after March 1, 1996, the outfitter~~

12 ~~has until December 31, 2004, to establish the new NCHU. After December 31, 2004, the outfitter's client base~~

13 ~~must be adjusted to reflect the highest number of clients actually served, up to but not exceeding the number of~~

14 ~~clients authorized by the NCHU expansion request. This subsection (2) does not apply to an outfitter newly~~

15 ~~licensed after April 28, 2001.~~

16 ~~————(3) An outfitter may exceed the NCHU in any given year by the following percentages without formally~~

17 ~~requesting an NCHU expansion:~~

18 ~~————(a) 10% for an outfitter with 1 to 50 clients;~~

19 ~~————(b) 8% for an outfitter with 51 to 100 clients; and~~

20 ~~————(c) 2% for an outfitter with 101 to 300 clients.~~

21 ~~————(4) When an expansion of NCHU is approved, the outfitter who is granted the expansion shall operate~~

22 ~~within the limits of the NCHU. The flexibility to exceed NCHU in any given year, as outlined in subsection (3), does~~

23 ~~not apply to an outfitter who has been previously granted an NCHU expansion.~~

24 ~~(5) The NCHU of an existing outfitting business transfers with the operations plan for that business~~

25 ~~unless the business has not been in operation for at least 3 years. Upon the expiration of 5 1/2 years after~~

26 ~~transfer, the client base must be adjusted to reflect the highest number of clients served in any category during~~

27 ~~the preceding 5 1/2 years, not to exceed the total authorized by the NCHU."~~

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29 **Section 4.** Section 37-47-318, MCA, is amended to read:

30 **"37-47-318. Fees in addition to annual license fee -- allocation.** ~~(1) In addition to the fees required~~

1 in 37-47-306 for an outfitter providing hunting services, ~~the following fees apply:~~

2 ~~(a) An an outfitter shall pay an annual fee of \$2 for each client served.~~

3 ~~(b) An outfitter who is granted a net client hunter use expansion shall pay a fee of \$500 for each new~~
4 ~~client added to that outfitter's operations plan.~~

5 ~~———— (c) (i) An outfitter who operates hunting camps in more than one department of fish, wildlife, and parks~~
6 ~~administrative region shall pay an annual fee of \$5,000 for each camp that is located beyond a 100-mile radius~~
7 ~~of the outfitter's base of operations and that is in an administrative region other than the region containing the~~
8 ~~outfitter's base of operations.~~

9 ~~———— (ii) A fee is not required for the following:~~

10 ~~———— (A) an outfitter's base of operations camp;~~

11 ~~———— (B) camps established before January 1, 1999;~~

12 ~~———— (C) camps established on public land when use is directly regulated by public land use policies; or~~

13 ~~———— (D) camps on corporate timberlands where public access is not restricted.~~

14 ~~———— (d) An outfitter who desires a net client hunter use expansion shall pay a nonrefundable fee of \$2,000~~
15 ~~for each expansion request.~~

16 ~~(2) Fees~~ The fee collected pursuant to this section must be expended by the board, pursuant to the
17 authority in 37-47-306, and by the department of fish, wildlife, and parks, pursuant to the authority in 87-1-601,
18 and used to fund administrative costs related to implementation of this chapter. ~~The fees collected must be~~
19 ~~allocated as follows:~~

20 ~~(a) Revenue generated by the \$2 fee imposed in subsection (1)(a), the \$500 fee imposed in subsection~~
21 ~~(1)(b), and the \$2,000 fee imposed in subsection (1)(d) must be split equally between the board and the~~
22 ~~department of fish, wildlife, and parks.~~

23 ~~(b) Revenue generated by the \$5,000 fee imposed in subsection (1)(c) must be deposited in the state~~
24 ~~special revenue fund to the credit of the board."~~

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26 **NEW SECTION. Section 5. Repealer.** The following section of the Montana Code Annotated is
27 repealed:

28 37-47-317. Criteria for board evaluation of NCHU expansion request -- public comments.

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