

SENATE BILL NO. 101  
INTRODUCED BY GRAHAM  
BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

|                  |   |
|------------------|---|
| January 11, 1983 | Introduced and referred to Committee on Natural Resources.      |
| January 25, 1983 | Committee recommend bill do pass as amended. Report adopted.    |
| January 26, 1983 | Bill printed and placed on members' desks.                      |
| January 27, 1983 | Second reading, do pass.  |
| January 28, 1983 | Correctly engrossed.  |
| January 29, 1983 | Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House. |

IN THE HOUSE

|                  |  |
|------------------|--|
| January 29, 1983 | Introduced and referred to Committee on Natural Resources.           |
| March 10, 1983   | Committee recommend bill be concurred in as amended. Report adopted. |
| March 12, 1983   | Second reading, concurred in.  |
| March 14, 1983   | Third reading, concurred in.   |

IN THE SENATE

March 15, 1983

Returned to Senate with amendments.

March 16, 1983

Second reading, amendments concurred in.

March 17, 1983

Third reading, amendments concurred in. Ayes, 47; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1983 Legislature  
Code Commissioner Bill - Summary

Senate Bill No. 101

AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO HEALTH, THE ENVIRONMENT, AND NATURAL RESOURCES; AMENDING SECTIONS 50-31-301, 50-38-235, 50-51-211, 75-20-303, 82-11-101, 87-1-605, 87-2-805, 87-4-122, 87-4-128, AND 90-5-110, MCA; REPEALING SECTIONS 49-4-201 AND 87-4-126, MCA.

Section 1. 50-31-301. This amendment deletes a reference to other official titles for the "United States Pharmacopoeia (A Compendium of Drug Titles and Ingredients)", because other references to those equivalents were deleted by other amendments in 1981. The subsection amended, subsection 50-31-301(1)(b), is then made consistent with the rest of the Montana Food, Drug, and Cosmetic Act. The Department of Health and Environmental Sciences agrees with this amendment (letter on file in Legislative Council office).

Section 2. 50-38-235. This amendment to the laws requiring the state fire marshal to issue a certificate of compliance to any person storing explosives in compliance with the law, deletes a statutory reference to a person who fails to pay the annual license fee. The license fee originally enacted in 1917 was repealed by the 1973 legislature. The state fire marshal agrees with this amendment (letter on file in Legislative Council office).

Section 3. 50-51-211. This amendment to a statute relating to hearings on revocation of hotel, motel, and roominghouse licenses issued by the Department of Health and Environmental Sciences, would require that requests for hearings be addressed to the Department of Health rather than the Board of Health. This change makes section 50-51-211 consistent with the rest of the chapter which clearly requires the administration of the law by the Department rather than the Board, and also makes the section amended consistent with the title to Chapter 505, L. 1975 (which amended section 50-51-211) which clearly indicates an intent to have hearings held by the Department rather than the Board. The Department agrees to the change (letter on file in Legislative Council office).

Section 4. 75-20-303. This amendment changes an internal citation contained within the Major Facility Siting Act. Section 75-20-303(4)(a) and (b), requiring certain items to be stated in the certificate, now refer to the definition of "facility" contained in 75-20-104(7). The definition of a "facility" is not contained in subsection (7) of that section, but in subsection (10) of that section. This amendment would merely correct the now incorrect reference to subsection (7). The Department of

Natural Resources and Conservation agrees with this amendment (letter on file in Legislative Council office).

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Section 6. 87-1-605. This amendment deletes a reference to the fee for the Class B-3 nonresident 6-day fishing license. The amendment is necessary because section 87-2-303, MCA, establishing the B-3 license was repealed by the 1981 legislature, effective May 1, 1983. This amendment would make section 87-2-605 consistent with that repeal. The Department of Fish, Wildlife, and Parks agrees with this amendment (letter on file in Legislative Council office).

Section 7. 87-2-805. This amendment would also delete a reference to the B-3 license, for the same reasons as the amendment in bill section 6; that is, the authority for the "B-3" license has been repealed. The Department agrees with this amendment (letter on file in Legislative Council office).

Section 8. 87-4-122. This amendment deletes all of subsection (2) from this section, which currently requires that in order for a person to receive a license as an outfitter and guide, he must be a resident of Montana. The requirement that a person be a resident of Montana in order to receive an outfitter's license was held unconstitutional in the case of Godfrey v. Fish and Game Commission, \_\_\_ Mont. \_\_\_, 631 P.2d 1265 (1981). In that case the Montana Supreme Court found that there was no rational relationship between the purpose of the statute (to ensure the safety of persons utilizing the services of the guides, to protect property rights, and to ensure reasonable law enforcement ability in preserving and protecting the wildlife of Montana) and any legitimate governmental interest. Because the residency requirement was held unconstitutional as written, or as it applies to all persons, and because under the language of the Supreme Court's opinion there is no way that the statute can be amended to constitutionally require that a person be a resident of Montana in order to receive an outfitter's license, the only change that may be made to the statute is to delete the requirement for residency. Thus, the repeal makes the statute consistent with the Supreme Court's opinion in the only way possible and is, for that reason, nonsubstantive in nature. The Department of Fish, Wildlife, and Parks agrees with this amendment (letter on file in Legislative Council office).

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Section 10. 90-5-110. This bill section amends a reference to the manner in which the Department of Revenue may collect delinquent taxes imposed on industrial development projects. Subsection (2) of this section now refers to a "levy by distress warrant", which should be changed to a "levy by warrant for distraint", in order to make the procedure used consistent with the "warrant for distraint" procedure set forth in Title 15, Ch. 1, part 7, MCA. The Department agrees with this amendment (letter on file in the Legislative Council office).

Section 11. Repealer. This bill section repeals the following statutes for the stated reasons:

(1) 49-4-201. This section says that Title 49, Ch. 4, part 2, MCA, may be cited as the "White Cane Act". The title of "White Cane Act" is no longer applicable to state statutes describing the rights of the physically disabled, as these statutes were amended in 1981 to make the rights provided therein applicable to deaf persons as well as blind persons. The title "White Cane Act" is therefore currently a misnomer.

(2) 87-4-126. This section, setting forth residency requirements for an outfitter's license should be repealed for the same reasons that make necessary the amendment to 87-4-122, MCA, set forth in bill section 8: the unconstitutionality of the residency requirement. The Department of Fish, Wildlife, and Parks agrees with this repeal (letter on file in Legislative Council office).

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8 50-51-211, 75-20-303, 82-11-101, 87-1-605, 87-2-805,  
9 87-4-122, 87-4-128, AND 90-5-110, MCA; AND REPEALING  
10 SECTIONS 49-4-201 AND 87-4-126, MCA."  
11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
13 Section 1. Section 50-31-301, MCA, is amended to read:  
14 "50-31-301. Definitions. As used in this part, the  
15 following definitions apply:  
16 (1) "Established name", with respect to a drug or  
17 ingredient thereof, means:  
18 (a) the applicable official name designated pursuant  
19 to section 508 of the federal act;  
20 (b) if there is no such name and such drug or such  
21 ingredient is an article recognized in an official  
22 compendium, then the official title thereof in such  
23 compendium; or provided that, where subsection (1)(b) of  
24 this section applies to an article recognized in the United  
25 States Pharmacopoeia under ~~different--official--titles~~, the

1 official title used in the United States Pharmacopoeia shall  
2 apply;  
3 (c) if neither subsection (1)(a) nor (1)(b) of this  
4 section applies, then the common or usual name, if any, of  
5 such drug or of such ingredient.  
6 (2) "Antibiotic drug" means any drug intended for use  
7 by man containing any quantity of any chemical substance  
8 which is produced by a microorganism and which has the  
9 capacity to inhibit or destroy microorganisms in dilute  
10 solution (including the chemically synthesized equivalent of  
11 any such substance).  
12 (3) "Manufacturer" means a person who mixed the final  
13 ingredients and prepared the final drug product.  
14 (4) "Code imprint" means a series of letters or  
15 numbers assigned by the manufacturer or distributor to a  
16 specific drug, marks or monograms unique to the manufacturer  
17 or distributor of the drug, or both.  
18 (5) "Distributor" means a person who distributes for  
19 resale a drug in solid dosage form under his own label  
20 whether or not he is the manufacturer of the drug.  
21 (6) "Solid dosage form" means capsules or tablets  
22 intended for oral use.  
23 (7) "Legend drug" means any drug defined by section  
24 503(b) of the federal Food, Drug and Cosmetic Act, as  
25 amended on January 15, 1980, under which its label is

1 required to bear the statement: "Caution: Federal law  
2 prohibits dispensing without prescription.""

3 Section 2. Section 50-38-235, MCA, is amended to read:

4 "50-38-235. Cancellation of certificate. (1) Whenever  
5 any person to whom a certificate of compliance has been  
6 issued keeps or stores in the magazine covered by such  
7 certificate of compliance any quantity of explosives in  
8 excess of the maximum amount set forth in said certificate  
9 of compliance ~~or whenever any person fails for 30 days to~~  
10 ~~pay the annual license fee after the same becomes due,~~ the  
11 state fire marshal is authorized to cancel such certificate  
12 of compliance.

13 (2) Whenever a certificate of compliance is canceled  
14 by the state fire marshal for any cause hereinbefore  
15 specified, the state fire marshal shall notify the person  
16 to whom such certificate of compliance is issued of the fact  
17 of such cancellation and shall in said notice direct the  
18 removal of all explosives stored in said magazine within 10  
19 days from the giving of said notice.

20 (3) Failure to remove the explosives stored in said  
21 magazine within the time specified in said notice shall  
22 constitute a violation of this chapter."

23 Section 3. Section 50-51-211, MCA, is amended to read:

24 "50-51-211. Notice and hearing required. A license may  
25 not be denied or canceled by the department without delivery

1 to the applicant or licensee of a written statement of the  
2 grounds therefor or the charge involved and an opportunity  
3 to answer at a hearing before the department to show cause,  
4 if any, why the license should not be denied or canceled. In  
5 such case, the licensee must make a written request to the  
6 board ~~department~~ for a hearing within 10 days after notice  
7 of the grounds or charges has been received."

8 Section 4. Section 75-20-303, MCA, is amended to read:

9 "75-20-303. Opinion issued with decision -- contents.  
10 (1) In rendering a decision on an application for a  
11 certificate, the board shall issue an opinion stating its  
12 reasons for the action taken.

13 (2) If the board has found that any regional or local  
14 law or regulation which would be otherwise applicable is  
15 unreasonably restrictive pursuant to 75-20-301(2)(f), it  
16 shall state in its opinion the reasons therefor.

17 (3) Any certificate issued by the board shall include  
18 the following:

19 (a) an environmental evaluation statement related to  
20 the facility being certified. The statement shall include  
21 but not be limited to analysis of the following information:

22 (i) the environmental impact of the proposed facility;

23 (ii) any adverse environmental effects which cannot be  
24 avoided by issuance of the certificate;

25 (iii) problems and objections raised by other federal

1 and state agencies and interested groups;

2 (iv) alternatives to the proposed facility;

3 (v) a plan for monitoring environmental effects of the  
4 proposed facility; and

5 (vi) a time limit as provided in subsection (4), during  
6 which construction of the facility must be completed;

7 (b) a statement signed by the applicant showing  
8 agreement to comply with the requirements of this chapter  
9 and the conditions of the certificate.

10 (4) The board shall issue as part of the certificate  
11 the following time limits during which construction of a  
12 facility must be completed:

13 (a) For a facility as defined in (b) or (c) of  
14 ~~75-20-104(7)~~ 75-20-104(10) that is more than 30 miles in  
15 length, the time limit is 10 years.

16 (b) For a facility as defined in (b) or (c) of  
17 ~~75-20-104(7)~~ 75-20-104(10) that is 30 miles or less in  
18 length, the time limit is 5 years.

19 (c) The time limit shall be extended for periods of 2  
20 years each upon a showing by the applicant to the board that  
21 a good faith effort is being undertaken to complete  
22 construction. Under this subsection, a good faith effort to  
23 complete construction includes the process of acquiring any  
24 necessary state or federal permit or certificate for the  
25 facility and the process of judicial review of any such

1 permit or certificate.

2 (5) The provisions of subsection (4) apply to any  
3 facility for which a certificate has not been issued or for  
4 which construction is yet to be commenced."

5 Section 5. Section 82-11-101, MCA, is amended to read:

6 "82-11-101. Definitions. As used in this chapter,  
7 unless the context requires otherwise, the following  
8 definitions apply:

9 (1) "Board" means the board of oil and gas  
10 conservation provided for in 2-15-3303.

11 (2) "Department" means the department of natural  
12 resources and conservation provided for in Title 2, chapter  
13 15, part 33.

14 (3) "Determinations" means those decisions delegated  
15 to the state by or under authority of the Natural Gas Policy  
16 Act of 1978 or any successor or similar legislation relating  
17 to oil and gas.

18 (4) "Enhanced recovery" means the increased recovery  
19 from a pool achieved by artificial means or by the  
20 application of energy extrinsic to the pool; such artificial  
21 means or application includes pressuring, cycling, pressure  
22 maintenance, or injection into the pool of any substance or  
23 form of energy as is contemplated in secondary recovery and  
24 tertiary programs but does not include the injection in a  
25 well of a substance or form of energy for the sole purpose

of aiding in the lifting of fluids in the well or stimulating of the reservoir at or near the well by mechanical, chemical, thermal, or explosive means.

(5) "Field" means the general area underlaid by one or more pools.

(6) "Gas" means all natural gases and all other fluid hydrocarbons as produced at the wellhead and not defined as oil in subsection (6) of this section.

(7) "Oil" means crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form by ordinary production methods and which are not the result of condensation of gas before or after it leaves the reservoir.

(8) "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others or for himself and others, and the term includes all persons holding such authority by or through him.

(9) "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and includes any agency or instrumentality of the state or any governmental subdivision thereof.

(10) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a

structure which is completely separated from any other zone in the same structure is a pool, as that term is used in this chapter.

(11) "Producer" means the owner of a well or wells capable of producing oil or gas or both.

(12) "Waste" means:

(a) physical waste, as that term is generally understood in the oil and gas industry;

(b) the inefficient, excessive, or improper use of or the unnecessary dissipation of reservoir energy;

(c) the location, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; and

(d) the inefficient storing of oil or gas. (The production of oil or gas from any pool or by any well to the full extent that the well or pool can be produced in accordance with methods designed to result in maximum ultimate recovery, as determined by the board, is not waste within the meaning of this definition.)"

Section 6. Section 87-1-605, MCA, is amended to read:

"87-1-605. Fees used to purchase recreational

facilities. (1) One dollar of the fee for Class A resident fishing license, \$1 of the fee for Class B-4 nonresident 1-day fishing license, ~~\$5 of the fee for the Class B-3 nonresident 6-day fishing license~~, and \$5 of the fee for the Class B nonresident fishing license shall be used for the purchase, operation, development, and maintenance of fishing accesses; stream, river, and lake frontages; and the land deemed necessary to provide recreational use thereof.

(2) The amount of funds used for operation, development, and maintenance may not exceed 25% of the moneys set aside each year under this section. The funds raised under this section may not be used in lieu of any funds or sources of funds currently being used for acquisition or purchase of fishing accesses, stream, river, or lake frontages and the land deemed necessary to provide recreational use thereof but serve in addition to those funds. The moneys used for operation, development, and maintenance may be used only for these purposes on lands acquired with funds under this section after April 30, 1974."

Section 7. Section 87-2-805, MCA, is amended to read:

"87-2-805. Persons under fifteen years of age. (1) Minors under 15 years of age may fish for and take fish during the open season without a license. However, no nonresident person under the age of 15 years may fish in or

on any Montana waters without first having obtained a Class B-3 or B-4 fishing license unless the nonresident person under the age of 15 years is in the company of an adult in possession of a valid Montana fishing license. The limit of fish for the nonresident person and the accompanying adult combined may not exceed the limit for one adult as established by law or by rule of the department.

(2) Residents, as defined by 87-2-102, under the age of 15 years may purchase Class A-1, A-3, and A-5 licenses at \$2 per license."

Section 8. Section 87-4-122, MCA, is amended to read:

"87-4-122. Outfitter's qualifications. Each applicant for and holder of an outfitter's license or any renewal thereof shall, in the opinion of the director, meet the following qualifications:

(1) be a person of at least 18 years of age who is physically capable and mentally competent to perform his duties as an outfitter;

~~(2) be a resident of Montana;~~

~~(3)~~ (2) own or hold under written lease or represent a company, corporation, or partnership who owns or holds under written lease the equipment and facilities as are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and his clients (all equipment and facilities shall be subject to inspection at

1 all reasonable times and places by the department or its  
2 designated agent);

3 ~~(47)(3)~~ 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 rules promulgated thereunder as to matters of  
6 fish and game, conservation of natural resources, and  
7 preservation of the natural ecosystem without pollution  
8 thereof;

9 ~~(5)(4)~~ have not been convicted or forfeited bond of  
10 \$100 or more on more than one violation of the fish and game  
11 laws or applicable regulations of any state or the United  
12 States within the past 5 years;

13 ~~(6)(5)~~ have not, at any time, practiced fraud,  
14 deception, or material misrepresentation in procuring any  
15 previous outfitter's, professional guide's, or conservation  
16 license from the state of Montana;

17 ~~(7)(6)~~ have not, at any time, promulgated any false or  
18 misleading advertising relating to the business of  
19 outfitting;

20 ~~(8)(7)~~ have not been finally adjudged by a court of  
21 law guilty of any substantial breach of written or oral  
22 contract with any person utilizing the applicant's services  
23 as an outfitter or professional guide during the license  
24 year immediately preceding that for which the application is  
25 made;

1 ~~(9)(8)~~ have not committed any negligent act or  
2 misconduct while acting as an outfitter or professional  
3 guide that caused a danger or unreasonable risk of danger to  
4 person or property of any client of such outfitter or  
5 professional guide during the license year immediately  
6 preceding that for which the application is made;

7 ~~(10)(9)~~ have not, at any time, pleaded guilty to or  
8 been adjudged by a court guilty of a felony, unless civil  
9 rights have been restored pursuant to law. No person may  
10 apply for or hold an outfitter's license during any period  
11 of time in which a sentence has been deferred or suspended  
12 for a felony.

13 ~~(11)(10)~~ have substantially complied with all  
14 department regulations and state and federal laws concerning  
15 outfitters and professional guides, if the applicant has  
16 previously held a license as an outfitter or professional  
17 guide."

18 Section 9. Section 87-4-128, MCA, is amended to read:

19 "87-4-128. Investigation of applicant -- issuance or  
20 denial of license. (1) The director in his discretion may  
21 cause to be made such additional investigation and inquiry  
22 relative to the applicant for outfitter's or professional  
23 guide's license and an applicant's qualifications as he  
24 considers advisable.

25 (2) The director may deny or refuse to issue any new

license or to renew any previous license if, in his opinion, the applicant does not meet the qualifications herein stated. In the event that any application for license is denied or refused, the director shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) Final decision as to issuance of renewal licenses shall be made not later than 30 days from the date of receipt of the completed application for renewal and not later than 90 days from the date of receipt of a completed application for a new license.

(4) A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this part and completing an application for license renewal on a form provided by the department but is exempt from having to retake the written examination.

(5) An outfitter licensee must make an application for license renewal by January 1 of the license year. A penalty fee of \$50 will be charged in addition to the regular resident or nonresident outfitter's license fee if the application for such license is not completed and made by January 1 of the license year. This subsection does not apply to a new applicant for an outfitter's license."

Section 10. Section 90-5-110, MCA, is amended to read:

"90-5-110. Taxation of projects. (1) Notwithstanding

that title to a project may be in a municipality or county, such projects shall be subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances if such projects are leased to or held by private interests on both the assessment date and the date the levy is made in any year, but such projects shall not be subject to taxation in any year if they are not leased to or held by private interests on both the assessment date and the date the levy is made in any year.

(2) Where personal property owned by a municipality or county is taxed under this section and such personal property taxes are delinquent, levy by distress warrant ~~for~~ distrain for collection of such delinquent taxes may only be made on personal property against which such taxes were levied."

NEW SECTION. Section 11. Repealer. Sections 49-4-201 and 87-4-126, MCA, are repealed.

-End-

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(2) 87-4-126. This section, setting forth residency requirements for an outfitter's license should be repealed for the same reasons that make necessary the amendment to 87-4-122, MCA, set forth in bill section 8: the unconstitutionality of the residency requirement. The Department of Fish, Wildlife, and Parks agrees with this repeal (letter on file in Legislative Council office).

Approved by Committee  
on Natural Resources

SENATE BILL NO. 101

INTRODUCED BY GRAHAM

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HEALTH, THE ENVIRONMENT, AND NATURAL RESOURCES; AMENDING SECTIONS 50-31-301, 50-38-235, 50-51-211, 75-20-303, 82-11-101, 87-1-605, 87-2-805, 87-4-122, 87-4-128, AND 90-5-110, MCA; AND REPEALING SECTIONS 49-4-201 AND 87-4-126, MCA."

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

Section 1. Section 50-31-301, MCA, is amended to read:

"50-31-301. Definitions. As used in this part, the following definitions apply:

(1) "Established name", with respect to a drug or ingredient thereof, means:

(a) the applicable official name designated pursuant to section 508 of the federal act;

(b) if there is no such name and such drug or such ingredient is an article recognized in an official compendium, then the official title thereof in such compendium; or provided that, where subsection (1)(b) of this section applies to an article recognized in the United States Pharmacopoeia under different--official--titles, the

official title used in the United States Pharmacopoeia shall apply;

(c) if neither subsection (1)(a) nor (1)(b) of this section applies, then the common or usual name, if any, of such drug or of such ingredient.

(2) "Antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance).

(3) "Manufacturer" means a person who mixed the final ingredients and prepared the final drug product.

(4) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, marks or monograms unique to the manufacturer or distributor of the drug, or both.

(5) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label whether or not he is the manufacturer of the drug.

(6) "Solid dosage form" means capsules or tablets intended for oral use.

(7) "Legend drug" means any drug defined by section 503(b) of the federal Food, Drug and Cosmetic Act, as amended on January 15, 1980, under which its label is

1 required to bear the statement: "Caution: Federal law  
2 prohibits dispensing without prescription.""

3 Section 2. Section 50-38-235, MCA, is amended to read:  
4 "50-38-235. Cancellation of certificate. (1) Whenever  
5 any person to whom a certificate of compliance has been  
6 issued keeps or stores in the magazine covered by such  
7 certificate of compliance any quantity of explosives in  
8 excess of the maximum amount set forth in said certificate  
9 of compliance ~~or whenever any person fails for 30 days to~~  
10 ~~pay the annual license fee after the same becomes due,~~ the  
11 state fire marshal is authorized to cancel such certificate  
12 of compliance.

13 (2) Whenever a certificate of compliance is canceled  
14 by the state fire marshal for any cause hereinbefore  
15 specified, the state fire marshal shall notify the person  
16 to whom such certificate of compliance is issued of the fact  
17 of such cancellation and shall in said notice direct the  
18 removal of all explosives stored in said magazine within 10  
19 days from the giving of said notice.

20 (3) Failure to remove the explosives stored in said  
21 magazine within the time specified in said notice shall  
22 constitute a violation of this chapter."

23 Section 3. Section 50-51-211, MCA, is amended to read:

24 "50-51-211. Notice and hearing required. A license may  
25 not be denied or canceled by the department without delivery

1 to the applicant or licensee of a written statement of the  
2 grounds therefor or the charge involved and an opportunity  
3 to answer at a hearing before the department to show cause,  
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5 such case, the licensee must make a written request to the  
6 board ~~department~~ for a hearing within 10 days after notice  
7 of the grounds or charges has been received."

8 Section 4. Section 75-20-303, MCA, is amended to read:

9 "75-20-303. Opinion issued with decision -- contents.  
10 (1) In rendering a decision on an application for a  
11 certificate, the board shall issue an opinion stating its  
12 reasons for the action taken.

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14 law or regulation which would be otherwise applicable is  
15 unreasonably restrictive pursuant to 75-20-301(2)(f), it  
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17 (3) Any certificate issued by the board shall include  
18 the following:

19 (a) an environmental evaluation statement related to  
20 the facility being certified. The statement shall include  
21 but not be limited to analysis of the following information:

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1 and state agencies and interested groups;

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5 (vi) a time limit as provided in subsection (4), during  
6 which construction of the facility must be completed;

7 (b) a statement signed by the applicant showing  
8 agreement to comply with the requirements of this chapter  
9 and the conditions of the certificate.

10 (4) The board shall issue as part of the certificate  
11 the following time limits during which construction of a  
12 facility must be completed:

13 (a) For a facility as defined in (b) or (c) of  
14 ~~75-20-104(f)~~ 75-20-104(10) that is more than 30 miles in  
15 length, the time limit is 10 years.

16 (b) For a facility as defined in (b) or (c) of  
17 ~~75-20-104(f)~~ 75-20-104(10) that is 30 miles or less in  
18 length, the time limit is 5 years.

19 (c) The time limit shall be extended for periods of 2  
20 years each upon a showing by the applicant to the board that  
21 a good faith effort is being undertaken to complete  
22 construction. Under this subsection, a good faith effort to  
23 complete construction includes the process of acquiring any  
24 necessary state or federal permit or certificate for the  
25 facility and the process of judicial review of any such

1 permit or certificate.

2 (5) The provisions of subsection (4) apply to any  
3 facility for which a certificate has not been issued or for  
4 which construction is yet to be commenced."

5 Section 5. Section 82-11-101, MCA, is amended to read:

6 "82-11-101. Definitions. As used in this chapter,  
7 unless the context requires otherwise, the following  
8 definitions apply:

9 (1) "Board" means the board of oil and gas  
10 conservation provided for in 2-15-3303.

11 (2) "Department" means the department of natural  
12 resources and conservation provided for in Title 2, chapter  
13 15, part 33.

14 (3) "Determinations" means those decisions delegated  
15 to the state by or under authority of the Natural Gas Policy  
16 Act of 1978 or any successor or similar legislation relating  
17 to oil and gas.

18 (4) "Enhanced recovery" means the increased recovery  
19 from a pool achieved by artificial means or by the  
20 application of energy extrinsic to the pool; such artificial  
21 means or application includes pressuring, cycling, pressure  
22 maintenance, or injection into the pool of any substance or  
23 form of energy as is contemplated in secondary recovery and  
24 tertiary programs but does not include the injection in a  
25 well of a substance or form of energy for the sole purpose

1 of aiding in the lifting of fluids in the well or  
2 stimulating of the reservoir at or near the well by  
3 mechanical, chemical, thermal, or explosive means.

4 (5) "Field" means the general area underlaid by one or  
5 more pools.

6 (6) "Gas" means all natural gases and all other fluid  
7 hydrocarbons as produced at the wellhead and not defined as  
8 oil in subsection (6) (11) of this section.

9 (7) "Oil" means crude petroleum oil and other  
10 hydrocarbons regardless of gravity which are produced at the  
11 wellhead in liquid form by ordinary production methods and  
12 which are not the result of condensation of gas before or  
13 after it leaves the reservoir.

14 (8) "Owner" means the person who has the right to  
15 drill into and produce from a pool and to appropriate the  
16 oil or gas he produces therefrom either for himself or  
17 others or for himself and others, and the term includes all  
18 persons holding such authority by or through him.

19 (9) "Person" means any natural person, corporation,  
20 association, partnership, receiver, trustee, executor,  
21 administrator, guardian, fiduciary, or other representative  
22 of any kind and includes any agency or instrumentality of  
23 the state or any governmental subdivision thereof.

24 (10) "Pool" means an underground reservoir containing a  
25 common accumulation of oil or gas or both; each zone of a

1 structure which is completely separated from any other zone  
2 in the same structure is a pool, as that term is used in  
3 this chapter.

4 (11) "Producer" means the owner of a well or wells  
5 capable of producing oil or gas or both.

6 (12) "Waste" means:

7 (a) physical waste, as that term is generally  
8 understood in the oil and gas industry;

9 (b) the inefficient, excessive, or improper use of or  
10 the unnecessary dissipation of reservoir energy;

11 (c) the location, spacing, drilling, equipping,  
12 operating, or producing of any oil or gas well or wells in a  
13 manner which causes or tends to cause reduction in the  
14 quantity of oil or gas ultimately recoverable from a pool  
15 under prudent and proper operations or which causes or tends  
16 to cause unnecessary or excessive surface loss or  
17 destruction of oil or gas; and

18 (d) the inefficient storing of oil or gas. (The  
19 production of oil or gas from any pool or by any well to the  
20 full extent that the well or pool can be produced in  
21 accordance with methods designed to result in maximum  
22 ultimate recovery, as determined by the board, is not waste  
23 within the meaning of this definition.)"

24 Section 6. Section 87-1-605, MCA, is amended to read:  
25 "87-1-605. Fees used to purchase recreational

facilities. (1) One dollar of the fee for Class A resident fishing license, \$1 of the fee for Class B-4 nonresident 1-day 2-DAY fishing license, ~~\$5-of-the-fee-for-the-Class-B-3 nonresident-6-day-fishing-license,~~ and \$5 of the fee for the Class B nonresident fishing license shall be used for the purchase, operation, development, and maintenance of fishing accesses; stream, river, and lake frontages; and the land deemed necessary to provide recreational use thereof.

(2) The amount of funds used for operation, development, and maintenance may not exceed 25% of the moneys set aside each year under this section. The funds raised under this section may not be used in lieu of any funds or sources of funds currently being used for acquisition or purchase of fishing accesses, stream, river, or lake frontages and the land deemed necessary to provide recreational use thereof but serve in addition to those funds. The moneys used for operation, development, and maintenance may be used only for these purposes on lands acquired with funds under this section after April 30, 1974."

Section 7. Section 87-2-805, MCA, is amended to read:

"87-2-805. Persons under fifteen years of age. (1) Minors under 15 years of age may fish for and take fish during the open season without a license. However, no nonresident person under the age of 15 years may fish in or

on any Montana waters without first having obtained a Class B-3 or B-4 fishing license unless the nonresident person under the age of 15 years is in the company of an adult in possession of a valid Montana fishing license. The limit of fish for the nonresident person and the accompanying adult combined may not exceed the limit for one adult as established by law or by rule of the department.

(2) Residents, as defined by 87-2-102, under the age of 15 years may purchase Class A-1, A-3, and A-5 licenses at \$2 per license."

Section 8. Section 87-4-122, MCA, is amended to read:

"87-4-122. Outfitter's qualifications. Each applicant for and holder of an outfitter's license or any renewal thereof shall, in the opinion of the director, meet the following qualifications:

(1) be a person of at least 18 years of age who is physically capable and mentally competent to perform his duties as an outfitter;

~~(2) be a resident of Montana;~~

~~(3)~~ (2) own or hold under written lease or represent a company, corporation, or partnership who owns or holds under written lease the equipment and facilities as are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and his clients (all equipment and facilities shall be subject to inspection at

1 all reasonable times and places by the department or its  
2 designated agent);

3 {4}{11} 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 rules promulgated thereunder as to matters of  
6 fish and game, conservation of natural resources, and  
7 preservation of the natural ecosystem without pollution  
8 thereof;

9 {5}{14} have not been convicted or forfeited bond of  
10 \$100 or more on more than one violation of the fish and game  
11 laws or applicable regulations of any state or the United  
12 States within the past 5 years;

13 {6}{15} have not, at any time, practiced fraud,  
14 deception, or material misrepresentation in procuring any  
15 previous outfitter's, professional guide's, or conservation  
16 license from the state of Montana;

17 {7}{16} have not, at any time, promulgated any false or  
18 misleading advertising relating to the business of  
19 outfitting;

20 {8}{17} have not been finally adjudged by a court of  
21 law guilty of any substantial breach of written or oral  
22 contract with any person utilizing the applicant's services  
23 as an outfitter or professional guide during the license  
24 year immediately preceding that for which the application is  
25 made;

1 {9}{18} have not committed any negligent act or  
2 misconduct while acting as an outfitter or professional  
3 guide that caused a danger or unreasonable risk of danger to  
4 person or property of any client of such outfitter or  
5 professional guide during the license year immediately  
6 preceding that for which the application is made;

7 {10}{19} have not, at any time, pleaded guilty to or  
8 been adjudged by a court guilty of a felony, unless civil  
9 rights have been restored pursuant to law. No person may  
10 apply for or hold an outfitter's license during any period  
11 of time in which a sentence has been deferred or suspended  
12 for a felony.

13 {11}{20} have substantially complied with all  
14 department regulations and state and federal laws concerning  
15 outfitters and professional guides, if the applicant has  
16 previously held a license as an outfitter or professional  
17 guide."

18 Section 9. Section 87-4-128, MCA, is amended to read:

19 "87-4-128. Investigation of applicant -- issuance or  
20 denial of license. (1) The director in his discretion may  
21 cause to be made such additional investigation and inquiry  
22 relative to the applicant for outfitter's or professional  
23 guide's license and an applicant's qualifications as he  
24 considers advisable.

25 (2) The director may deny or refuse to issue any new

1 license or to renew any previous license if, in his opinion,  
2 the applicant does not meet the qualifications herein  
3 stated. In the event that any application for license is  
4 denied or refused, the director shall immediately notify the  
5 applicant, setting forth in the notice the grounds upon  
6 which the denial or refusal is based.

7 (3) Final decision as to issuance of renewal licenses  
8 shall be made not later than 30 days from the date of  
9 receipt of the completed application for renewal and not  
10 later than 90 days from the date of receipt of a completed  
11 application for a new license.

12 (4) A licensee in good standing is entitled to a new  
13 license for the ensuing license year upon complying with the  
14 provisions of this part and completing an application for  
15 license renewal on a form provided by the department but is  
16 exempt from having to retake the written examination.

17 (5) An outfitter licensee must make an application for  
18 license renewal by January 1 of the license year. A penalty  
19 fee of \$50 will be charged in addition to the regular  
20 resident or nonresident outfitter's license fee if the  
21 application for such license is not completed and made by  
22 January 1 of the license year. This subsection does not  
23 apply to a new applicant for an outfitter's license."

24 Section 10. Section 90-5-110, MCA, is amended to read:

25 "90-5-110. Taxation of projects. (1) Notwithstanding

1 that title to a project may be in a municipality or county,  
2 such projects shall be subject to taxation to the same  
3 extent, in the same manner, and under the same procedures as  
4 privately owned property in similar circumstances if such  
5 projects are leased to or held by private interests on both  
6 the assessment date and the date the levy is made in any  
7 year, but such projects shall not be subject to taxation in  
8 any year if they are not leased to or held by private  
9 interests on both the assessment date and the date the levy  
10 is made in any year.

11 (2) Where personal property owned by a municipality or  
12 county is taxed under this section and such personal  
13 property taxes are delinquent, levy by distress warrant for  
14 distraint for collection of such delinquent taxes may only  
15 be made on personal property against which such taxes were  
16 levied."

17 NEW SECTION. Section 11. Repealer. Sections 49-4-201  
18 and 87-4-126, MCA, are repealed.

-End-

1983 Legislature  
Code Commissioner Bill - Summary

Senate Bill No. 101

AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO HEALTH, THE ENVIRONMENT, AND NATURAL RESOURCES; AMENDING SECTIONS 50-31-301, 50-38-235, 50-51-211, 75-20-303, 82-11-101, 87-1-605, 87-2-805, 87-4-122, 87-4-128, AND 90-5-110, MCA; REPEALING SECTIONS 49-4-201 AND 87-4-126, MCA.

Section 1. 50-31-301. This amendment deletes a reference to other official titles for the "United States Pharmacopoeia (A Compendium of Drug Titles and Ingredients)", because other references to those equivalents were deleted by other amendments in 1981. The subsection amended, subsection 50-31-301(1)(b), is then made consistent with the rest of the Montana Food, Drug, and Cosmetic Act. The Department of Health and Environmental Sciences agrees with this amendment (letter on file in Legislative Council office).

Section 2. 50-38-235. This amendment to the laws requiring the state fire marshal to issue a certificate of compliance to any person storing explosives in compliance with the law, deletes a statutory reference to a person who fails to pay the annual license fee. The license fee originally enacted in 1917 was repealed by the 1973 legislature. The state fire marshal agrees with this amendment (letter on file in Legislative Council office).

Section 3. 50-51-211. This amendment to a statute relating to hearings on revocation of hotel, motel, and roominghouse licenses issued by the Department of Health and Environmental Sciences, would require that requests for hearings be addressed to the Department of Health rather than the Board of Health. This change makes section 50-51-211 consistent with the rest of the chapter which clearly requires the administration of the law by the Department rather than the Board, and also makes the section amended consistent with the title to Chapter 505, L. 1975 (which amended section 50-51-211) which clearly indicates an intent to have hearings held by the Department rather than the Board. The Department agrees to the change (letter on file in Legislative Council office).

Section 4. 75-20-303. This amendment changes an internal citation contained within the Major Facility Siting Act. Section 75-20-303(4)(a) and (b), requiring certain items to be stated in the certificate, now refer to the definition of "facility" contained in 75-20-104(7). The definition of a "facility" is not contained in subsection (7) of that section, but in subsection (10) of that section. This amendment would merely correct the now incorrect reference to subsection (7). The Department of

Natural Resources and Conservation agrees with this amendment (letter on file in Legislative Council office).

Section 5. 82-11-101. This amendment changes an incorrect internal citation in the definition of "oil". Subsection (6) now refers to the definition of oil contained in subsection (6), while the definition of oil actually appears in subsection (7). This amendment would merely correct the now incorrect reference. The Department of Natural Resources and Conservation agrees with this amendment (letter on file in Legislative Council office).

Section 6. 87-1-605. This amendment deletes a reference to the fee for the Class B-3 nonresident 6-day fishing license. The amendment is necessary because section 87-2-303, MCA, establishing the B-3 license was repealed by the 1981 legislature, effective May 1, 1983. This amendment would make section 87-2-605 consistent with that repeal. The Department of Fish, Wildlife, and Parks agrees with this amendment (letter on file in Legislative Council office).

Section 7. 87-2-805. This amendment would also delete a reference to the B-3 license, for the same reasons as the amendment in bill section 6; that is, the authority for the "B-3" license has been repealed. The Department agrees with this amendment (letter on file in Legislative Council office).

Section 8. 87-4-122. This amendment deletes all of subsection (2) from this section, which currently requires that in order for a person to receive a license as an outfitter and guide, he must be a resident of Montana. The requirement that a person be a resident of Montana in order to receive an outfitter's license was held unconstitutional in the case of Godfrey v. Fish and Game Commission, Mont., 631 P.2d 1265 (1981). In that case the Montana Supreme Court found that there was no rational relationship between the purpose of the statute (to ensure the safety of persons utilizing the services of the guides, to protect property rights, and to ensure reasonable law enforcement ability in preserving and protecting the wildlife of Montana) and any legitimate governmental interest. Because the residency requirement was held unconstitutional as written, or as it applies to all persons, and because under the language of the Supreme Court's opinion there is no way that the statute can be amended to constitutionally require that a person be a resident of Montana in order to receive an outfitter's license, the only change that may be made to the statute is to delete the requirement for residency. Thus, the repeal makes the statute consistent with the Supreme Court's opinion in the only way possible and is, for that reason, nonsubstantive in nature. The Department of Fish, Wildlife, and Parks agrees with this amendment (letter on file in Legislative Council office).

Section 9. 87-4-128. This section would amend a reference to an "outfitter's license" to refer to an "outfitter's license

fee", in order to make the statute properly refer to the fee. As it currently reads, the statute makes no sense to simply refer to the "license" and not to the "license fee". The Department of Fish, Wildlife, and Parks agrees with this amendment (letter on file in the Legislative Council office.)

Section 10. 90-5-110. This bill section amends a reference to the manner in which the Department of Revenue may collect delinquent taxes imposed on industrial development projects. Subsection (2) of this section now refers to a "levy by distress warrant", which should be changed to a "levy by warrant for distraint", in order to make the procedure used consistent with the "warrant for distraint" procedure set forth in Title 15, Ch. 1, part 7, MCA. The Department agrees with this amendment (letter on file in the Legislative Council office).

Section 11. Repealer. This bill section repeals the following statutes for the stated reasons:

(1) 49-4-201. This section says that Title 49, Ch. 4, part 2, MCA, may be cited as the "White Cane Act". The title of "White Cane Act" is no longer applicable to state statutes describing the rights of the physically disabled, as these statutes were amended in 1981 to make the rights provided therein applicable to deaf persons as well as blind persons. The title "White Cane Act" is therefore currently a misnomer.

(2) 87-4-126. This section, setting forth residency requirements for an outfitter's license should be repealed for the same reasons that make necessary the amendment to 87-4-122, MCA, set forth in bill section 8: the unconstitutionality of the residency requirement. The Department of Fish, Wildlife, and Parks agrees with this repeal (letter on file in Legislative Council office).

## SENATE BILL NO. 101

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BY REQUEST OF THE CODE COMMISSIONER

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(b) if there is no such name and such drug or such ingredient is an article recognized in an official compendium, then the official title thereof in such compendium; or provided that, where subsection (1)(b) of this section applies to an article recognized in the United States Pharmacopoeia under different official titles, the

official title used in the United States Pharmacopoeia shall apply;

(c) if neither subsection (1)(a) nor (1)(b) of this section applies, then the common or usual name, if any, of such drug or of such ingredient.

(2) "Antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance).

(3) "Manufacturer" means a person who mixed the final ingredients and prepared the final drug product.

(4) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, marks or monograms unique to the manufacturer or distributor of the drug, or both.

(5) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label whether or not he is the manufacturer of the drug.

(6) "Solid dosage form" means capsules or tablets intended for oral use.

(7) "Legend drug" means any drug defined by section 503(b) of the federal Food, Drug and Cosmetic Act, as amended on January 15, 1980, under which its label is

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9 of compliance ~~or whenever any person fails for 30 days to~~  
10 ~~pay the annual license fee after the same becomes due,~~ the  
11 state fire marshal is authorized to cancel such certificate  
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13 (2) Whenever a certificate of compliance is canceled  
14 by the state fire marshal for any cause hereinbefore  
15 specified, the state fire marshal shall notify the person  
16 to whom such certificate of compliance is issued of the fact  
17 of such cancellation and shall in said notice direct the  
18 removal of all explosives stored in said magazine within 10  
19 days from the giving of said notice.

20 (3) Failure to remove the explosives stored in said  
21 magazine within the time specified in said notice shall  
22 constitute a violation of this chapter."

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4 proposed facility; and

5 (vi) a time limit as provided in subsection (4), during  
6 which construction of the facility must be completed;

7 (b) a statement signed by the applicant showing  
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9 and the conditions of the certificate.

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13 (a) For a facility as defined in (b) or (c) of  
14 ~~75-20-104(f)~~ 75-20-104(10) that is more than 30 miles in  
15 length, the time limit is 10 years.

16 (b) For a facility as defined in (b) or (c) of  
17 ~~75-20-104(f)~~ 75-20-104(10) that is 30 miles or less in  
18 length, the time limit is 5 years.

19 (c) The time limit shall be extended for periods of 2  
20 years each upon a showing by the applicant to the board that  
21 a good faith effort is being undertaken to complete  
22 construction. Under this subsection, a good faith effort to  
23 complete construction includes the process of acquiring any  
24 necessary state or federal permit or certificate for the  
25 facility and the process of judicial review of any such

1 permit or certificate.

2 (5) The provisions of subsection (4) apply to any  
3 facility for which a certificate has not been issued or for  
4 which construction is yet to be commenced."

5 Section 5. Section 82-11-101, MCA, is amended to read:  
6 "82-11-101. Definitions. As used in this chapter,  
7 unless the context requires otherwise, the following  
8 definitions apply:

9 (1) "Board" means the board of oil and gas  
10 conservation provided for in 2-15-3303.

11 (2) "Department" means the department of natural  
12 resources and conservation provided for in Title 2, chapter  
13 15, part 33.

14 (3) "Determinations" means those decisions delegated  
15 to the state by or under authority of the Natural Gas Policy  
16 Act of 1978 or any successor or similar legislation relating  
17 to oil and gas.

18 (4) "Enhanced recovery" means the increased recovery  
19 from a pool achieved by artificial means or by the  
20 application of energy extrinsic to the pool; such artificial  
21 means or application includes pressuring, cycling, pressure  
22 maintenance, or injection into the pool of any substance or  
23 form of energy as is contemplated in secondary recovery and  
24 tertiary programs but does not include the injection in a  
25 well of a substance or form of energy for the sole purpose

1 of aiding in the lifting of fluids in the well or  
2 stimulating of the reservoir at or near the well by  
3 mechanical, chemical, thermal, or explosive means.

4 (5) "Field" means the general area underlaid by one or  
5 more pools.

6 (6) "Gas" means all natural gases and all other fluid  
7 hydrocarbons as produced at the wellhead and not defined as  
8 oil in subsection (6) of this section.

9 (7) "Oil" means crude petroleum oil and other  
10 hydrocarbons regardless of gravity which are produced at the  
11 wellhead in liquid form by ordinary production methods and  
12 which are not the result of condensation of gas before or  
13 after it leaves the reservoir.

14 (8) "Owner" means the person who has the right to  
15 drill into and produce from a pool and to appropriate the  
16 oil or gas he produces therefrom either for himself or  
17 others or for himself and others, and the term includes all  
18 persons holding such authority by or through him.

19 (9) "Person" means any natural person, corporation,  
20 association, partnership, receiver, trustee, executor,  
21 administrator, guardian, fiduciary, or other representative  
22 of any kind and includes any agency or instrumentality of  
23 the state or any governmental subdivision thereof.

24 (10) "Pool" means an underground reservoir containing a  
25 common accumulation of oil or gas or both; each zone of a

1 structure which is completely separated from any other zone  
2 in the same structure is a pool, as that term is used in  
3 this chapter.

4 (11) "Producer" means the owner of a well or wells  
5 capable of producing oil or gas or both.

6 (12) "Waste" means:

7 (a) physical waste, as that term is generally  
8 understood in the oil and gas industry;

9 (b) the inefficient, excessive, or improper use of or  
10 the unnecessary dissipation of reservoir energy;

11 (c) the location, spacing, drilling, equipping,  
12 operating, or producing of any oil or gas well or wells in a  
13 manner which causes or tends to cause reduction in the  
14 quantity of oil or gas ultimately recoverable from a pool  
15 under prudent and proper operations or which causes or tends  
16 to cause unnecessary or excessive surface loss or  
17 destruction of oil or gas; and

18 (d) the inefficient storing of oil or gas. (The  
19 production of oil or gas from any pool or by any well to the  
20 full extent that the well or pool can be produced in  
21 accordance with methods designed to result in maximum  
22 ultimate recovery, as determined by the board, is not waste  
23 within the meaning of this definition.)"

24 Section 6. Section 87-1-605, MCA, is amended to read:  
25 "87-1-605. Fees used to purchase recreational

facilities. (1) One dollar of the fee for Class A resident fishing license, \$1 of the fee for Class B-4 nonresident 1-day ~~2-DAY~~ fishing license, ~~\$5-of-the-fee-for-the-Class-B-3 nonresident-6-day-fishing-license~~, and \$5 of the fee for the Class B nonresident fishing license shall be used for the purchase, operation, development, and maintenance of fishing accesses; stream, river, and lake frontages; and the land deemed necessary to provide recreational use thereof.

(2) The amount of funds used for operation, development, and maintenance may not exceed 25% of the moneys set aside each year under this section. The funds raised under this section may not be used in lieu of any funds or sources of funds currently being used for acquisition or purchase of fishing accesses, stream, river, or lake frontages and the land deemed necessary to provide recreational use thereof but serve in addition to those funds. The moneys used for operation, development, and maintenance may be used only for these purposes on lands acquired with funds under this section after April 30, 1974."

Section 7. Section 87-2-805, MCA, is amended to read:

"87-2-805. Persons under fifteen years of age. (1) Minors under 15 years of age may fish for and take fish during the open season without a license. However, no nonresident person under the age of 15 years may fish in or

on any Montana waters without first having obtained a Class B-3 or B-4 fishing license unless the nonresident person under the age of 15 years is in the company of an adult in possession of a valid Montana fishing license. The limit of fish for the nonresident person and the accompanying adult combined may not exceed the limit for one adult as established by law or by rule of the department.

(2) Residents, as defined by 87-2-102, under the age of 15 years may purchase Class A-1, A-3, and A-5 licenses at \$2 per license."

Section 8. Section 87-4-122, MCA, is amended to read:

"87-4-122. Outfitter's qualifications. Each applicant for and holder of an outfitter's license or any renewal thereof shall, in the opinion of the director, meet the following qualifications:

(1) be a person of at least 18 years of age who is physically capable and mentally competent to perform his duties as an outfitter;

~~(2) be a resident of Montana;~~

~~(3) own or hold under written lease or represent a~~ company, corporation, or partnership who owns or holds under written lease the equipment and facilities as are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and his clients (all equipment and facilities shall be subject to inspection at

1 all reasonable times and places by the department or its  
2 designated agent);

3 (4)(2) 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 rules promulgated thereunder as to matters of  
6 fish and game, conservation of natural resources, and  
7 preservation of the natural ecosystem without pollution  
8 thereof;

9 (5)(4) have not been convicted or forfeited bond of  
10 \$100 or more on more than one violation of the fish and game  
11 laws or applicable regulations of any state or the United  
12 States within the past 5 years;

13 (6)(5) have not, at any time, practiced fraud,  
14 deception, or material misrepresentation in procuring any  
15 previous outfitter's, professional guide's, or conservation  
16 license from the state of Montana;

17 (7)(6) have not, at any time, promulgated any false or  
18 misleading advertising relating to the business of  
19 outfitting;

20 (8)(7) have not been finally adjudged by a court of  
21 law guilty of any substantial breach of written or oral  
22 contract with any person utilizing the applicant's services  
23 as an outfitter or professional guide during the license  
24 year immediately preceding that for which the application is  
25 made;

1 (9)(8) have not committed any negligent act or  
2 misconduct while acting as an outfitter or professional  
3 guide that caused a danger or unreasonable risk of danger to  
4 person or property of any client of such outfitter or  
5 professional guide during the license year immediately  
6 preceding that for which the application is made;

7 (10)(9) have not, at any time, pleaded guilty to or  
8 been adjudged by a court guilty of a felony, unless civil  
9 rights have been restored pursuant to law. No person may  
10 apply for or hold an outfitter's license during any period  
11 of time in which a sentence has been deferred or suspended  
12 for a felony.

13 (11)(10) have substantially complied with all  
14 department regulations and state and federal laws concerning  
15 outfitters and professional guides, if the applicant has  
16 previously held a license as an outfitter or professional  
17 guide."

18 Section 9. Section 87-4-128, MCA, is amended to read:

19 "87-4-128. Investigation of applicant -- issuance or  
20 denial of license. (1) The director in his discretion may  
21 cause to be made such additional investigation and inquiry  
22 relative to the applicant for outfitter's or professional  
23 guide's license and an applicant's qualifications as he  
24 considers advisable.

25 (2) The director may deny or refuse to issue any new

license or to renew any previous license if, in his opinion, the applicant does not meet the qualifications herein stated. In the event that any application for license is denied or refused, the director shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) Final decision as to issuance of renewal licenses shall be made not later than 30 days from the date of receipt of the completed application for renewal and not later than 90 days from the date of receipt of a completed application for a new license.

(4) A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this part and completing an application for license renewal on a form provided by the department but is exempt from having to retake the written examination.

(5) An outfitter licensee must make an application for license renewal by January 1 of the license year. A penalty fee of \$50 will be charged in addition to the regular resident or nonresident outfitter's license fee if the application for such license is not completed and made by January 1 of the license year. This subsection does not apply to a new applicant for an outfitter's license."

Section 10. Section 90-5-110, MCA, is amended to read:

"90-5-110. Taxation of projects. (1) Notwithstanding

that title to a project may be in a municipality or county, such projects shall be subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances if such projects are leased to or held by private interests on both the assessment date and the date the levy is made in any year, but such projects shall not be subject to taxation in any year if they are not leased to or held by private interests on both the assessment date and the date the levy is made in any year.

(2) Where personal property owned by a municipality or county is taxed under this section and such personal property taxes are delinquent, levy by distress warrant for distraint for collection of such delinquent taxes may only be made on personal property against which such taxes were levied."

NEW SECTION. Section 11. Repealer. Sections 49-4-201 and 87-4-126, MCA, are repealed.

-End-

HOUSE OF REPRESENTATIVES

March 9, 1983

COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SB 101, third reading copy

1. Page 9, line 3.

Strike: "2-day"

Insert: "5-day"

AND AS AMENDED  
BE CONCURRED IN

1983 Legislature  
Code Commissioner Bill - Summary

Senate Bill No. 101

AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO HEALTH, THE ENVIRONMENT, AND NATURAL RESOURCES; AMENDING SECTIONS 50-31-301, 50-38-235, 50-51-211, 75-20-303, 82-11-101, 87-1-605, 87-2-805, 87-4-122, 87-4-128, AND 90-5-110, MCA; REPEALING SECTIONS 49-4-201 AND 87-4-126, MCA.

Section 1. 50-31-301. This amendment deletes a reference to other official titles for the "United States Pharmacopoeia (A Compendium of Drug Titles and Ingredients)", because other references to those equivalents were deleted by other amendments in 1981. The subsection amended, subsection 50-31-301(1)(b), is then made consistent with the rest of the Montana Food, Drug, and Cosmetic Act. The Department of Health and Environmental Sciences agrees with this amendment (letter on file in Legislative Council office).

Section 2. 50-38-235. This amendment to the laws requiring the state fire marshal to issue a certificate of compliance to any person storing explosives in compliance with the law, deletes a statutory reference to a person who fails to pay the annual license fee. The license fee originally enacted in 1917 was repealed by the 1973 legislature. The state fire marshal agrees with this amendment (letter on file in Legislative Council office).

Section 3. 50-51-211. This amendment to a statute relating to hearings on revocation of hotel, motel, and roominghouse licenses issued by the Department of Health and Environmental Sciences, would require that requests for hearings be addressed to the Department of Health rather than the Board of Health. This change makes section 50-51-211 consistent with the rest of the chapter which clearly requires the administration of the law by the Department rather than the Board, and also makes the section amended consistent with the title to Chapter 505, I. 1975 (which amended section 50-51-211) which clearly indicates an intent to have hearings held by the Department rather than the Board. The Department agrees to the change (letter on file in Legislative Council office).

Section 4. 75-20-303. This amendment changes an internal citation contained within the Major Facility Siting Act. Section 75-20-303(4)(a) and (b), requiring certain items to be stated in the certificate, now refer to the definition of "facility" contained in 75-20-104(7). The definition of a "facility" is not contained in subsection (7) of that section, but in subsection (10) of that section. This amendment would merely correct the now incorrect reference to subsection (7). The Department of

Natural Resources and Conservation agrees with this amendment (letter on file in Legislative Council office).

Section 5. 82-11-101. This amendment changes an incorrect internal citation in the definition of "oil". Subsection (6) now refers to the definition of oil contained in subsection (6), while the definition of oil actually appears in subsection (7). This amendment would merely correct the now incorrect reference. The Department of Natural Resources and Conservation agrees with this amendment (letter on file in Legislative Council office).

Section 6. 87-1-605. This amendment deletes a reference to the fee for the Class B-3 nonresident 6-day fishing license. The amendment is necessary because section 87-2-303, MCA, establishing the B-3 license was repealed by the 1981 legislature, effective May 1, 1983. This amendment would make section 87-2-605 consistent with that repeal. The Department of Fish, Wildlife, and Parks agrees with this amendment (letter on file in Legislative Council office).

Section 7. 87-2-805. This amendment would also delete a reference to the B-3 license, for the same reasons as the amendment in bill section 6; that is, the authority for the "B-3" license has been repealed. The Department agrees with this amendment (letter on file in Legislative Council office).

Section 8. 87-4-122. This amendment deletes all of subsection (2) from this section, which currently requires that in order for a person to receive a license as an outfitter and guide, he must be a resident of Montana. The requirement that a person be a resident of Montana in order to receive an outfitter's license was held unconstitutional in the case of Godfrey v. Fish and Game Commission, Mont., 631 P.2d 1265 (1981). In that case the Montana Supreme Court found that there was no rational relationship between the purpose of the statute (to ensure the safety of persons utilizing the services of the guides, to protect property rights, and to ensure reasonable law enforcement ability in preserving and protecting the wildlife of Montana) and any legitimate governmental interest. Because the residency requirement was held unconstitutional as written, or as it applies to all persons, and because under the language of the Supreme Court's opinion there is no way that the statute can be amended to constitutionally require that a person be a resident of Montana in order to receive an outfitter's license, the only change that may be made to the statute is to delete the requirement for residency. Thus, the repeal makes the statute consistent with the Supreme Court's opinion in the only way possible and is, for that reason, nonsubstantive in nature. The Department of Fish, Wildlife, and Parks agrees with this amendment (letter on file in Legislative Council office).

Section 9. 87-4-128. This section would amend a reference to an "outfitter's license" to refer to an "outfitter's license

fee", in order to make the statute properly refer to the fee. As it currently reads, the statute makes no sense to simply refer to the "license" and not to the "license fee". The Department of Fish, Wildlife, and Parks agrees with this amendment (letter on file in the Legislative Council office.)

Section 10. 90-5-110. This bill section amends a reference to the manner in which the Department of Revenue may collect delinquent taxes imposed on industrial development projects. Subsection (2) of this section now refers to a "levy by distress warrant", which should be changed to a "levy by warrant for distraint", in order to make the procedure used consistent with the "warrant for distraint" procedure set forth in Title 15, Ch. 1, part 7, MCA. The Department agrees with this amendment (letter on file in the Legislative Council office).

Section 11. Repealer. This bill section repeals the following statutes for the stated reasons:

(1) 49-4-201. This section says that Title 49, Ch. 4, part 2, MCA, may be cited as the "White Cane Act". The title of "White Cane Act" is no longer applicable to state statutes describing the rights of the physically disabled, as these statutes were amended in 1981 to make the rights provided therein applicable to deaf persons as well as blind persons. The title "White Cane Act" is therefore currently a misnomer.

(2) 87-4-126. This section, setting forth residency requirements for an outfitter's license should be repealed for the same reasons that make necessary the amendment to 87-4-122, MCA, set forth in bill section 8: the unconstitutionality of the residency requirement. The Department of Fish, Wildlife, and Parks agrees with this repeal (letter on file in Legislative Council office).

SENATE BILL NO. 101

INTRODUCED BY GRAHAM

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HEALTH, THE ENVIRONMENT, AND NATURAL RESOURCES; AMENDING SECTIONS 50-31-301, 50-38-235, 50-51-211, 75-20-303, 82-11-101, 87-1-605, 87-2-805, 87-4-122, 87-4-128, AND 90-5-110, MCA; AND REPEALING SECTIONS 49-4-201 AND 87-4-126, MCA."

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

Section 1. Section 50-31-301, MCA, is amended to read:

"50-31-301. Definitions. As used in this part, the following definitions apply:

(1) "Established name", with respect to a drug or ingredient thereof, means:

(a) the applicable official name designated pursuant to section 508 of the federal act;

(b) if there is no such name and such drug or such ingredient is an article recognized in an official compendium, then the official title thereof in such compendium; or provided that, where subsection (1)(b) of this section applies to an article recognized in the United States Pharmacopoeia under different official titles, the

official title used in the United States Pharmacopoeia shall apply;

(c) if neither subsection (1)(a) nor (1)(b) of this section applies, then the common or usual name, if any, of such drug or of such ingredient.

(2) "Antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance).

(3) "Manufacturer" means a person who mixed the final ingredients and prepared the final drug product.

(4) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, marks or monograms unique to the manufacturer or distributor of the drug, or both.

(5) "Distributor" means a person who distributes for resale a drug in solid dosage form under his own label whether or not he is the manufacturer of the drug.

(6) "Solid dosage form" means capsules or tablets intended for oral use.

(7) "Legend drug" means any drug defined by section 503(b) of the federal Food, Drug and Cosmetic Act, as amended on January 15, 1980, under which its label is

required to bear the statement: "Caution: Federal law prohibits dispensing without prescription."

Section 2. Section 50-38-235, MCA, is amended to read:

"50-38-235. Cancellation of certificate. (1) Whenever any person to whom a certificate of compliance has been issued keeps or stores in the magazine covered by such certificate of compliance any quantity of explosives in excess of the maximum amount set forth in said certificate of compliance ~~or whenever any person fails for 30 days to pay the annual license fee after the same becomes due~~, the state fire marshal is authorized to cancel such certificate of compliance.

(2) Whenever a certificate of compliance is canceled by the state fire marshal for any cause hereinbefore specified, the state fire marshal shall notify the person to whom such certificate of compliance is issued of the fact of such cancellation and shall in said notice direct the removal of all explosives stored in said magazine within 10 days from the giving of said notice.

(3) Failure to remove the explosives stored in said magazine within the time specified in said notice shall constitute a violation of this chapter."

Section 3. Section 50-51-211, MCA, is amended to read:

"50-51-211. Notice and hearing required. A license may not be denied or canceled by the department without delivery

to the applicant or licensee of a written statement of the grounds therefor or the charge involved and an opportunity to answer at a hearing before the department to show cause, if any, why the license should not be denied or canceled. In such case, the licensee must make a written request to the ~~board~~ department for a hearing within 10 days after notice of the grounds or charges has been received."

Section 4. Section 75-20-303, MCA, is amended to read:

"75-20-303. Opinion issued with decision -- contents.

(1) In rendering a decision on an application for a certificate, the board shall issue an opinion stating its reasons for the action taken.

(2) If the board has found that any regional or local law or regulation which would be otherwise applicable is unreasonably restrictive pursuant to 75-20-301(2)(f), it shall state in its opinion the reasons therefor.

(3) Any certificate issued by the board shall include the following:

(a) an environmental evaluation statement related to the facility being certified. The statement shall include but not be limited to analysis of the following information:

(i) the environmental impact of the proposed facility;

(ii) any adverse environmental effects which cannot be avoided by issuance of the certificate;

(iii) problems and objections raised by other federal

1 and state agencies and interested groups;  
 2 (iv) alternatives to the proposed facility;  
 3 (v) a plan for monitoring environmental effects of the  
 4 proposed facility; and  
 5 (vi) a time limit as provided in subsection (4), during  
 6 which construction of the facility must be completed;  
 7 (b) a statement signed by the applicant showing  
 8 agreement to comply with the requirements of this chapter  
 9 and the conditions of the certificate.  
 10 (4) The board shall issue as part of the certificate  
 11 the following time limits during which construction of a  
 12 facility must be completed:  
 13 (a) For a facility as defined in (b) or (c) of  
 14 ~~75-20-104(f)~~ 75-20-104(l) that is more than 30 miles in  
 15 length, the time limit is 10 years.  
 16 (b) For a facility as defined in (b) or (c) of  
 17 ~~75-20-104(f)~~ 75-20-104(l) that is 30 miles or less in  
 18 length, the time limit is 5 years.  
 19 (c) The time limit shall be extended for periods of 2  
 20 years each upon a showing by the applicant to the board that  
 21 a good faith effort is being undertaken to complete  
 22 construction. Under this subsection, a good faith effort to  
 23 complete construction includes the process of acquiring any  
 24 necessary state or federal permit or certificate for the  
 25 facility and the process of judicial review of any such

1 permit or certificate.  
 2 (5) The provisions of subsection (4) apply to any  
 3 facility for which a certificate has not been issued or for  
 4 which construction is yet to be commenced."  
 5 Section 5. Section 82-11-101, MCA, is amended to read:  
 6 "82-11-101. Definitions. As used in this chapter,  
 7 unless the context requires otherwise, the following  
 8 definitions apply:  
 9 (1) "Board" means the board of oil and gas  
 10 conservation provided for in 2-15-3303.  
 11 (2) "Department" means the department of natural  
 12 resources and conservation provided for in Title 2, chapter  
 13 15, part 33.  
 14 (3) "Determinations" means those decisions delegated  
 15 to the state by or under authority of the Natural Gas Policy  
 16 Act of 1978 or any successor or similar legislation relating  
 17 to oil and gas.  
 18 (4) "Enhanced recovery" means the increased recovery  
 19 from a pool achieved by artificial means or by the  
 20 application of energy extrinsic to the pool; such artificial  
 21 means or application includes pressuring, cycling, pressure  
 22 maintenance, or injection into the pool of any substance or  
 23 form of energy as is contemplated in secondary recovery and  
 24 tertiary programs but does not include the injection in a  
 25 well of a substance or form of energy for the sole purpose

1 of aiding in the lifting of fluids in the well or  
2 stimulating of the reservoir at or near the well by  
3 mechanical, chemical, thermal, or explosive means.

4 (5) "Field" means the general area underlaid by one or  
5 more pools.

6 (6) "Gas" means all natural gases and all other fluid  
7 hydrocarbons as produced at the wellhead and not defined as  
8 oil in subsection ~~(6)~~ (11) of this section.

9 (7) "Oil" means crude petroleum oil and other  
10 hydrocarbons regardless of gravity which are produced at the  
11 wellhead in liquid form by ordinary production methods and  
12 which are not the result of condensation of gas before or  
13 after it leaves the reservoir.

14 (8) "Owner" means the person who has the right to  
15 drill into and produce from a pool and to appropriate the  
16 oil or gas he produces therefrom either for himself or  
17 others or for himself and others, and the term includes all  
18 persons holding such authority by or through him.

19 (9) "Person" means any natural person, corporation,  
20 association, partnership, receiver, trustee, executor,  
21 administrator, guardian, fiduciary, or other representative  
22 of any kind and includes any agency or instrumentality of  
23 the state or any governmental subdivision thereof.

24 (10) "Pool" means an underground reservoir containing a  
25 common accumulation of oil or gas or both; each zone of a

1 structure which is completely separated from any other zone  
2 in the same structure is a pool, as that term is used in  
3 this chapter.

4 (11) "Producer" means the owner of a well or wells  
5 capable of producing oil or gas or both.

6 (12) "Waste" means:

7 (a) physical waste, as that term is generally  
8 understood in the oil and gas industry;

9 (b) the inefficient, excessive, or improper use of or  
10 the unnecessary dissipation of reservoir energy;

11 (c) the location, spacing, drilling, equipping,  
12 operating, or producing of any oil or gas well or wells in a  
13 manner which causes or tends to cause reduction in the  
14 quantity of oil or gas ultimately recoverable from a pool  
15 under prudent and proper operations or which causes or tends  
16 to cause unnecessary or excessive surface loss or  
17 destruction of oil or gas; and

18 (d) the inefficient storing of oil or gas. (The  
19 production of oil or gas from any pool or by any well to the  
20 full extent that the well or pool can be produced in  
21 accordance with methods designed to result in maximum  
22 ultimate recovery, as determined by the board, is not waste  
23 within the meaning of this definition.)"

24 Section 6. Section 87-1-605, MCA, is amended to read:  
25 "87-1-605. Fees used to purchase recreational

1 facilities. (1) One dollar of the fee for Class A resident  
 2 fishing license, \$1 of the fee for Class B-4 nonresident  
 3 ~~1-day 2-8AY 5-DAY~~ fishing license, ~~\$5-of-the-fee-for-the~~  
 4 ~~Class-B-3--nonresident-6-day-fishing-license~~, and \$5 of the  
 5 fee for the Class B nonresident fishing license shall be  
 6 used for the purchase, operation, development, and  
 7 maintenance of fishing accesses; stream, river, and lake  
 8 frontages; and the land deemed necessary to provide  
 9 recreational use thereof.

10 (2) The amount of funds used for operation,  
 11 development, and maintenance may not exceed 25% of the  
 12 moneys set aside each year under this section. The funds  
 13 raised under this section may not be used in lieu of any  
 14 funds or sources of funds currently being used for  
 15 acquisition or purchase of fishing accesses, stream, river,  
 16 or lake frontages and the land deemed necessary to provide  
 17 recreational use thereof but serve in addition to those  
 18 funds. The moneys used for operation, development, and  
 19 maintenance may be used only for these purposes on lands  
 20 acquired with funds under this section after April 30,  
 21 1974."

22 Section 7. Section 87-2-805, MCA, is amended to read:  
 23 "87-2-805. Persons under fifteen years of age. (1)  
 24 Minors under 15 years of age may fish for and take fish  
 25 during the open season without a license. However, no

1 nonresident person under the age of 15 years may fish in or  
 2 on any Montana waters without first having obtained a Class  
 3 ~~B-3~~ or B-4 fishing license unless the nonresident person  
 4 under the age of 15 years is in the company of an adult in  
 5 possession of a valid Montana fishing license. The limit of  
 6 fish for the nonresident person and the accompanying adult  
 7 combined may not exceed the limit for one adult as  
 8 established by law or by rule of the department.

9 (2) Residents, as defined by 87-2-102, under the age  
 10 of 15 years may purchase Class A-1, A-3, and A-5 licenses at  
 11 \$2 per license."

12 Section 8. Section 87-4-122, MCA, is amended to read:  
 13 "87-4-122. Outfitter's qualifications. Each applicant  
 14 for and holder of an outfitter's license or any renewal  
 15 thereof shall, in the opinion of the director, meet the  
 16 following qualifications:

17 (1) be a person of at least 18 years of age who is  
 18 physically capable and mentally competent to perform his  
 19 duties as an outfitter;

20 ~~(2) be a resident of Montana;~~

21 ~~(3) own or hold under written lease or represent a~~  
 22 company, corporation, or partnership who owns or holds under  
 23 written lease the equipment and facilities as are necessary  
 24 to provide the services advertised, contracted for, or  
 25 agreed upon between the outfitter and his clients (all

1 equipment and facilities shall be subject to inspection at  
2 all reasonable times and places by the department or its  
3 designated agent);

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

10 (5)(4) have not been convicted or forfeited bond of  
11 \$100 or more on more than one violation of the fish and game  
12 laws or applicable regulations of any state or the United  
13 States within the past 5 years;

14 (6)(5) have not, at any time, practiced fraud,  
15 deception, or material misrepresentation in procuring any  
16 previous outfitter's, professional guide's, or conservation  
17 license from the state of Montana;

18 (7)(6) have not, at any time, promulgated any false or  
19 misleading advertising relating to the business of  
20 outfitting;

21 (8)(7) have not been finally adjudged by a court of  
22 law guilty of any substantial breach of written or oral  
23 contract with any person utilizing the applicant's services  
24 as an outfitter or professional guide during the license  
25 year immediately preceding that for which the application is

1 made;

2 (9)(8) have not committed any negligent act or  
3 misconduct while acting as an outfitter or professional  
4 guide that caused a danger or unreasonable risk of danger to  
5 person or property of any client of such outfitter or  
6 professional guide during the license year immediately  
7 preceding that for which the application is made;

8 (10)(9) have not, at any time, pleaded guilty to or  
9 been adjudged by a court guilty of a felony, unless civil  
10 rights have been restored pursuant to law. No person may  
11 apply for or hold an outfitter's license during any period  
12 of time in which a sentence has been deferred or suspended  
13 for a felony.

14 (11)(10) have substantially complied with all  
15 department regulations and state and federal laws concerning  
16 outfitters and professional guides, if the applicant has  
17 previously held a license as an outfitter or professional  
18 guide."

19 Section 9. Section 87-4-128, MCA, is amended to read:

20 "87-4-128. Investigation of applicant -- issuance or  
21 denial of license. (1) The director in his discretion may  
22 cause to be made such additional investigation and inquiry  
23 relative to the applicant for outfitter's or professional  
24 guide's license and an applicant's qualifications as he  
25 considers advisable.

(2) The director may deny or refuse to issue any new license or to renew any previous license if, in his opinion, the applicant does not meet the qualifications herein stated. In the event that any application for license is denied or refused, the director shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based.

(3) Final decision as to issuance of renewal licenses shall be made not later than 30 days from the date of receipt of the completed application for renewal and not later than 90 days from the date of receipt of a completed application for a new license.

(4) A licensee in good standing is entitled to a new license for the ensuing license year upon complying with the provisions of this part and completing an application for license renewal on a form provided by the department but is exempt from having to retake the written examination.

(5) An outfitter licensee must make an application for license renewal by January 1 of the license year. A penalty fee of \$50 will be charged in addition to the regular resident or nonresident outfitter's license fee if the application for such license is not completed and made by January 1 of the license year. This subsection does not apply to a new applicant for an outfitter's license."

Section 10. Section 90-5-110, MCA, is amended to read:

"90-5-110. Taxation of projects. (1) Notwithstanding that title to a project may be in a municipality or county, such projects shall be subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances if such projects are leased to or held by private interests on both the assessment date and the date the levy is made in any year, but such projects shall not be subject to taxation in any year if they are not leased to or held by private interests on both the assessment date and the date the levy is made in any year.

(2) Where personal property owned by a municipality or county is taxed under this section and such personal property taxes are delinquent, levy by distress warrant for distraint for collection of such delinquent taxes may only be made on personal property against which such taxes were levied."

NEW SECTION. Section 11. Repealer. Sections 49-4-201 and 87-4-126, MCA, are repealed.

-End-