

## HOUSE BILL NO. 559

INTRODUCED BY J. ESP

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT SMALL AND SEASONAL ESTABLISHMENTS  
5 SUCH AS GUEST RANCHES AND OUTFITTING AND GUIDE FACILITIES ARE SUBJECT TO VOLUNTARY  
6 GUIDELINES ADDRESSING BASIC HEALTH STANDARDS RATHER THAN REGULATIONS; CLARIFYING  
7 THE METHOD OF ESTABLISHING THE AVERAGE NUMBER OF GUESTS PER DAY FOR SEASONAL AND  
8 SMALL ESTABLISHMENTS; CLARIFYING THAT LOCAL GOVERNMENTS MAY ADOPT ORDINANCES  
9 ADDRESSING BASIC HEALTH STANDARDS; AND AMENDING SECTIONS 50-51-101, 50-51-102, 50-51-103,  
10 50-51-201, AND 50-51-401, MCA."

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

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14 **Section 1.** Section 50-51-101, MCA, is amended to read:  
15 **"50-51-101. Findings and purpose of regulation or guidelines.** (1) It is found that the welfare of the  
16 public welfare requires control and regulation of is benefited by regulation or voluntary guidelines for the operation  
17 of establishments providing lodging space accommodations and ~~the control, inspection, and regulation of for~~  
18 persons providing accommodations in order to prevent or eliminate unsanitary and unhealthful conditions and  
19 practices, which conditions and practices may endanger public health. It is further found that the regulation of or  
20 application of voluntary guidelines to establishments providing lodging space accommodations is in the interest  
21 of social well-being and the health and safety of the state and all of its people.

22 (2) The legislature recognizes that there is a wide disparity in the type of establishments, especially in  
23 the size, the time of year at which the establishments operate, and the ability of small establishments with few  
24 employees and a limited operating season to conform to the same standards to which larger establishments are  
25 required to conform. These factors must be considered, especially in the operation of small or seasonal  
26 businesses that are such an important part of Montana's tourism business. For these reasons, the legislature  
27 believes that department ~~rules~~ actions must be tailored to properly and reasonably address differences in the  
28 size, location, purpose, and time of year of operation of certain small or seasonal establishments. The legislature  
29 believes that ~~rules governing certain small or seasonal establishments must be limited to requirements meant~~  
30 to ensure guidelines to assist these small and seasonal establishments with addressing basic health standards

1 are appropriate, rather than regulations. The guidelines should be voluntary and address basic health standards  
2 and should not detract from the rustic, out-of-doors experience offered by many guest ranches and outfitter and  
3 guide facilities and desired by many tourists. The legislature is also aware that most of these small and seasonal  
4 establishments such as guest ranches and outfitting and guide facilities have not been subject to department  
5 regulation. While voluntary guidance from the department on basic public health concerns may benefit these  
6 establishments, regulation is not warranted."

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8 **Section 2.** Section 50-51-102, MCA, is amended to read:

9 **"50-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
10 apply:

11 (1) "Bed and breakfast" means a private, owner- or manager-occupied residence that is used as a  
12 private residence but in which:

13 (a) breakfast is served and is included in the charge for a guest room; and

14 (b) the number of daily guests served does not exceed 18.

15 (2) "Department" means the department of public health and human services provided for in 2-15-2201.

16 (3) "Establishment" means a bed and breakfast, hotel, motel, roominghouse, guest ranch, outfitting and  
17 guide facility, boardinghouse, or tourist home.

18 (4) "Guest ranch" means a facility that:

19 (a) uses one or more permanent structures, one or more of which have running water, sewage disposal,  
20 and a kitchen;

21 (b) furnishes sleeping accommodations on advance reservations for a minimum stay;

22 (c) provides hunting, horseback riding, fishing, or a working cattle ranch experience to its guests; and

23 (d) is a small establishment or a seasonal establishment.

24 (5) "Hotel" or "motel" includes:

25 (a) a building or structure kept, used, maintained as, advertised as, or held out to the public to be a hotel,  
26 motel, inn, motor court, tourist court, or public lodginghouse;

27 (b) a place where sleeping accommodations are furnished for a fee to transient guests, with or without  
28 meals.

29 (6) "Outfitting and guide facility" means a facility that:

30 (a) uses one or more permanent structures, one or more of which have running water, sewage disposal,

1 and a kitchen;

2 (b) furnishes sleeping accommodations to guests;

3 (c) offers hunting, fishing, or recreational services in conjunction with the services of an outfitter or guide,  
4 as defined in 37-47-101; and

5 (d) is a small establishment or a seasonal establishment.

6 (7) "Person" includes an individual, partnership, corporation, association, county, municipality,  
7 cooperative group, or other entity engaged in the business of operating, owning, or offering the services of a bed  
8 and breakfast, hotel, motel, boardinghouse, tourist home, guest ranch, outfitting and guide facility, or  
9 roominghouse.

10 (8) "Roominghouse" or "boardinghouse" means buildings in which separate sleeping rooms are rented  
11 that provide sleeping accommodations for three or more persons on a weekly, semimonthly, monthly, or  
12 permanent basis, whether or not meals or central kitchens are provided but without separated cooking facilities  
13 or kitchens within each room, and whose occupants do not need professional nursing or personal-care services  
14 provided by the facility.

15 (9) "Seasonal establishment" means a guest ranch or outfitting and guide facility operating for less than  
16 120 days in a calendar year and offering accommodations to between 9 and 40 people on average a day. The  
17 average number of people a day is determined by dividing the total number of guests accommodated during the  
18 year by the total number of days that the establishment ~~operated~~ was open for the purpose of accommodating  
19 guests as a guest ranch or outfitting and guide facility during the year.

20 (10) "Small establishment" means a guest ranch or an outfitting and guide facility offering  
21 accommodations to between 9 and 24 people on average a day. The average number of people a day is  
22 determined by dividing the total number of guests accommodated during the year by the total number of days that  
23 the establishment ~~operated~~ was open for the purpose of accommodating guests as a guest ranch or outfitting and  
24 guide facility during the year.

25 (11) "Tourist home" means a private home or condominium that is not occupied by an owner or manager  
26 and that is rented, leased, or furnished in its entirety to transient guests on a daily or weekly basis.

27 (12) "Transient guest" means a guest for only a brief stay, such as the traveling public."  
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29 **Section 3.** Section 50-51-103, MCA, is amended to read:

30 **"50-51-103. Department authorized to adopt rules or guidelines.** (1) The department may adopt rules

1 governing the operation of bed and breakfasts, hotels, motels, roominghouses, boardinghouses, and tourist  
2 homes to protect the public health and safety.

3 (2) Rules applicable to a bed and breakfast, hotel, motel, roominghouse, boardinghouse, or tourist home  
4 may relate to construction, furnishings, housekeeping, personnel, sanitary facilities and controls, water supply,  
5 sewerage and sewage disposal systems, refuse collection and disposal, registration and supervision, fire and  
6 life safety, food service, staggered license expiration dates, and reimbursement of local governments for  
7 inspections and enforcement.

8 (3) The department ~~shall~~ may not adopt rules governing guest ranches and outfitting and guide facilities  
9 that meet the definitions in 50-51-102 but may adopt rules voluntary guidelines for these facilities governing guest  
10 ranches and outfitting and guide facilities. The guidelines ~~rules~~ must take into consideration the size, type,  
11 location, and seasonal operations of an establishment and may include only ~~rules~~ guidelines to:

- 12 (a) ~~ensure~~ address that the establishment has safe drinking water and an adequate water supply;  
13 (b) ensure an adequate and sanitary sewage system and ensure adequate and sanitary refuse collection  
14 and disposal; and  
15 (c) address food safety concerns, such as adequate storage, refrigeration, and food handling; and  
16 (d) ~~establish staggered license expiration dates by implementing an initial licensing period determined~~  
17 ~~by the department.~~

18 (4) ~~Rules adopted to implement subsection (3) must be adopted through negotiated rulemaking pursuant~~  
19 ~~to the Montana Negotiated Rulemaking Act. These guidelines must be developed through a negotiated process~~  
20 in cooperation with guest ranches and outfitters and guides. These guidelines are not intended to be regulatory  
21 in nature.

22 (5) The department shall develop guidelines for county sanitarians to ~~ensure the uniform application of~~  
23 ~~rules statewide. The guidelines must be relative to each type of establishment~~ provide assistance to guest  
24 ranches and outfitters and guides, and the guidelines must be tailored to the needs of each type of establishment.

25 (6) ~~Upon receiving an application for licensure, the department shall timely provide the applicant with~~  
26 ~~a copy of the rules appropriate for the applicant's type of establishment.~~

27 (6) AS PROVIDED IN 7-1-113, NOTHING IN THIS SECTION PROHIBITS A LOCAL GOVERNMENT FROM ADOPTING AN  
28 ORDINANCE THAT:

29 (A) IS THE SAME AS OR MORE STRINGENT THAN RULES ADOPTED BY THE DEPARTMENT UNDER THIS SECTION; OR

30 (B) DIFFERS FROM THE VOLUNTARY GUIDELINES ADOPTED BY THE DEPARTMENT UNDER THIS SECTION."

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**Section 4.** Section 50-51-201, MCA, is amended to read:

**"50-51-201. License required.** (1) Except as provided in subsection (2), a person engaged in the business of conducting or operating an establishment shall annually procure a license issued by the department.

(2) A guest ranch or an outfitting and guide facility that ~~does not meet~~ meets the definitions in 50-51-102 and that ~~provides accommodations to fewer than nine people during each day of operation~~ is not required to obtain a license under subsection (1).

~~(3) Guest ranches and outfitting and guide facilities need not apply for a license pursuant to this chapter for the first time until the later of:~~

~~—— (a) the completion of negotiated rulemaking and public notification by the department of the necessity for those guest ranches or outfitting and guide facilities to obtain a license pursuant to this chapter; or~~

~~—— (b) July 1, 1998.~~

~~(4)(3)~~ A separate license is required for each establishment. However, when more than one type of establishment is operated on the same premises and under the same management, only one license is required that must enumerate on the certificate the types of establishments licensed.

~~(5)(4)~~ Before a license may be issued by the department, it must be validated by the local health officer or, if there is no local health officer, the sanitarian, in the county where the establishment is located."

**Section 5.** Section 50-51-401, MCA, is amended to read:

**"50-51-401. Civil penalties -- injunctions not barred.** (1) An establishment that violates this chapter or rules adopted by the department pursuant to this chapter is subject to a civil penalty not to exceed \$500.

~~(2) Penalties may not be assessed against a guest ranch or outfitter and guide facility unless the guest ranch or outfitting and guide facility receives a written notice of a violation and fails to correct the violation within 30 days.~~

~~(3)(2)~~ Civil action to impose penalties, as provided under this section, does not bar injunctions to enforce compliance with this chapter or to enforce compliance with a rule adopted by the department pursuant to this chapter."

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