

Exhibit No. 13Date: 3/5/15Bill No. HB204

## HB204 Senate Committee Testimony

## For the Judiciary Committee

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Purpose: To support the Montana Outfitters and Guide Industry. To promote Outdoor Recreation to the benefit of service providers and participants.

Historically, Montana Outfitters and Guides have been at a disadvantage when securing liability insurance because of their inability to utilize a pre-trip client agreement to the benefit of both the outfitter and participant.

Outfitting service providers in competing states who are allowed to utilize pre-trip agreements including, release, waiver, hold harmless agreement, acknowledgement of risk, or similar contracts, are seen by insurance underwriters to be more professional and a better insurance risk. The understanding is that simple negligence can be waived by a participant, but gross negligence can't be signed away in the eyes of the court.

In litigation, the court will rule on the validity and allowance of such pre-trip client agreement as contracts.

Agreements of this type put the responsibility on the service provider, outfitter, to explain the agreement and the risk associated with the activity being offered. The participant will benefit with an improved knowledge of the risk, activity associated with the risk, and what is expected of the participant. This will also allow the participant a last opportunity to alter the activity or their participation.

Permitting Government Agency's require the service providers to additionally insure the agency, and often favor use of pre-trip client agreements. They understand the participant is not giving up their rights to bring legal action by signing a pre-trip agreement.

Many insurance contracts will provide a limited Guest Medical coverage that may be utilize in the event a participant incurs medical expense as a result of injury, regardless of negligence by the outfitter. This can often be applied to incurred medical expense including deductibles, or co-pays, secondary to existing participant medical insurance.

HB 204 will help to bring the Montana Outfitters on to a level playing field with competing outfitters in neighboring states, relative to liability insurance availability and affordability. It will also serve to better explain the activity to the participant, and not take away their right to bring legal action if they fell necessary.

I encourage you to support HB204.