

SENATE BILL 341

Introduced by Yellowtail, et al.

2/09	Introduced
2/09	Referred to Fish & Game
2/09	First Reading
2/16	Hearing
2/18	Tabled in Committee

1 Senate BILL NO. 341  
2 INTRODUCED BY Yellowtail amendment. 7/2/99  
3 Hilland  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING AUTHORITY TO  
5 THE FISH, WILDLIFE, AND PARKS COMMISSION AND THE BOARD OF  
6 OUTFITTERS TO ADOPT AND ENFORCE RULES RELATING TO THE  
7 RECREATIONAL AND COMMERCIAL USE OF PUBLIC FISHING  
8 RESERVOIRS, PUBLIC LAKES, RIVERS, AND STREAMS; TEMPORARILY  
9 LIMITING THE NUMBER OF FISHING OUTFITTER LICENSES THAT MAY  
10 BE ISSUED; AMENDING SECTIONS 37-47-201 AND 87-1-303, MCA;  
11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION  
12 DATE."

13  
14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because  
16 authority is granted to the fish, wildlife, and parks  
17 commission in 87-1-303 and to the board of outfitters in  
18 37-47-201 to adopt rules addressing the recreational and  
19 commercial use of Montana rivers and streams. It is intended  
20 that the commission use this authority to identify public  
21 fishing reservoirs, public lakes, rivers, and streams that  
22 are in immediate or potential danger of resource degradation  
23 or social conflict over recreational uses, which may  
24 necessitate a statewide inventory of public fishing  
25 reservoirs, public lakes, rivers, and streams, and to

1 develop rules to reasonably control the public recreational  
2 use of identified problem waters in order to protect the  
3 resource or monitor social conflicts. Rules may include but  
4 are not limited to restrictions on the types of recreational  
5 activities allowed, special seasons for special activities,  
6 closures of public waters, and the determination of quotas  
7 on commercial and recreational use. When notified by the  
8 commission of the need for restrictions on commercial use,  
9 it is intended that the board of outfitters adopt rules  
10 regulating commercial outfitting and guiding activities on  
11 affected waters, which may include but are not limited to  
12 restricting the issuance of guide licenses, issuing state  
13 commercial use permits similar to U.S. forest service  
14 commercial use permits, or imposing other lesser  
15 restrictions.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 87-1-303, MCA, is amended to read:

19 "87-1-303. Rules for use of lands and waters. (1) The  
20 commission may adopt and enforce rules governing uses of  
21 lands acquired or held under easement by the commission or  
22 lands which that it operates under agreement with or in  
23 conjunction with a federal or state agency or private owner.  
24 The rules shall must be adopted in the interest of public  
25 health, public safety, and protection of property in

1 regulating the use of these lands. All lease and easement  
2 agreements ~~shall~~ must itemize uses as listed in 87-1-209.

3 (2) The commission may adopt and enforce rules  
4 governing recreational uses of all public fishing  
5 reservoirs, public lakes, rivers, and streams which that are  
6 legally accessible to the public or on reservoirs and lakes  
7 which that it operates under agreement with or in  
8 conjunction with a federal or state agency or private owner.  
9 These rules ~~shall~~ must be adopted in the interest of public  
10 health, public safety, and protection of property in  
11 regulating swimming, hunting, fishing, trapping, boating,  
12 including but not limited to boating speed regulations, the  
13 operation of motor-driven boats, waterskiing, surfboarding,  
14 picnicking, camping, sanitation, and use of firearms on the  
15 reservoirs, lakes, rivers, and streams or at designated  
16 areas along the shore of the reservoirs, lakes, rivers, and  
17 streams. The commission may also adopt and enforce rules for  
18 all public fishing reservoirs, public lakes, rivers, and  
19 streams to protect and preserve natural resources, preserve  
20 the diversity of recreational opportunities, and minimize  
21 user conflicts. Areas regulated pursuant to the authority  
22 contained in this section must be areas which that are  
23 legally accessible to the public. These rules are subject to  
24 review and approval by the department of health and  
25 environmental sciences as to public health and sanitation

1 before becoming effective. Copies of the rules ~~shall~~ must  
2 show that endorsement."

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

4 "37-47-201. Powers and duties of board relating to  
5 outfitters and guides. The board shall:

6 (1) prepare and publish an information pamphlet which  
7 that contains the names and addresses of all licensed  
8 outfitters. This pamphlet ~~shall~~ must be available for free  
9 distribution as early as possible during each calendar year  
10 but not later than the second Friday in March. The pamphlet  
11 ~~shall~~ must contain the names and addresses of only those  
12 outfitters who have a valid license for the current license  
13 year.

14 (2) cooperate with the federal government in matters of  
15 mutual concern regarding the business of outfitting and  
16 guiding in Montana;

17 (3) enforce the provisions of this chapter and rules  
18 adopted pursuant to this chapter;

19 (4) establish outfitter standards and professional  
20 guide standards;

21 (5) adopt:

22 (a) rules of procedure;

23 (b) rules to administer and enforce this chapter,  
24 including but not limited to rules prescribing all requisite  
25 qualifications for licensure. These qualifications must

1 include training, experience, knowledge of rules of  
2 governmental bodies pertaining to outfitting, and condition  
3 and type of gear and equipment.

4 (c) any reasonable rules, not in conflict with this  
5 chapter, necessary for safeguarding the health, safety, and  
6 welfare of those persons using the services of outfitters  
7 and for the protection of landowners and the general public;  
8 and

9 (d) when the fish, wildlife, and parks commission  
10 establishes the need for restrictions on or quotas for  
11 commercial use based on a determination that it is necessary  
12 to protect and preserve natural resources, preserve the  
13 diversity of recreational opportunities, minimize user  
14 conflicts, or protect the public health, safety, or welfare,  
15 rules including but not limited to:

16 (i) the establishment and regulation of limits on the  
17 issuance of guide licenses;

18 (ii) the issuance of individual or overall commercial  
19 natural resource use permits; or

20 (iii) other lesser restrictions that the board considers  
21 adequate to address the commission's determination; and

22 (6) hold hearings and proceedings to suspend or revoke  
23 licenses of outfitters and professional guides for due  
24 cause."

25 NEW SECTION. Section 3. Limit on issuance of fishing

1 outfitter licenses. After [the effective date of this act],  
2 the board may not issue any new special licenses to  
3 outfitters who intend only to provide fishing services under  
4 37-47-101(5)(c).

5 NEW SECTION. Section 4. Codification instruction.  
6 [Section 3] is intended to be codified as an integral part  
7 of Title 37, chapter 47, part 3, and the provisions of Title  
8 37, chapter 47, part 3, apply to [section 3].

9 NEW SECTION. Section 5. Effective date. [This act] is  
10 effective on passage and approval.

11 NEW SECTION. Section 6. Termination. [Section 3]  
12 terminates June 1, 1995.

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