

1 Senate BILL NO. 397  
 2 INTRODUCED BY Murphy by request

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
 5 26-904, 26-906, 26-915, 26-916, 26-918, 26-919 AND 26-920,  
 6 R.C.M. 1947, RELATING TO THE LICENSING AND REGULATION OF  
 7 OUTFITTING AND GUIDING OF HUNTING AND FISHING PARTIES WITHIN  
 8 THE STATE OF MONTANA."

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

11 Section 1. Section 26-904, R.C.M. 1947, is amended to  
 12 read as follows:

13 "26-904. Who deemed outfitter. For the purpose of this  
 14 act, the word "outfitter" shall mean any person or persons,  
 15 company or corporation who shall engage in the business of  
 16 outfitting for hunting or fishing parties, as the term is  
 17 commonly understood, who shall for consideration provide any  
 18 saddle or pack animal or animals or personal service for  
 19 hunting or fishing parties, camping equipment, vehicles or  
 20 other conveyance except boats for any person or persons to  
 21 hunt, trap, capture, take or kill any game, or who shall for  
 22 consideration furnish a boat or other floating craft and  
 23 accompany any person or persons for the purpose of catching  
 24 fish, or who shall aid or assist any person or persons in  
 25 locating or pursuing any game animal. The providing of the

1 above mentioned services, property or equipment shall be  
 2 conclusively presumed to have been for consideration for  
 3 purposes of this act if the same, or any thereof, are  
 4 provided by any person, company or corporation for more than  
 5 two (2) parties or two (2) other persons during any calendar  
 6 year or on more than two (2) occasions during any such  
 7 calendar year."

8 Section 2. Section 26-906, R.C.M. 1947, is amended to  
 9 read as follows:

10 "26-906. Outfitter and employees of outfitter equally  
 11 responsible with others for violations of law—must report  
 12 violations. Any person accompanying a hunting or fishing  
 13 party as an outfitter or agent or employee of such outfitter  
 14 shall be equally responsible with any person or party  
 15 employing him as an outfitter for any violation of the law;  
 16 any such outfitter or employee of such outfitter, who shall  
 17 willfully fail to or refuse to report any violation of the  
 18 law, shall be liable to the penalties as herein provided.  
 19 If any professional guide commits any violation of the laws,  
 20 or applicable regulations, relating to fish and game,  
 21 outfitting or guiding with actual or implied knowledge of an  
 22 outfitter then employing such guide, the outfitter is  
 23 legally responsible for such violation for all purposes  
 24 under the laws or regulations if the outfitter fails to  
 25 report any such violation to proper authority.

1 No person may hire or retain any outfitter or  
 2 professional guide unless the outfitter or professional  
 3 guide is currently licensed in accordance with the laws of  
 4 the state of Montana."

5 Section 3. Section 26-915, R.C.M. 1947, is amended to  
 6 read as follows:

7 "26-915. Application for license—contents—  
 8 requirements and qualifications—fees. (1) Each applicant  
 9 for an outfitter's or professional guide's license shall  
 10 make application for license upon a form to be prescribed  
 11 and furnished by the fish and game commission which shall  
 12 include:

13 (a) The applicant's full name, address and telephone  
 14 number.

15 (b) The address of his principal place of business in  
 16 the state of Montana.

17 (c) The amount and kind of property and equipment owned  
 18 and used in the outfitting business of the applicant, if an  
 19 outfitter's license application.

20 (d) The experience of the applicant, including years of  
 21 experience as an outfitter or guide, knowledge of areas in  
 22 which he has operated and intends to operate, and ability to  
 23 cope with weather conditions and terrain.

24 (e) A signed statement of the licensed outfitter by  
 25 whom the professional guide is to be employed, that the said

1 guide is in fact, to be employed by such outfitter and  
 2 stating that said outfitter recommends the applicant for his  
 3 qualifications.

4 (f) A statement by a Montana fish and game warden to  
 5 the fish and game director that the equipment listed on the  
 6 application has been inspected by said warden and that the  
 7 same is in fact, owned or used leased by the applicant and  
 8 is in good operating condition and is sufficient and  
 9 satisfactory for the services advertised or contemplated to  
 10 be performed by such applicant.

11 (g) A statement of the maximum number of guests to be  
 12 taken at any one (1) time.

13 (h) Each new applicant who intends to outfit on a  
 14 national forest must have the written approval of the  
 15 rangers in whose district he will establish hunting camps,  
 16 and such written approval shall accompany the application.

17 ~~(i) Each application for a partnership, company or~~  
 18 ~~corporation must be in the name of one individual who~~  
 19 ~~qualifies under the provisions of this act. Applications for~~  
 20 outfitter's license shall be in the name of an individual  
 21 person only. Applications involving corporations or  
 22 partnerships shall be made by one individual person who  
 23 qualifies under the provisions of this act and any license  
 24 issued pursuant thereto shall be in the name of that person  
 25 and the license shall specifically state that the same is

1 issued for the use and benefit of the named corporation or  
 2 partnership involved. Any revocation or suspension of such  
 3 a license is binding upon the individual person and the  
 4 partnership or corporation for the use and benefit of which  
 5 the license was originally issued.

6 (2) Each applicant for, and holder of, an outfitter's  
 7 license or any renewal thereof, shall, in the opinion of the  
 8 director, meet the following requirements qualifications:

9 (a) ~~Be a competent person of good moral character. Be a~~  
 10 person of at least eighteen (18) years of age, in possession  
 11 of all natural faculties, of ordinary intelligence and in  
 12 such physical condition as to be able to perform his duties  
 13 as an outfitter.

14 (b) Be a citizen of the United States and a resident of  
 15 Montana for a full two (2) years, unless the residency  
 16 requirement is waived by the fish and game commission.

17 ~~(c) Be at least eighteen (18) years of age.~~

18 ~~(d) Be in such physical condition as to be able to~~  
 19 perform his assigned or obligated duties.

20 ~~(e) (c) To own or hold under written lease or to~~  
 21 represent a company, corporation or partnership who owns or  
 22 holds under written lease the equipment and facilities as is  
 23 necessary to provide the services advertised, contracted  
 24 for, or agreed upon between the outfitter and his clients.  
 25 All equipment and facilities shall be subject to inspection

1 at all reasonable times and places by the fish and game  
 2 commission or its designated agent.

3 (d) Be a person who has demonstrated a respect for,  
 4 and compliance with, the laws of any state or of the United  
 5 States and all regulations promulgated thereunder,  
 6 especially as to matters of fish and game, conservation of  
 7 natural resources and preservation of the natural ecosystem  
 8 without pollution thereof.

9 (e) Have not been convicted, or forfeited bond, as to  
 10 more than one (1) violation of the fish and game laws of any  
 11 state or the United States.

12 (f) Have not, at any time, practiced fraud, deception  
 13 or material misrepresentation in procuring any previous  
 14 outfitter or guide's license from the state of Montana.

15 (g) Have not, at any time, promulgated any false or  
 16 misleading advertising relating to the business of  
 17 outfitting.

18 (h) Have not been finally adjudged by a court of law,  
 19 guilty of any substantial breach of written or oral contract  
 20 with any person utilizing the applicant's services as an  
 21 outfitter or guide during the license year immediately  
 22 preceding that for which the application is made.

23 (i) Have not committed any negligent act or misconduct  
 24 while acting as an outfitter or guide which negligence or  
 25 misconduct caused a danger or unreasonable risk of danger to

1 person or property of any client of such outfitter or guide  
 2 during the license year immediately preceding that for which  
 3 the application is made.

4 (f) Have not, at any time, been convicted of a felony  
 5 unless civil rights have been restored pursuant to law. No  
 6 person may apply for, or hold an outfitter's license during  
 7 any period of time in which a deferred sentence has been  
 8 imposed for a felony.

9 (k) Have substantially complied with all fish and game  
 10 department regulations and state and federal laws concerning  
 11 outfitters and guides, if the applicant has previously held  
 12 a license as such outfitter or guide.

13 ~~(e)~~ (i) Pass a standard examination administered by  
 14 the fish and game director, or an agent designated by him,  
 15 which said examination shall require general and sufficient  
 16 knowledge displaying and indicating ability to perform the  
 17 services contemplated with efficiency and with safety to the  
 18 health and welfare of persons employing such services. The  
 19 said examination shall test the applicant's knowledge of  
 20 subjects which shall apply to the type of license applied  
 21 for in the following subjects:

- 22 (i) Fish and game laws and regulations.
- 23 (ii) Practical woodsmanship.
- 24 (iii) General knowledge of big game.
- 25 (iv) Field preparation of trophies.

- 1 (v) Care of game meat.
- 2 (vi) Use of outfitter's gear as shown on the
- 3 application.
- 4 (vii) Knowledge of area and terrain.
- 5 (viii) Knowledge of firearms.
- 6 (ix) Federal and state regulations as applicable to
- 7 outfitting.
- 8 (x) Practical first aid.

9 (3) Each applicant for a professional guide's license  
 10 shall meet the following requirements:

11 ~~(a) Be a competent person of good moral character. Be a~~  
 12 ~~person of at least eighteen (18) years of age, in possession~~  
 13 ~~of all natural faculties, of ordinary intelligence and in~~  
 14 ~~such physical condition as to be able to perform his duties~~  
 15 ~~as a professional guide.~~

16 (b) Be a citizen of the United States and a resident  
 17 of Montana as defined in this act.

18 ~~(c) Be eighteen (18) years of age or older and in such~~  
 19 ~~physical condition as to be able to perform his assigned~~  
 20 ~~duties.~~

21 ~~(d)~~ (c) Be endorsed and recommended by an outfitter  
 22 with a valid license.

23 (4) A resident guide shall have been issued a valid  
 24 resident wildlife conservation license.

25 (5) Residence requirements for procuring an outfitter's

1 license are hereby waived as to persons who are citizens of  
2 a common boundary state and of a common county thereof to  
3 the same extent the home state of the applicant waives such  
4 requirements for the residents of Montana except for fee.

5 For the purpose of obtaining a guide's license only,  
6 nonresident professional guides employed by resident  
7 outfitters shall be considered resident professional guides.

8 (6) Applications shall be made to and filed with the  
9 fish and game director and accompanied by a license fee as  
10 herein stipulated, which will be refunded if and when the  
11 application is denied. The fee is to be used in  
12 investigation of the applicant, in enforcement of this act,  
13 and for administrative costs.

14 Resident outfitter's license  
15 fee.....\$ 50.00

16 Resident professional guide's  
17 fee.....\$ 15.00

18 Resident guide's license is a valid Montana wildlife  
19 conservation license.

20 Nonresident outfitter's license  
21 fee.....\$150.00

22 Nonresident professional guide's  
23 fee.....\$100.00 Provided, however,

24 that if the nonresident resides in a state requiring  
25 residents of the state of Montana to pay in excess of said

1 amounts for similar license, the fee for such nonresident  
2 outfitters or guides shall be the same amount as such higher  
3 fee charged in the state where such nonresident resides.

4 (7) The fish and game director in his discretion may  
5 cause to be made such additional investigation and inquiry,  
6 relative to the applicant for outfitter's license and an  
7 applicant's qualifications as he shall deem advisable. The  
8 director may deny or refuse to issue any new license or to  
9 renew any previous license if, in his opinion, the applicant  
10 does not meet the qualifications herein stated. In the  
11 event that any application for license is denied or refused,  
12 the director shall immediately notify the applicant setting  
13 forth in the notice the grounds upon which the denial or  
14 refusal is based. Final decision as to issuance of renewal  
15 applications shall be made not later than thirty (30) days  
16 from the date of receipt of the completed application for  
17 renewal of license, and upon a new application, not later  
18 than ninety (90) days from the date of receipt of the  
19 completed application for license. A licensee in good  
20 standing shall be entitled to a new license for the ensuing  
21 license year upon complying with the provisions of this  
22 section, but is exempt from having to retake the written  
23 examination.

24 (8) Only one (1) application for an outfitter or  
25 guide's license may be made any one (1) license year. If

1 any application is denied, subsequent applications by the  
 2 same applicant for the license year involved are null and  
 3 void.

4 Section 4. Section 26-916, R.C.M. 1947, is amended to  
 5 read as follows:

6 "26-916. Kinds of license issued. (1) After receipt of  
 7 the application and when all the conditions and requirements  
 8 of this act have been satisfied, the fish and game director  
 9 shall issue either of the following licenses depending upon  
 10 his determination of the applicant's ability and the service  
 11 that the applicant can perform with the equipment listed on  
 12 his application.

13 (a) A general license authorizing him to perform all  
 14 the functions of an outfitter as that term is defined in  
 15 section 26-904, R.C.M., 1947.

16 (b) A special license authorizing him to perform only  
 17 the function of outfitting listed on the license. The  
 18 license shall be in the form prescribed, and shall be valid  
 19 for the licensing year in which issued. If the application  
 20 is denied, the fish and game director shall notify the  
 21 applicant, in writing, of the reasons for the denial, and if  
 22 the reasons are corrected, a license shall be issued upon  
 23 reappliation thereof.

24 (2) For the purpose of this act, a person may serve as  
 25 a professional guide under his employer's license after

1 submitting his application with the proper license fee until  
 2 license is issued or for ten (10) days after notification of  
 3 rejection of license.

4 (3) To be valid, a professional guide license must bear  
 5 the signature and outfitter's license number of an endorsing  
 6 outfitter and is valid only while the holder of such license  
 7 is employed by an endorsing outfitter.

8 (4) No outfitter license may be transferred during any  
 9 license year, provided that an individual person may, upon  
 10 proper showing, have his outfitter's license amended to  
 11 indicate that he is holding such license for the use and  
 12 benefit of a named partnership or corporation.

13 (5) No person may hold more than one (1) outfitter's  
 14 license either for his own benefit or for the use and  
 15 benefit of a partnership or corporation nor may the name of  
 16 any partnership or corporation appear on more than one (1)  
 17 current outfitter's license.

18 (6) Notwithstanding any other provision or law a  
 19 license shall expire on the last day of the license year for  
 20 which it was issued."

21 Section 5. Section 26-918, R.C.M. 1947, is amended to  
 22 read as follows:

23 "26-918. Grounds for suspension or revocation of  
 24 license. Every license, or right to apply for and hold such  
 25 license, may be suspended or revoked by the fish and game

1 commission upon any of the following grounds:

2 ~~(1) Having ceased to meet all of the qualifications~~  
3 ~~for holding a license.~~

4 ~~(1) (2) Fraud or deception in procuring a license.~~

5 ~~(2) (3) Fraudulent, untruthful or misleading~~  
6 ~~advertising.~~

7 ~~(3) (4) Conviction of a felony, until civil rights are~~  
8 ~~restored or until time of any deferred sentence for a felony~~  
9 ~~has expired.~~

10 ~~(4) (5) Repeated two (2) convictions, or bond~~  
11 ~~forfeitures, or as to violations of the fish and game or~~  
12 ~~outfitting laws or regulations of the state of Montana or of~~  
13 ~~the United States.~~

14 ~~(5) (6) A substantial breach of any ~~written~~ contract~~  
15 ~~with any person utilizing his the services of the license~~  
16 ~~holder as pertains to this act provided that such breach is~~  
17 ~~established as a matter of final judgment in a court of law.~~

18 ~~(6) (7) The willful ~~and repeated~~ employment of an~~  
19 ~~unlicensed guide by an outfitter.~~

20 ~~(7) ~~For failure to comply with the provisions of this~~~~  
21 ~~~~act.~~~~

22 (8) ~~gross~~ Negligence or misconduct while acting as an  
23 outfitter or guide which negligence or misconduct causes a  
24 danger or unreasonable risk of danger to person or property  
25 of any client of such outfitter or guide."

1 Section 6. Section 26-919, R.C.M. 1947, is amended to  
2 read as follows:

3 "26-919. Procedure for revocation or suspension of  
4 license. Proceedings for the revocation or suspension of a  
5 license issued hereunder may be taken upon charge or  
6 recommendation of any person. All such charges or  
7 recommendations must be made in writing, must state the  
8 facts upon which such charge or recommendation is based and  
9 must be signed and sworn to by the person making the charge  
10 or recommendation. Any such charge or recommendation shall  
11 be filed with the fish and game director. Thereupon, the  
12 fish and game director shall initiate a preliminary  
13 investigation of all facts in connection with the charge. A  
14 copy of all information shall be transmitted to the advisory  
15 council. ~~The advisory council shall within sixty (60) days~~  
16 ~~recommend the action to be taken. The advisory council may~~  
17 make recommendation as to the action to be taken provided  
18 that any such recommendation shall be made, in writing and  
19 delivered to the director, within twenty (20) days after  
20 date of transmittal of such information to the council. If  
21 the accusation be deemed to be unfounded or trivial, the  
22 fish and game director shall dismiss the same and report his  
23 action to the fish and game commission and will advise the  
24 ~~accused licensee charged~~ and the complaining party of the  
25 action. Should the fish and game director determine the

1 charge or recommendation to have good cause and to be  
 2 sufficiently founded, he shall recommend to the fish and  
 3 game commission that the same be approved and the revocation  
 4 or suspension be effected. The fish and game director  
 5 thereupon shall cause a copy of the charge, recommendation  
 6 of the council, and a record of the investigation to be  
 7 served upon the licensee involved, not less than twenty (20)  
 8 days prior to the day set for hearing thereon which said  
 9 hearing shall be before the fish and game commission at a  
 10 time and place set by such commission. At the hearing the  
 11 licensee involved may be represented by counsel. After full,  
 12 fair and impartial hearing, the fish and game commission may  
 13 suspend the accused's license or his right to hold a license  
 14 for a period not to exceed three (3) years or may order the  
 15 license revoked or may dismiss the charge or recommendation  
 16 based upon the facts shown at the hearing. A revoked or  
 17 suspended license may be reissued or reinstated at the  
 18 discretion of the commission."

19 Section 7. Section 26-920, R.C.M. 1947, is amended to  
 20 read as follows:

21 "26-920. Appeal to district court. Any person who  
 22 feels aggrieved by any action of the ~~fish and game~~  
 23 ~~commission director~~ in denying the issuance of a license, ~~or~~  
 24 ~~the suspension or revocation of or of the fish and game~~  
 25 commission in suspending or revoking his license as an

1 outfitter or guide, may appeal to the district court of the  
 2 county of his residence, within ~~sixty (60)~~ thirty (30) days  
 3 after the ~~entry of the order~~ date of such action by filing  
 4 with the clerk of said court a notice of appeal briefly  
 5 setting forth the action complained of and appealed from.  
 6 Summons and copy of the notice of appeal shall be served on  
 7 the commission and all proceedings shall conform to the code  
 8 of civil procedure of the state of Montana. Upon such  
 9 appeal, the action shall be by trial de novo and, upon  
 10 demand in writing, either party shall be entitled to trial  
 11 by jury. The court may sustain or reverse the action of the  
 12 commission or take such other action as the court may deem  
 13 just and proper. If the commission or the court has ordered  
 14 a stay of any revocation or suspension and the commission's  
 15 revocation or suspension is thereafter sustained by the  
 16 court the period of suspension or revocation shall begin  
 17 with the first day after the court's action sustaining the  
 18 decision of the commission."

19 Section 8. Severability. If a part of this act is  
 20 invalid, all valid parts that are severable from the invalid  
 21 part remain in effect. If a part of this act is invalid in  
 22 one or more of its applications, the part remains in effect  
 23 in all valid applications that are severable from the  
 24 invalid applications.

-End-



Approved by Committee  
on Natural Resources

Approved by Comm.  
on Fish and Game

SENATE BILL NO. 397

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commonly understood, who shall for consideration provide any  
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party as an outfitter or agent or employee of such outfitter  
shall be equally responsible with any person or party  
employing him as an outfitter for any violation of the law;  
any such outfitter or employee of such outfitter, who shall  
willfully fail to or refuse to report any violation of the  
law, shall be liable to the penalties as herein provided.  
If any professional guide commits any violation of the laws,  
or applicable regulations, relating to fish and game,  
outfitting or guiding with actual or implied knowledge of an  
outfitter then employing such guide, the outfitter is  
legally responsible for such violation for all purposes  
under the laws or regulations if the outfitter fails to  
report any such violation to proper authority.

1 No person may hire or retain any outfitter or  
 2 professional guide unless the outfitter or professional  
 3 guide is currently licensed in accordance with the laws of  
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 14 number.

15 (b) The address of his principal place of business in  
 16 the state of Montana.

17 (c) The amount and kind of property and equipment owned  
 18 and used in the outfitting business of the applicant, if an  
 19 outfitter's license application.

20 (d) The experience of the applicant, including years of  
 21 experience as an outfitter or guide, knowledge of areas in  
 22 which he has operated and intends to operate, and ability to  
 23 cope with weather conditions and terrain.

24 (e) A signed statement of the licensed outfitter by  
 25 whom the professional guide is to be employed, that the said

1 guide is in fact, to be employed by such outfitter and  
 2 stating that said outfitter recommends the applicant for his  
 3 qualifications.

4 (f) A statement by a Montana fish and game warden to  
 5 the fish and game director that the equipment listed on the  
 6 application has been inspected by said warden and that the  
 7 same is in fact, owned or used leased by the applicant and  
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 9 satisfactory for the services advertised or contemplated to  
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 12 taken at any one (1) time.

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 14 national forest must have the written approval of the  
 15 rangers in whose district he will establish hunting camps,  
 16 and such written approval shall accompany the application.

17 ~~(i) Each application--for--a--partnership--company--or~~  
 18 ~~corporation--must--be--in--the--name--of--one--individual--who~~  
 19 ~~qualifies--under--the--provisions--of--this--act.~~ Applications for  
 20 outfitter's license shall be in the name of an individual  
 21 person only. Applications involving corporations or  
 22 partnerships shall be made by one individual person who  
 23 qualifies under the provisions of this act and any license  
 24 issued pursuant thereto shall be in the name of that person  
 25 and the license shall specifically state that the same is

1 issued for the use and benefit of the named corporation or  
 2 partnership involved. Any revocation or suspension of such  
 3 a license is binding upon the individual person and the  
 4 partnership or corporation for the use and benefit of which  
 5 the license was originally issued.

6 (2) Each applicant for, and holder of, an outfitter's  
 7 license or any renewal thereof, shall, in the opinion of the  
 8 director, meet the following requirements qualifications:

9 (a) ~~Be a competent person of good moral character. Be a~~  
 10 person of at least eighteen (18) years of age, in possession  
 11 of all natural faculties, of ordinary intelligence and in  
 12 such physical condition as to be able to perform his duties  
 13 as an outfitter.

14 (b) Be a citizen of the United States and a resident of  
 15 Montana for a full two (2) years, unless the residency  
 16 requirement is waived by the fish and game commission.

17 ~~(c) Be at least eighteen (18) years of age~~

18 ~~(d) Be in such physical condition as to be able to~~  
 19 ~~perform his assigned or obligated duties.~~

20 ~~(e)~~ (c) To own or hold under written lease or to  
 21 represent a company, corporation or partnership who owns or  
 22 holds under written lease the equipment and facilities as is  
 23 necessary to provide the services advertised, contracted  
 24 for, or agreed upon between the outfitter and his clients.  
 25 All equipment and facilities shall be subject to inspection

1 at all reasonable times and places by the fish and game  
 2 commission or its designated agent.

3 (d) Be a person who has demonstrated a respect for,  
 4 and compliance with, the laws of any state or of the United  
 5 States and all regulations promulgated thereunder,  
 6 especially as to matters of fish and game, conservation of  
 7 natural resources and preservation of the natural ecosystem  
 8 without pollution thereof.

9 (e) Have not been convicted, or forfeited bond, as to  
 10 OF ONE HUNDRED DOLLARS (\$100) OR MORE ON more than one (1)  
 11 violation of the fish and game laws of any state or the  
 12 United States.

13 (f) Have not, at any time, practiced fraud, deception  
 14 or material misrepresentation in procuring any previous  
 15 outfitter or guide's license from the state of Montana.

16 (g) Have not, at any time, promulgated any false or  
 17 misleading advertising relating to the business of  
 18 outfitting.

19 (h) Have not been finally adjudged by a court of law,  
 20 guilty of any substantial breach of written or oral contract  
 21 with any person utilizing the applicant's services as an  
 22 outfitter or guide during the license year immediately  
 23 preceding that for which the application is made.

24 (i) Have not committed any negligent act or misconduct  
 25 while acting as an outfitter or guide which negligence or

1 misconduct caused a danger or unreasonable risk of danger to  
 2 person or property of any client of such outfitter or guide  
 3 during the license year immediately preceding that for which  
 4 the application is made.

5 (j) Have not, at any time, been convicted of a felony  
 6 unless civil rights have been restored pursuant to law. No  
 7 person may apply for, or hold an outfitter's license during  
 8 any period of time in which a deferred sentence has been  
 9 imposed for a felony.

10 (k) Have substantially complied with all fish and game  
 11 department regulations and state and federal laws concerning  
 12 outfitters and guides, if the applicant has previously held  
 13 a license as such outfitter or guide.

14 ~~(f)~~ (l) Pass a standard examination administered by  
 15 the fish and game director, or an agent designated by him,  
 16 which said examination shall require general and sufficient  
 17 knowledge displaying and indicating ability to perform the  
 18 services contemplated with efficiency and with safety to the  
 19 health and welfare of persons employing such services. The  
 20 said examination shall test the applicant's knowledge of  
 21 subjects which shall apply to the type of license applied  
 22 for in the following subjects:

23 (i) Fish and game laws and regulations.

24 (ii) Practical woodsmanship.

25 (iii) General knowledge of big game.

1 (iv) Field preparation of trophies.

2 (v) Care of game meat.

3 (vi) Use of outfitter's gear as shown on the  
 4 application.

5 (vii) Knowledge of area and terrain.

6 (viii) Knowledge of firearms.

7 (ix) Federal and state regulations as applicable to  
 8 outfitting.

9 (x) Practical first aid.

10 (3) Each applicant for a professional guide's license  
 11 shall meet the following requirements:

12 ~~(a) Be a competent person of good moral character. Be a~~  
 13 ~~person of at least eighteen (18) years of age, in possession~~  
 14 ~~of all natural faculties, of ordinary intelligence and in~~  
 15 ~~such physical condition as to be able to perform his duties~~  
 16 ~~as a professional guide.~~

17 (b) Be a citizen of the United States and a resident  
 18 of Montana as defined in this act.

19 ~~(c) Be eighteen (18) years of age or older and in such~~  
 20 ~~physical condition as to be able to perform his assigned~~  
 21 ~~duties.~~

22 ~~(d)~~ (c) Be endorsed and recommended by an outfitter  
 23 with a valid license.

24 (4) A resident guide shall have been issued a valid  
 25 resident wildlife conservation license.

1 (5) Residence requirements for procuring an outfitter's  
2 license are hereby waived as to persons who are citizens of  
3 a common boundary state and of a common county thereof to  
4 the same extent the home state of the applicant waives such  
5 requirements for the residents of Montana except for fee.

6 For the purpose of obtaining a guide's license only,  
7 nonresident professional guides employed by resident  
8 outfitters shall be considered resident professional guides.

9 (6) Applications shall be made to and filed with the  
10 fish and game director and accompanied by a license fee as  
11 herein stipulated, which will be refunded if and when the  
12 application is denied. The fee is to be used in  
13 investigation of the applicant, in enforcement of this act,  
14 and for administrative costs.

15 Resident outfitter's license fee.....\$ 50.00

16 Resident professional guide's fee.....\$ 15.00

17 Resident guide's license is a valid Montana wildlife  
18 conservation license.

19 Nonresident outfitter's license fee.....\$150.00

20 Nonresident professional guide's fee.....\$100.00

21 Provided, however, that if the nonresident resides in a  
22 state requiring residents of the state of Montana to pay in  
23 excess of said amounts for similar license, the fee for such  
24 nonresident outfitters or guides shall be the same amount as  
25 such higher fee charged in the state where such nonresident

1 resides.

2 (7) The fish and game director in his discretion may  
3 cause to be made such additional investigation and inquiry,  
4 relative to the applicant for outfitter's license and an  
5 applicant's qualifications as he shall deem advisable. The  
6 director may deny or refuse to issue any new license or to  
7 renew any previous license if, in his opinion, the applicant  
8 does not meet the qualifications herein stated. In the  
9 event that any application for license is denied or refused,  
10 the director shall immediately notify the applicant setting  
11 forth in the notice the grounds upon which the denial or  
12 refusal is based. Final decision as to issuance of renewal  
13 applications shall be made not later than thirty (30) days  
14 from the date of receipt of the completed application for  
15 renewal of license, and upon a new application, not later  
16 than ninety (90) days from the date of receipt of the  
17 completed application for license. A licensee in good  
18 standing shall be entitled to a new license for the ensuing  
19 license year upon complying with the provisions of this  
20 section, but is exempt from having to retake the written  
21 examination.

22 (8) Only one (1) application for an outfitter or  
23 guide's license may be made any one (1) license year. If  
24 any application is denied, subsequent applications by the  
25 same applicant for the license year involved are null and

1 void.

2 Section 4. Section 26-916, R.C.M. 1947, is amended to  
3 read as follows:

4 "26-916. Kinds of license issued. (1) After receipt of  
5 the application and when all the conditions and requirements  
6 of this act have been satisfied, the fish and game director  
7 shall issue either of the following licenses depending upon  
8 his determination of the applicant's ability and the service  
9 that the applicant can perform with the equipment listed on  
10 his application.

11 (a) A general license authorizing him to perform all  
12 the functions of an outfitter as that term is defined in  
13 section 26-904, R.C.M., 1947.

14 (b) A special license authorizing him to perform only  
15 the function of outfitting listed on the license. The  
16 license shall be in the form prescribed, and shall be valid  
17 for the licensing year in which issued. If the application  
18 is denied, the fish and game director shall notify the  
19 applicant, in writing, of the reasons for the denial, and if  
20 the reasons are corrected, a license shall be issued upon  
21 reapplication thereof.

22 (2) For the purpose of this act, a person may serve as  
23 a professional guide under his employer's license after  
24 submitting his application with the proper license fee until  
25 license is issued or for ten (10) days after notification of

1 rejection of license.

2 (3) To be valid, a professional guide license must bear  
3 the signature and outfitter's license number of an endorsing  
4 outfitter and is valid only while the holder of such license  
5 is employed by an endorsing outfitter.

6 (4) No outfitter license may be transferred during any  
7 license year, provided that an individual person may, upon  
8 proper showing, have his outfitter's license amended to  
9 indicate that he is holding such license for the use and  
10 benefit of a named partnership or corporation.

11 (5) No person may hold more than one (1) outfitter's  
12 license either for his own benefit or for the use and  
13 benefit of a partnership or corporation nor may the name of  
14 any partnership or corporation appear on more than one (1)  
15 current outfitter's license.

16 (6) Notwithstanding any other provision or law a  
17 license shall expire on the last day of the license year for  
18 which it was issued."

19 Section 5. Section 26-918, R.C.M. 1947, is amended to  
20 read as follows:

21 "26-918. Grounds for suspension or revocation of  
22 license. Every license, or right to apply for and hold such  
23 license, may be suspended or revoked by the fish and game  
24 commission upon any of the following grounds:

25 (1) Having ceased to meet all of the qualifications

1 for holding a license.

2 ~~42~~ (2) Fraud or deception in procuring a license.

3 ~~42~~ (3) Fraudulent, untruthful or misleading  
4 advertising.

5 ~~43~~ (4) Conviction of a felony, until civil rights are  
6 restored or until time of any deferred sentence for a felony  
7 has expired.

8 ~~44~~ (5) Repeated Two (2) convictions, or bond  
9 forfeitures, OF ONE HUNDRED DOLLARS (\$100) OR MORE as to  
10 violations of the fish and game or outfitting laws or  
11 regulations of the state of Montana or of the United States.

12 ~~45~~ (6) A substantial breach of any written contract  
13 with any person utilizing his the services of the license  
14 holder as pertains to this act provided that such breach is  
15 established as a matter of final judgment in a court of law.

16 ~~46~~ (7) The willful and--repeated employment of an  
17 unlicensed guide by an outfitter.

18 ~~47~~ --For--failure-to-comply-with-the-provisions-of-this  
19 act.

20 ~~(8) Gross-negligence~~ Negligence or misconduct while  
21 acting as an outfitter or guide which negligence or  
22 misconduct causes a danger or unreasonable risk of danger to  
23 person or property of any client of such outfitter or  
24 guide."

25 Section 6. Section 26-919, R.C.M. 1947, is amended to

1 read as follows:

2 "26-919. Procedure for revocation or suspension of  
3 license. Proceedings for the revocation or suspension of a  
4 license issued hereunder may be taken upon charge or  
5 recommendation of any person. All such charges or  
6 recommendations must be made in writing, must state the  
7 facts upon which such charge or recommendation is based and  
8 must be signed and sworn to by the person making the charge  
9 or recommendation. Any such charge or recommendation shall  
10 be filed with the fish and game director. Thereupon, the  
11 fish and game director shall initiate a preliminary  
12 investigation of all facts in connection with the charge. A  
13 copy of all information shall be transmitted to the advisory  
14 council. ~~The--advisory-council-shall-within-sixty-(60)-days~~  
15 ~~recommend-the-action-to-be-taken.~~ The advisory council may  
16 make recommendation as to the action to be taken provided  
17 that any such recommendation shall be made, in writing and  
18 delivered to the director, within twenty (20) days after  
19 date of transmittal of such information to the council. If  
20 the accusation be deemed to be unfounded or trivial, the  
21 fish and game director shall dismiss the same and report his  
22 action to the fish and game commission and will advise the  
23 accused licensee charged and the complaining party of the  
24 action. Should the fish and game director determine the  
25 charge or recommendation to have good cause and to be

1 sufficiently founded, he shall recommend to the fish and  
 2 game commission that the same be approved and the revocation  
 3 or suspension be effected. The fish and game director  
 4 thereupon shall cause a copy of the charge, recommendation  
 5 of the council, and a record of the investigation to be  
 6 served upon the licensee involved, not less than twenty (20)  
 7 days prior to the day set for hearing thereon which said  
 8 hearing shall be before the fish and game commission at a  
 9 time and place set by such commission. At the hearing the  
 10 licensee involved may be represented by counsel. After full,  
 11 fair and impartial hearing, the fish and game commission may  
 12 suspend the accused's license or his right to hold a license  
 13 for a period not to exceed three (3) years or may order the  
 14 license revoked or may dismiss the charge or recommendation  
 15 based upon the facts shown at the hearing. A revoked or  
 16 suspended license may be reissued or reinstated at the  
 17 discretion of the commission."

18 Section 7. Section 26-920, R.C.M. 1947, is amended to  
 19 read as follows:

20 "26-920. Appeal to district court. Any person who  
 21 feels aggrieved by any action of the ~~fish--and--game~~  
 22 ~~commission director~~ in denying the issuance of a license, ~~or~~  
 23 ~~the-suspension-or-revocation-of~~ or of the fish and game  
 24 commission in suspending or revoking his license as an  
 25 outfitter or guide, may appeal to the district court of the

1 county of his residence, within ~~sixty-(60)~~ thirty (30) days  
 2 after the ~~entry-of-the-order~~ date of such action by filing  
 3 with the clerk of said court a notice of appeal briefly  
 4 setting forth the action complained of and appealed from.  
 5 Summons and copy of the notice of appeal shall be served on  
 6 the commission and all proceedings shall conform to the code  
 7 of civil procedure of the state of Montana. Upon such  
 8 appeal, the action shall be by trial de novo and, upon  
 9 demand in writing, either party shall be entitled to trial  
 10 by jury. The court may sustain or reverse the action of the  
 11 commission or take such other action as the court may deem  
 12 just and proper. If the commission or the court has ordered  
 13 a stay of any revocation or suspension and the commission's  
 14 revocation or suspension is thereafter sustained by the  
 15 court the period of suspension or revocation shall begin  
 16 with the first day after the court's action sustaining the  
 17 decision of the commission."

18 Section 8. Severability. If a part of this act is  
 19 invalid, all valid parts that are severable from the invalid  
 20 part remain in effect. If a part of this act is invalid in  
 21 one or more of its applications, the part remains in effect  
 22 in all valid applications that are severable from the  
 23 invalid applications.

-End-



1 SENATE BILL NO. 397

2 INTRODUCED BY MURPHY (BY REQUEST)

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
5 26-904, 26-906, 26-915, 26-916, 26-918, 26-919 AND 26-920,  
6 R.C.M. 1947, RELATING TO THE LICENSING AND REGULATION OF  
7 OUTFITTING AND GUIDING OF HUNTING AND FISHING PARTIES WITHIN  
8 THE STATE OF MONTANA."

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

11 Section 1. Section 26-904, R.C.M. 1947, is amended to  
12 read as follows:

13 "26-904. Who deemed outfitter. For the purpose of this  
14 act, the word "outfitter" shall mean any person or persons,  
15 company or corporation who shall engage in the business of  
16 outfitting for hunting or fishing parties, as the term is  
17 commonly understood, who shall for consideration provide any  
18 saddle or pack animal or animals or personal service for  
19 hunting or fishing parties, camping equipment, vehicles or  
20 other conveyance except boats for any person or persons to  
21 hunt, trap, capture, take or kill any game, or who shall for  
22 consideration furnish a boat or other floating craft and  
23 accompany any person or persons for the purpose of catching  
24 fish, or who shall aid or assist any person or persons in  
25 locating or pursuing any game animal. The providing of the

1 above mentioned services, property or equipment shall be  
2 conclusively presumed to have been for consideration for  
3 purposes of this act if the same, or any thereof, are  
4 provided by any person, company or corporation for more than  
5 two (2) parties or two (2) other persons during any calendar  
6 year or on more than two (2) occasions during any such  
7 calendar year."

8 Section 2. Section 26-906, R.C.M. 1947, is amended to  
9 read as follows:

10 "26-906. Outfitter and employees of outfitter equally  
11 responsible with others for violations of law--must report  
12 violations. Any person accompanying a hunting or fishing  
13 party as an outfitter or agent or employee of such outfitter  
14 shall be equally responsible with any person or party  
15 employing him as an outfitter for any violation of the law;  
16 any such outfitter or employee of such outfitter, who shall  
17 willfully fail to or refuse to report any violation of the  
18 law, shall be liable to the penalties as herein provided.  
19 If any professional guide commits any violation of the laws,  
20 or applicable regulations, relating to fish and game,  
21 outfitting or guiding with actual or implied knowledge of an  
22 outfitter then employing such guide, the outfitter is  
23 legally responsible for such violation for all purposes  
24 under the laws or regulations if the outfitter fails to  
25 report any such violation to proper authority.

1 No person may hire or retain any outfitter or  
 2 professional guide unless the outfitter or professional  
 3 guide is currently licensed in accordance with the laws of  
 4 the state of Montana."

5 Section 3. Section 26-915, R.C.M. 1947, is amended to  
 6 read as follows:

7 "26-915. Application for license -- contents --  
 8 requirements and qualifications--fees. (1) Each applicant  
 9 for an outfitter's or professional guide's license shall  
 10 make application for license upon a form to be prescribed  
 11 and furnished by the fish and game commission which shall  
 12 include:

13 (a) The applicant's full name, address and telephone  
 14 number.

15 (b) The address of his principal place of business in  
 16 the state of Montana.

17 (c) The amount and kind of property and equipment owned  
 18 and used in the outfitting business of the applicant, if an  
 19 outfitter's license application.

20 (d) The experience of the applicant, including years of  
 21 experience as an outfitter or guide, knowledge of areas in  
 22 which he has operated and intends to operate, and ability to  
 23 cope with weather conditions and terrain.

24 (e) A signed statement of the licensed outfitter by  
 25 whom the professional guide is to be employed, that the said

1 guide is in fact, to be employed by such outfitter and  
 2 stating that said outfitter recommends the applicant for his  
 3 qualifications.

4 (f) A statement by a Montana fish and game warden to  
 5 the fish and game director that the equipment listed on the  
 6 application has been inspected by said warden and that the  
 7 same is in fact, owned or used leased by the applicant and  
 8 is in good operating condition and is sufficient and  
 9 satisfactory for the services advertised or contemplated to  
 10 be performed by such applicant.

11 (g) A statement of the maximum number of guests to be  
 12 taken at any one (1) time.

13 (h) Each new applicant who intends to outfit on a  
 14 national forest must have the written approval of the  
 15 rangers in whose district he will establish hunting camps,  
 16 and such written approval shall accompany the application.

17 ~~(i) Each application--for--a--partnership,--company--or~~  
 18 ~~corporation--must--be--in--the--name--of--one--individual--who~~  
 19 ~~qualifies--under--the--provisions--of--this--act.~~ Applications for  
 20 outfitter's license shall be in the name of an individual  
 21 person only. Applications involving corporations or  
 22 partnerships shall be made by one individual person who  
 23 qualifies under the provisions of this act and any license  
 24 issued pursuant thereto shall be in the name of that person  
 25 and the license shall specifically state that the same is

1 issued for the use and benefit of the named corporation or  
 2 partnership involved. Any revocation or suspension of such  
 3 a license is binding upon the individual person and the  
 4 partnership or corporation for the use and benefit of which  
 5 the license was originally issued.

6 (2) Each applicant for, and holder of, an outfitter's  
 7 license or any renewal thereof, shall, in the opinion of the  
 8 director, meet the following requirements qualifications:

9 ~~(a) Be a competent person of good moral character.~~ Be a  
 10 person of at least eighteen (18) years of age, in possession  
 11 of all natural faculties, of ordinary intelligence and in  
 12 such physical condition as to be able to perform his duties  
 13 as an outfitter.

14 (b) Be a citizen of the United States and a resident of  
 15 Montana for a full two (2) years, unless the residency  
 16 requirement is waived by the fish and game commission.

17 ~~(c) Be at least eighteen (18) years of age.~~

18 ~~(d) Be in such physical condition as to be able to~~  
 19 ~~perform his assigned or obligated duties.~~

20 ~~(e)~~ (c) To own or hold under written lease or to  
 21 represent a company, corporation or partnership who owns or  
 22 holds under written lease the equipment and facilities as is  
 23 necessary to provide the services advertised, contracted  
 24 for, or agreed upon between the outfitter and his clients.  
 25 All equipment and facilities shall be subject to inspection

1 at all reasonable times and places by the fish and game  
 2 commission or its designated agent.

3 (d) Be a person who has demonstrated a respect for,  
 4 and compliance with, the laws of any state or of the United  
 5 States and all regulations promulgated thereunder,  
 6 especially as to matters of fish and game, conservation of  
 7 natural resources and preservation of the natural ecosystem  
 8 without pollution thereof.

9 (e) Have not been convicted, or forfeited bond, as to  
 10 OF ONE HUNDRED DOLLARS (\$100) OR MORE ON more than one (1)  
 11 violation of the fish and game laws of any state or the  
 12 United States.

13 (f) Have not, at any time, practiced fraud, deception  
 14 or material misrepresentation in procuring any previous  
 15 outfitter or guide's license from the state of Montana.

16 (g) Have not, at any time, promulgated any false or  
 17 misleading advertising relating to the business of  
 18 outfitting.

19 (h) Have not been finally adjudged by a court of law,  
 20 guilty of any substantial breach of written or oral contract  
 21 with any person utilizing the applicant's services as an  
 22 outfitter or guide during the license year immediately  
 23 preceding that for which the application is made.

24 (i) Have not committed any negligent act or misconduct  
 25 while acting as an outfitter or guide which negligence or

1 misconduct caused a danger or unreasonable risk of danger to  
2 person or property of any client of such outfitter or guide  
3 during the license year immediately preceding that for which  
4 the application is made.

5 (j) Have not, at any time, been convicted of a felony  
6 unless civil rights have been restored pursuant to law. No  
7 person may apply for, or hold an outfitter's license during  
8 any period of time in which a deferred sentence has been  
9 imposed for a felony.

10 (k) Have substantially complied with all fish and game  
11 department regulations and state and federal laws concerning  
12 outfitters and guides, if the applicant has previously held  
13 a license as such outfitter or guide.

14 ~~(f)~~ (l) Pass a standard examination administered by  
15 the fish and game director, or an agent designated by him,  
16 which said examination shall require general and sufficient  
17 knowledge displaying and indicating ability to perform the  
18 services contemplated with efficiency and with safety to the  
19 health and welfare of persons employing such services. The  
20 said examination shall test the applicant's knowledge of  
21 subjects which shall apply to the type of license applied  
22 for in the following subjects:

- 23 (i) Fish and game laws and regulations.
- 24 (ii) Practical woodsmanship.
- 25 (iii) General knowledge of big game.

1 (iv) Field preparation of trophies.

2 (v) Care of game meat.

3 (vi) Use of outfitter's gear as shown on the  
4 application.

5 (vii) Knowledge of area and terrain.

6 (viii) Knowledge of firearms.

7 (ix) Federal and state regulations as applicable to  
8 outfitting.

9 (x) Practical first aid.

10 (3) Each applicant for a professional guide's license  
11 shall meet the following requirements:

12 ~~(a) Be a competent person of good moral character. Be a~~  
13 person of at least eighteen (18) years of age, in possession  
14 of all natural faculties, of ordinary intelligence and in  
15 such physical condition as to be able to perform his duties  
16 as a professional guide.

17 (b) Be a citizen of the United States and a resident  
18 of Montana as defined in this act.

19 ~~(c) Be eighteen (18) years of age or older and in such~~  
20 ~~physical condition as to be able to perform his assigned~~  
21 ~~duties.~~

22 ~~(d)~~ (c) Be endorsed and recommended by an outfitter  
23 with a valid license.

24 (4) A resident guide shall have been issued a valid  
25 resident wildlife conservation license.

1 (5) Residence requirements for procuring an outfitter's  
 2 license are hereby waived as to persons who are citizens of  
 3 a common boundary state and of a common county thereof to  
 4 the same extent the home state of the applicant waives such  
 5 requirements for the residents of Montana except for fee.

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 8 outfitters shall be considered resident professional guides.

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 10 fish and game director and accompanied by a license fee as  
 11 herein stipulated, which will be refunded if and when the  
 12 application is denied. The fee is to be used in  
 13 investigation of the applicant, in enforcement of this act,  
 14 and for administrative costs.

15 Resident outfitter's license fee.....\$ 50.00  
 16 Resident professional guide's fee.....\$ 15.00  
 17 Resident guide's license is a valid Montana wildlife  
 18 conservation license.

19 Nonresident outfitter's license fee.....\$150.00  
 20 Nonresident professional guide's fee.....\$100.00

21 Provided, however, that if the nonresident resides in a  
 22 state requiring residents of the state of Montana to pay in  
 23 excess of said amounts for similar license, the fee for such  
 24 nonresident outfitters or guides shall be the same amount as  
 25 such higher fee charged in the state where such nonresident

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 3 cause to be made such additional investigation and inquiry,  
 4 relative to the applicant for outfitter's license and an  
 5 applicant's qualifications as he shall deem advisable. The  
 6 director may deny or refuse to issue any new license or to  
 7 renew any previous license if, in his opinion, the applicant  
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 16 than ninety (90) days from the date of receipt of the  
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 18 standing shall be entitled to a new license for the ensuing  
 19 license year upon complying with the provisions of this  
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7 shall issue either of the following licenses depending upon  
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9 that the applicant can perform with the equipment listed on  
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11 (a) A general license authorizing him to perform all  
12 the functions of an outfitter as that term is defined in  
13 section 26-904, R.C.M., 1947.

14 (b) A special license authorizing him to perform only  
15 the function of outfitting listed on the license. The  
16 license shall be in the form prescribed, and shall be valid  
17 for the licensing year in which issued. If the application  
18 is denied, the fish and game director shall notify the  
19 applicant, in writing, of the reasons for the denial, and if  
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24 submitting his application with the proper license fee until  
25 license is issued or for ten (10) days after notification of

1 rejection of license.

2 (3) To be valid, a professional guide license must bear  
3 the signature and outfitter's license number of an endorsing  
4 outfitter and is valid only while the holder of such license  
5 is employed by an endorsing outfitter.

6 (4) No outfitter license may be transferred during any  
7 license year, provided that an individual person may, upon  
8 proper showing, have his outfitter's license amended to  
9 indicate that he is holding such license for the use and  
10 benefit of a named partnership or corporation.

11 (5) No person may hold more than one (1) outfitter's  
12 license either for his own benefit or for the use and  
13 benefit of a partnership or corporation nor may the name of  
14 any partnership or corporation appear on more than one (1)  
15 current outfitter's license.

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17 license shall expire on the last day of the license year for  
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23 license, may be suspended or revoked by the fish and game  
24 commission upon any of the following grounds:

25 (1) Having ceased to meet all of the qualifications

1 for holding a license.

2 ~~(1)~~ (2) Fraud or deception in procuring a license.

3 ~~(2)~~ (3) Fraudulent, untruthful or misleading  
4 advertising.

5 ~~(3)~~ (4) Conviction of a felony, until civil rights are  
6 restored or until time of any deferred sentence for a felony  
7 has expired.

8 ~~(4)~~ (5) Repeated Two (2) convictions, or bond  
9 forfeitures, OF ONE HUNDRED DOLLARS (\$100) OR MORE of as to  
10 violations of the fish and game or outfitting laws or  
11 regulations of the state of Montana or of the United States.

12 ~~(5)~~ (6) A substantial breach of any written contract  
13 with any person utilizing his the services of the license  
14 holder as-pertains-to-this-act provided that such breach is  
15 established as a matter of final judgment in a court of law.

16 ~~(6)~~ (7) The willful ~~and--repeated~~ employment of an  
17 unlicensed guide by an outfitter.

18 ~~(7)--For--failure-to-comply-with-the-provisions-of-this~~  
19 ~~act,~~

20 (8) ~~Gross-negligence~~ Negligence or misconduct while  
21 acting as an outfitter or guide which negligence or  
22 misconduct causes a danger or unreasonable risk of danger to  
23 person or property of any client of such outfitter or  
24 guide."

25 Section 6. Section 26-919, R.C.M. 1947, is amended to

1 read as follows:

2 "26-919. Procedure for revocation or suspension of  
3 license. Proceedings for the revocation or suspension of a  
4 license issued hereunder may be taken upon charge or  
5 recommendation of any person. All such charges or  
6 recommendations must be made in writing, must state the  
7 facts upon which such charge or recommendation is based and  
8 must be signed and sworn to by the person making the charge  
9 or recommendation. Any such charge or recommendation shall  
10 be filed with the fish and game director. Thereupon, the  
11 fish and game director shall initiate a preliminary  
12 investigation of all facts in connection with the charge. A  
13 copy of all information shall be transmitted to the advisory  
14 council. ~~The--advisory-council-shall-within-sixty-(60)-days~~  
15 ~~recommend-the-action-to-be-taken.~~ The advisory council may  
16 make recommendation as to the action to be taken provided  
17 that any such recommendation shall be made, in writing and  
18 delivered to the director, within twenty (20) days after  
19 date of transmittal of such information to the council. If  
20 the accusation be deemed to be unfounded or trivial, the  
21 fish and game director shall dismiss the same and report his  
22 action to the fish and game commission and will advise the  
23 ~~accused~~ licensee charged and the complaining party of the  
24 action. Should the fish and game director determine the  
25 charge or recommendation to have good cause and to be

1 sufficiently founded, he shall recommend to the fish and  
 2 game commission that the same be approved and the revocation  
 3 or suspension be effected. The fish and game director  
 4 thereupon shall cause a copy of the charge, recommendation  
 5 of the council, and a record of the investigation to be  
 6 served upon the licensee involved, not less than twenty (20)  
 7 days prior to the day set for hearing thereon which said  
 8 hearing shall be before the fish and game commission at a  
 9 time and place set by such commission. At the hearing the  
 10 licensee involved may be represented by counsel. After full,  
 11 fair and impartial hearing, the fish and game commission may  
 12 suspend the accused's license or his right to hold a license  
 13 for a period not to exceed three (3) years or may order the  
 14 license revoked or may dismiss the charge or recommendation  
 15 based upon the facts shown at the hearing. A revoked or  
 16 suspended license may be reissued or reinstated at the  
 17 discretion of the commission."

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 19 read as follows:

20 "26-920. Appeal to district court. Any person who  
 21 feels aggrieved by any action of the ~~fish--and--game~~  
 22 ~~commission director~~ in denying the issuance of a license, ~~or~~  
 23 ~~the-suspension-or-revocation-of~~ or of the fish and game  
 24 commission in suspending or revoking his license as an  
 25 outfitter or guide, may appeal to the district court of the

1 county of his residence, within ~~sixty--(60)~~ thirty (30) days  
 2 after the ~~entry-of-the-order~~ date of such action by filing  
 3 with the clerk of said court a notice of appeal briefly  
 4 setting forth the action complained of and appealed from.  
 5 Summons and copy of the notice of appeal shall be served on  
 6 the commission and all proceedings shall conform to the code  
 7 of civil procedure of the state of Montana. Upon such  
 8 appeal, the action shall be by trial de novo and, upon  
 9 demand in writing, either party shall be entitled to trial  
 10 by jury. The court may sustain or reverse the action of the  
 11 commission or take such other action as the court may deem  
 12 just and proper. If the commission or the court has ordered  
 13 a stay of any revocation or suspension and the commission's  
 14 revocation or suspension is thereafter sustained by the  
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 16 with the first day after the court's action sustaining the  
 17 decision of the commission."

18 Section 8. Severability. If a part of this act is  
 19 invalid, all valid parts that are severable from the invalid  
 20 part remain in effect. If a part of this act is invalid in  
 21 one or more of its applications, the part remains in effect  
 22 in all valid applications that are severable from the  
 23 invalid applications.

-End-



HOUSE OF REPRESENTATIVES

March 12, 1975

HOUSE COMMITTEE ON FISH AND GAME AMENDMENTS TO SENATE BILL 397

Be amended in the third reading bill as follows:

1. Amend page 6, section 3, subsection (2)(e), line 12.

Following: "States"

Insert: "within the past five (5) years"

AS SO AMENDED  
BE CONCURRED IN

SENATE BILL NO. 397

INTRODUCED BY MURPHY (BY REQUEST)

A BILL FOR AN ACT ENTITLED: "A1 ACT TO AMEND SECTIONS 26-904, 26-906, 26-915, 26-916, 26-918, 26-919 AND 26-920, R.C.M. 1947, RELATING TO THE LICENSING AND REGULATION OF OUTFITTING AND GUIDING OF HUNTING AND FISHING PARTIES WITHIN THE STATE OF MONTANA."

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

Section 1. Section 26-904, R.C.M. 1947, is amended to read as follows:

"26-904. Who deemed outfitter. For the purpose of this act, the word "outfitter" shall mean any person or persons, company or corporation who shall engage in the business of outfitting for hunting or fishing parties, as the term is commonly understood, who shall for consideration provide any saddle or pack animal or animals or personal service for hunting or fishing parties, camping equipment, vehicles or other conveyance except boats for any person or persons to hunt, trap, capture, take or kill any game, or who shall for consideration furnish a boat or other floating craft and accompany any person or persons for the purpose of catching fish, or who shall aid or assist any person or persons in locating or pursuing any game animal. The providing of the

above mentioned services, property or equipment shall be conclusively presumed to have been for consideration for purposes of this act if the same, or any thereof, are provided by any person, company or corporation for more than two (2) parties or two (2) other persons during any calendar year or on more than two (2) occasions during any such calendar year."

Section 2. Section 26-906, R.C.M. 1947, is amended to read as follows:

"26-906. Outfitter and employees of outfitter equally responsible with others for violations of law--must report violations. Any person accompanying a hunting or fishing party as an outfitter or agent or employee of such outfitter shall be equally responsible with any person or party employing him as an outfitter for any violation of the law; any such outfitter or employee of such outfitter, who shall willfully fail to or refuse to report any violation of the law, shall be liable to the penalties as herein provided. If any professional guide commits any violation of the laws, or applicable regulations, relating to fish and game, outfitting or guiding with actual or implied knowledge of an outfitter then employing such guide, the outfitter is legally responsible for such violation for all purposes under the laws or regulations if the outfitter fails to report any such violation to proper authority.

1 No person may hire or retain any outfitter or  
 2 professional guide unless the outfitter or professional  
 3 guide is currently licensed in accordance with the laws of  
 4 the state of Montana."

5 Section 3. Section 26-915, R.C.M. 1947, is amended to  
 6 read as follows:

7 "26-915. Application for license -- contents --  
 8 requirements and qualifications--fees. (1) Each applicant  
 9 for an outfitter's or professional guide's license shall  
 10 make application for license upon a form to be prescribed  
 11 and furnished by the fish and game commission which shall  
 12 include:

13 (a) The applicant's full name, address and telephone  
 14 number.

15 (b) The address of his principal place of business in  
 16 the state of Montana.

17 (c) The amount and kind of property and equipment owned  
 18 and used in the outfitting business of the applicant, if an  
 19 outfitter's license application.

20 (d) The experience of the applicant, including years of  
 21 experience as an outfitter or guide, knowledge of areas in  
 22 which he has operated and intends to operate, and ability to  
 23 cope with weather conditions and terrain.

24 (e) A signed statement of the licensed outfitter by  
 25 whom the professional guide is to be employed, that the said

1 guide is in fact, to be employed by such outfitter and  
 2 stating that said outfitter recommends the applicant for his  
 3 qualifications.

4 (f) A statement by a Montana fish and game warden to  
 5 the fish and game director that the equipment listed on the  
 6 application has been inspected by said warden and that the  
 7 same is in fact, owned or ~~used~~ leased by the applicant and  
 8 is in good operating condition and is sufficient and  
 9 satisfactory for the services advertised or contemplated to  
 10 be performed by such applicant.

11 (g) A statement of the maximum number of guests to be  
 12 taken at any one (1) time.

13 (h) Each new applicant who intends to outfit on a  
 14 national forest must have the written approval of the  
 15 rangers in whose district he will establish hunting camps,  
 16 and such written approval shall accompany the application.

17 ~~Each application for a partnership, company or~~  
 18 ~~corporation must be in the name of one individual who~~  
 19 ~~qualifies under the provisions of this act. Applications for~~  
 20 outfitter's license shall be in the name of an individual  
 21 person only. Applications involving corporations or  
 22 partnerships shall be made by one individual person who  
 23 qualifies under the provisions of this act and any license  
 24 issued pursuant thereto shall be in the name of that person  
 25 and the license shall specifically state that the same is

1 issued for the use and benefit of the named corporation or  
 2 partnership involved. Any revocation or suspension of such  
 3 a license is binding upon the individual person and the  
 4 partnership or corporation for the use and benefit of which  
 5 the license was originally issued.

6 (2) Each applicant for, and holder of, an outfitter's  
 7 license or any renewal thereof, shall, in the opinion of the  
 8 director, meet the following ~~requirements~~ qualifications:

9 ~~(a) Be a competent person of good moral character. Be a~~  
 10 ~~person of at least eighteen (18) years of age, in possession~~  
 11 ~~of all natural faculties, of ordinary intelligence and in~~  
 12 ~~such physical condition as to be able to perform his duties~~  
 13 ~~as an outfitter.~~

14 (b) Be a citizen of the United States and a resident of  
 15 Montana for a full two (2) years, unless the residency  
 16 requirement is waived by the fish and game commission.

17 ~~(c) Be at least eighteen (18) years of age.~~

18 ~~(d) Be in such physical condition as to be able to~~  
 19 ~~perform his assigned or obligated duties.~~

20 ~~(e) (c) To own or hold under written lease or to~~  
 21 ~~represent a company, corporation or partnership who owns or~~  
 22 ~~holds under written lease the equipment and facilities as is~~  
 23 ~~necessary to provide the services advertised, contracted~~  
 24 ~~for, or agreed upon between the outfitter and his clients.~~  
 25 All equipment and facilities shall be subject to inspection

1 at all reasonable times and places by the fish and game  
 2 commission or its designated agent.

3 (d) Be a person who has demonstrated a respect for,  
 4 and compliance with, the laws of any state or of the United  
 5 States and all regulations promulgated thereunder,  
 6 especially as to matters of fish and game, conservation of  
 7 natural resources and preservation of the natural ecosystem  
 8 without pollution thereof.

9 (e) Have not been convicted, or forfeited bond, as to  
 10 OF ONE HUNDRED DOLLARS (\$100) OR MORE ON more than one (1)  
 11 violation of the fish and game laws of any state or the  
 12 United States WITHIN THE PAST FIVE (5) YEARS.

13 (f) Have not, at any time, practiced fraud, deception  
 14 or material misrepresentation in procuring any previous  
 15 outfitter or guide's license from the state of Montana.

16 (g) Have not, at any time, promulgated any false or  
 17 misleading advertising relating to the business of  
 18 outfitting.

19 (h) Have not been finally adjudged by a court of law,  
 20 guilty of any substantial breach of written or oral contract  
 21 with any person utilizing the applicant's services as an  
 22 outfitter or guide during the license year immediately  
 23 preceding that for which the application is made.

24 (i) Have not committed any negligent act or misconduct  
 25 while acting as an outfitter or guide which negligence or

1 misconduct caused a danger or unreasonable risk of danger to  
 2 person or property of any client of such outfitter or guide  
 3 during the license year immediately preceding that for which  
 4 the application is made.

5 (j) Have not, at any time, been convicted of a felony  
 6 unless civil rights have been restored pursuant to law. No  
 7 person may apply for, or hold an outfitter's license during  
 8 any period of time in which a deferred sentence has been  
 9 imposed for a felony.

10 (k) Have substantially complied with all fish and game  
 11 department regulations and state and federal laws concerning  
 12 outfitters and guides, if the applicant has previously held  
 13 a license as such outfitter or guide.

14 ~~(f)~~ (l) Pass a standard examination administered by  
 15 the fish and game director, or an agent designated by him,  
 16 which said examination shall require general and sufficient  
 17 knowledge displaying and indicating ability to perform the  
 18 services contemplated with efficiency and with safety to the  
 19 health and welfare of persons employing such services. The  
 20 said examination shall test the applicant's knowledge of  
 21 subjects which shall apply to the type of license applied  
 22 for in the following subjects:

- 23 (i) Fish and game laws and regulations.
- 24 (ii) Practical woodsmanship.
- 25 (iii) General knowledge of big game.

- 1 (iv) Field preparation of trophies.
- 2 (v) Care of game meat.
- 3 (vi) Use of outfitter's gear as shown on the
- 4 application.
- 5 (vii) Knowledge of area and terrain.
- 6 (viii) Knowledge of firearms.
- 7 (ix) Federal and state regulations as applicable to
- 8 outfitting.
- 9 (x) Practical first aid.

10 (3) Each applicant for a professional guide's license  
 11 shall meet the following requirements:

12 ~~(a) Be a competent person of good moral character. Be a~~  
 13 ~~person of at least eighteen (18) years of age, in possession~~  
 14 ~~of all natural faculties, of ordinary intelligence and in~~  
 15 ~~such physical condition as to be able to perform his duties~~  
 16 ~~as a professional guide.~~

17 (b) Be a citizen of the United States and a resident  
 18 of Montana as defined in this act.

19 ~~(c) Be eighteen (18) years of age or older and in such~~  
 20 ~~physical condition as to be able to perform his assigned~~  
 21 ~~duties.~~

22 ~~(d)~~ (c) Be endorsed and recommended by an outfitter  
 23 with a valid license.

24 (4) A resident guide shall have been issued a valid  
 25 resident wildlife conservation license.

1 (5) Residence requirements for procuring an outfitter's  
 2 license are hereby waived as to persons who are citizens of  
 3 a common boundary state and of a common county thereof to  
 4 the same extent the home state of the applicant waives such  
 5 requirements for the residents of Montana except for fee.

6 For the purpose of obtaining a guide's license only,  
 7 nonresident professional guides employed by resident  
 8 outfitters shall be considered resident professional guides.

9 (6) Applications shall be made to and filed with the  
 10 fish and game director and accompanied by a license fee as  
 11 herein stipulated, which will be refunded if and when the  
 12 application is denied. The fee is to be used in  
 13 investigation of the applicant, in enforcement of this act,  
 14 and for administrative costs.

15 Resident outfitter's license fee.....\$ 50.00

16 Resident professional guide's fee.....\$ 15.00

17 Resident guide's license is a valid Montana wildlife  
 18 conservation license.

19 Nonresident outfitter's license fee.....\$150.00

20 Nonresident professional guide's fee.....\$100.00

21 Provided, however, that if the nonresident resides in a  
 22 state requiring residents of the state of Montana to pay in  
 23 excess of said amounts for similar license, the fee for such  
 24 nonresident outfitters or guides shall be the same amount as  
 25 such higher fee charged in the state where such nonresident

1 resides.

2 (7) The fish and game director in his discretion may  
 3 cause to be made such additional investigation and inquiry,  
 4 relative to the applicant for outfitter's license and an  
 5 applicant's qualifications as he shall deem advisable. The  
 6 director may deny or refuse to issue any new license or to  
 7 renew any previous license if, in his opinion, the applicant  
 8 does not meet the qualifications herein stated. In the  
 9 event that any application for license is denied or refused,  
 10 the director shall immediately notify the applicant setting  
 11 forth in the notice the grounds upon which the denial or  
 12 refusal is based. Final decision as to issuance of renewal  
 13 applications shall be made not later than thirty (30) days  
 14 from the date of receipt of the completed application for  
 15 renewal of license, and upon a new application, not later  
 16 than ninety (90) days from the date of receipt of the  
 17 completed application for license. A licensee in good  
 18 standing shall be entitled to a new license for the ensuing  
 19 license year upon complying with the provisions of this  
 20 section, but is exempt from having to retake the written  
 21 examination.

22 (8) Only one (1) application for an outfitter or  
 23 guide's license may be made any one (1) license year. If  
 24 any application is denied, subsequent applications by the  
 25 same applicant for the license year involved are null and

1 void.

2 Section 4. Section 26-916, R.C.M. 1947, is amended to  
3 read as follows:

4 "26-916. Kinds of license issued. (1) After receipt of  
5 the application and when all the conditions and requirements  
6 of this act have been satisfied, the fish and game director  
7 shall issue either of the following licenses depending upon  
8 his determination of the applicant's ability and the service  
9 that the applicant can perform with the equipment listed on  
10 his application.

11 (a) A general license authorizing him to perform all  
12 the functions of an outfitter as that term is defined in  
13 section 26-904, R.C.M., 1947.

14 (b) A special license authorizing him to perform only  
15 the function of outfitting listed on the license. The  
16 license shall be in the form prescribed, and shall be valid  
17 for the licensing year in which issued. If the application  
18 is denied, the fish and game director shall notify the  
19 applicant, in writing, of the reasons for the denial, and if  
20 the reasons are corrected, a license shall be issued upon  
21 reapplication thereof.

22 (2) For the purpose of this act, a person may serve as  
23 a professional guide under his employer's license after  
24 submitting his application with the proper license fee until  
25 license is issued or for ten (10) days after notification of

1 rejection of license.

2 (3) To be valid, a professional guide license must bear  
3 the signature and outfitter's license number of an endorsing  
4 outfitter and is valid only while the holder of such license  
5 is employed by an endorsing outfitter.

6 (4) No outfitter license may be transferred during any  
7 license year, provided that an individual person may, upon  
8 proper showing, have his outfitter's license amended to  
9 indicate that he is holding such license for the use and  
10 benefit of a named partnership or corporation.

11 (5) No person may hold more than one (1) outfitter's  
12 license either for his own benefit or for the use and  
13 benefit of a partnership or corporation nor may the name of  
14 any partnership or corporation appear on more than one (1)  
15 current outfitter's license.

16 (6) Notwithstanding any other provision or law a  
17 license shall expire on the last day of the license year for  
18 which it was issued."

19 Section 5. Section 26-918, R.C.M. 1947, is amended to  
20 read as follows:

21 "26-918. Grounds for suspension or revocation of  
22 license. Every license, or right to apply for and hold such  
23 license, may be suspended or revoked by the fish and game  
24 commission upon any of the following grounds:

25 (1) Having ceased to meet all of the qualifications

1 for holding a license.

2 ~~(1)~~ (2) Fraud or deception in procuring a license.

3 ~~(2)~~ (3) Fraudulent, untruthful or misleading

4 advertising.

5 ~~(3)~~ (4) Conviction of a felony, until civil rights are

6 restored or until time of any deferred sentence for a felony

7 has expired.

8 ~~(4)~~ (5) Repeated Two (2) convictions, or bond

9 forfeitures, OF ONE HUNDRED DOLLARS (\$100) OR MORE of as to

10 violations of the fish and game or outfitting laws or

11 regulations of the state of Montana or of the United States.

12 ~~(5)~~ (6) A substantial breach of any written contract

13 with any person utilizing his the services of the license

14 holder as-pertains-to-this-act provided that such breach is

15 established as a matter of final judgment in a court of law.

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17 unlicensed guide by an outfitter.

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7 facts upon which such charge or recommendation is based and

8 must be signed and sworn to by the person making the charge

9 or recommendation. Any such charge or recommendation shall

10 be filed with the fish and game director. Thereupon, the

11 fish and game director shall initiate a preliminary

12 investigation of all facts in connection with the charge. A

13 copy of all information shall be transmitted to the advisory

14 council. ~~The--advisory-council-shall-within-sixty-(60)-days~~

15 ~~recommend-the-action-to-be-taken.~~ The advisory council may

16 make recommendation as to the action to be taken provided

17 that any such recommendation shall be made, in writing and

18 delivered to the director, within twenty (20) days after

19 date of transmittal of such information to the council. If

20 the accusation be deemed to be unfounded or trivial, the

21 fish and game director shall dismiss the same and report his

22 action to the fish and game commission and will advise the

23 accused licensee charged and the complaining party of the

24 action. Should the fish and game director determine the

25 charge or recommendation to have good cause and to be



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 2 game commission that the same be approved and the revocation  
 3 or suspension be effected. The fish and game director  
 4 thereupon shall cause a copy of the charge, recommendation  
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 6 served upon the licensee involved, not less than twenty (20)  
 7 days prior to the day set for hearing thereon which said  
 8 hearing shall be before the fish and game commission at a  
 9 time and place set by such commission. At the hearing the  
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 22 ~~commission director~~ in denying the issuance of a license, ~~or~~  
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 25 outfitter or guide, may appeal to the district court of the

1 county of his residence, within ~~sixty-(60)~~ thirty (30) days  
 2 after the ~~entry-of-the-order~~ date of such action by filing  
 3 with the clerk of said court a notice of appeal briefly  
 4 setting forth the action complained of and appealed from.  
 5 Summons and copy of the notice of appeal shall be served on  
 6 the commission and all proceedings shall conform to the code  
 7 of civil procedure of the state of Montana. Upon such  
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-End-