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*Senate*  
*Grosveld* BILL NO. 338

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSURE OF CERTAIN GUEST RANCHES AND OUTFITTING AND GUIDE FACILITIES BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; PROVIDING DEFINITIONS; REQUIRING THE DEPARTMENT TO ADOPT RULES; REQUIRING NEGOTIATED RULEMAKING; PROVIDING FOR LICENSE FEES; PROVIDING FOR 2-YEAR LICENSES AND STAGGERED LICENSE DATES; REQUIRING AN OPPORTUNITY FOR CORRECTION OF CERTAIN LICENSING VIOLATIONS; AMENDING SECTIONS 50-51-101, 50-51-102, 50-51-103, 50-51-201, 50-51-204, 50-51-207, AND 50-51-401, MCA; AND PROVIDING EFFECTIVE DATES."

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

**Section 1.** Section 50-51-101, MCA, is amended to read:

**"50-51-101. Purpose Findings and purpose of regulation.** (1) It is ~~hereby~~ found ~~and declared~~ that the public welfare requires control and regulation of the operation of establishments providing lodging space accommodations, ~~as defined in 50-51-102 hereof~~, and the control, inspection, and regulation of persons ~~engaged therein~~ providing accommodations in order to prevent or eliminate unsanitary and unhealthful conditions and practices, which conditions and practices may endanger public health. It is further found ~~and declared~~ that the regulation of establishments providing lodging space accommodations ~~as above outlined~~ is in the interest of social well-being and the health and safety of the state and all of its people.

(2) The legislature recognizes that there is a wide disparity in the type of establishments, especially in the size, the time of year at which the establishments operate, and the ability of small establishments with few employees and a limited operating season to conform to the same standards to which larger establishments are required to conform. These factors must be considered, especially in the operation of small or seasonal businesses that are such an important part of Montana's tourism business. For these reasons, the legislature believes that department rules must be tailored to properly and reasonably address differences in the size, location, purpose, and time of year of operation of certain small or seasonal establishments. The legislature believes that rules governing certain small or seasonal establishments must be limited to requirements meant to ensure basic health standards and should not detract from the rustic,

1 out-of-doors experience offered by many guest ranches and outfitter and guide facilities and desired by  
 2 many tourists."

3  
 4 **Section 2.** Section 50-51-102, MCA, is amended to read:

5 **"50-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following  
 6 definitions apply:

7 (1) "Department" means the department of public health and human services provided for in  
 8 2-15-2201.

9 (2) "Establishment" means a hotel, motel, roominghouse, guest ranch, outfitting and guide facility,  
 10 boardinghouse, or tourist home.

11 (3) "Guest ranch" means a facility that:

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

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

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

16 and

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

18 ~~(3)~~(4) "Hotel" or "motel" includes a building or structure kept, used, maintained as, advertised as,  
 19 or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodginghouse, or place  
 20 where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

21 (5) "Outfitting and guide facility" means a facility that:

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

24 (b) furnishes sleeping accommodations to guests;

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

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

28 ~~(4)~~(6) "Person" includes an individual, partnership, corporation, association, county, municipality,  
 29 cooperative group, or other entity engaged in the business of operating, owning, or offering the services  
 30 of a hotel, motel, boardinghouse, tourist home, guest ranch, outfitting and guide facility, or roominghouse.

1           ~~(6)~~(7) "Roominghouse" or "boardinghouse" means buildings in which separate sleeping rooms are  
2 rented that provide sleeping accommodations for three or more persons on a weekly, semimonthly,  
3 monthly, or permanent basis, whether or not meals or central kitchens are provided but without separated  
4 cooking facilities or kitchens within each room, and whose occupants do not need professional nursing or  
5 personal-care services provided by the facility.

6           (8) "Seasonal establishment" means a guest ranch or outfitting and guide facility operating for less  
7 than 120 days in a calendar year and offering accommodations to 40 people or fewer at one time.

8           (9) "Small establishment" means a guest ranch or an outfitting and guide facility offering  
9 accommodations to 24 people or fewer at one time.

10          ~~(6)~~(10) "Tourist home" means an establishment or premises where sleeping accommodations are  
11 furnished to transient guests for hire or rent on a daily or weekly rental basis in a private home when the  
12 accommodations are offered for hire or rent for the use of the traveling public.

13          ~~(7)~~(11) "Transient guest" means a guest for only a brief stay, such as the traveling public."  
14

15          **Section 3.** Section 50-51-103, MCA, is amended to read:

16          "**50-51-103. Department authorized to adopt rules.** (1) The department may adopt and enforce  
17 rules to preserve the public health and safety.

18          ~~These rules shall~~ (2) Rules applicable to a hotel, motel, roominghouse, boardinghouse, or tourist  
19 home must relate to construction, furnishings, housekeeping, personnel, sanitary facilities and controls,  
20 water supply, sewerage and sewage disposal system, refuse collection and disposal, registration and  
21 supervision, and fire and life safety code.

22          (3) The department shall adopt rules governing guest ranches and outfitting and guide facilities.  
23 The rules must take into consideration the size, type, location, and seasonal operations of an establishment  
24 and may include only rules to:

25           (a) ensure that the establishment has safe drinking water and an adequate water supply;

26           (b) ensure an adequate and sanitary sewage system and refuse disposal system;

27           (c) address food safety concerns, such as adequate storage and refrigeration; and

28           (d) establish staggered license expiration dates by implementing an initial licensing period  
29 determined by the department.

30          (4) Rules adopted to implement subsection (3) must be adopted through negotiated rulemaking

1 pursuant to the Montana Negotiated Rulemaking Act."

2  
3 **Section 4.** Section 50-51-201, MCA, is amended to read:

4 **"50-51-201. License required.** (1) ~~Each year, every~~ Except as provided in this section, a person  
5 engaged in the business of conducting or operating ~~a hotel, motel, tourist home, boardinghouse, or~~  
6 ~~roominghouse~~ an establishment shall annually procure a license issued by the department.

7 (2) The department may issue a license to a guest ranch or outfitting and guide facility only for a  
8 license term of 2 years after an initial license term determined by the department. Guest ranches and  
9 outfitting and guide facilities need not apply for a license pursuant to this chapter for the first time until the  
10 later of:

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

14 (b) July 1, 1998.

15 ~~(2)(3)~~ (3) A separate license is required for each establishment; however, However, when more than  
16 one of each type of establishment is operated on the same premises and under the same management, only  
17 one license is required that must enumerate on the certificate the types of establishments licensed.

18 ~~(3)(4)~~ (4) Before a license may be issued by the department, it must be validated by the local health  
19 officer or, if there is no local health officer, the sanitarian, in the county where the establishment is  
20 located."

21  
22 **Section 5.** Section 50-51-204, MCA, is amended to read:

23 **"50-51-204. License fee -- late fee.** (1) ~~There shall be paid~~ An applicant for an annual license or  
24 a license with an initial license term of less than 1 year shall pay to the department with each application  
25 for such a license or for renewal of such a license an annual license fee of \$40. An applicant for a biennial  
26 license or a license with an initial license term of more than 1 year shall pay a license or renewal fee of \$80.

27 The department shall deposit 85% of the fees collected under this section into the local board inspection  
28 fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees into  
29 the account provided for in 50-51-110.

30 (2) In addition to the license fee required under subsection (1), the department shall collect a late

1 fee from any licensee who has failed to submit a license renewal fee prior to the expiration of his a current  
2 license and who operates an establishment governed by this part in the next licensing year or 2-year period  
3 in the case of a biennial license. The late fee is \$25 and must be deposited in the account provided for in  
4 50-51-110."

5  
6 **Section 6.** Section 50-51-207, MCA, is amended to read:

7 "**50-51-207. Expiration date of license.** Each annual license ~~shall expire on December 31 following~~  
8 expires 1 year after its date of issue unless canceled for cause. Each biennial license expires 2 years from  
9 the date of issuance. Licenses issued for the purpose of implementing staggered licensing terms expire on  
10 the date determined by the department."

11  
12 **Section 7.** Section 50-51-401, MCA, is amended to read:

13 "**50-51-401. Civil penalties -- injunctions not barred.** (1) An establishment that violates this  
14 chapter or rules adopted by the department pursuant to this chapter is subject to a civil penalty not to  
15 exceed \$500.

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

19 ~~(2)(3)~~ Civil action to impose penalties, as provided under this section, does not bar injunctions to  
20 enforce compliance with this chapter or to enforce compliance with a rule adopted by the department  
21 pursuant to this chapter."

22  
23 **NEW SECTION. Section 8. Effective dates.** (1) Except as provided in subsection (2), [this act] is  
24 effective July 1, 1998.

25 (2) [Section 3 and this section] are effective on passage and approval.

26 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0338, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring licensure of certain guest ranches and outfitting and guide facilities by the Department of Public Health and Human Services (DPHHS).

ASSUMPTIONS:

1. The proposed definition of a guest ranch and outfitting and guide facility will include approximately 300 new establishments not currently licensed.
2. The initial date of licensing guest ranches and outfitters and guide facilities will be July 1, 1998. At that time, 300 entities will pay \$40 for a 12-month license, or \$12,000 in new revenue.
3. The cost of the negotiated rule making process for guest ranches and outfitters and guide facilities will be approximately \$1,000 in FY98 for communications and advertising (regional newspaper ads).
4. Revenue will be distributed according to statute: \$10,200 (85%) to the local inspection fund; \$1,350 (11.25%) to the general fund; and \$450 (3.75%) to the administration account in DPHHS.
5. All funds deposited to the local inspection account will be distributed to local governments to reimburse for inspection costs.

FISCAL IMPACT:

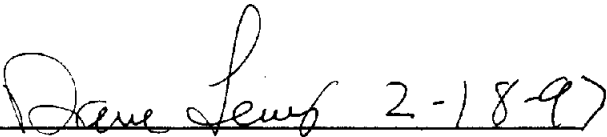
	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
<u>Expenditures:</u>		
Communications	1,000	0
Contracted services	0	10,200
<u>Funding:</u>		
General Fund (01)	1,000	0
State special (02)	0	10,200
<u>Revenues:</u>		
General Fund (01)	0	1,350
State special (02)	0	<u>10,650</u>
Total	0	12,000
<u>Net Impact on Fund Balance: (revenue minus expense)</u>		
General fund (01)	(\$1,000)	\$1,350
State special (02)	0	450

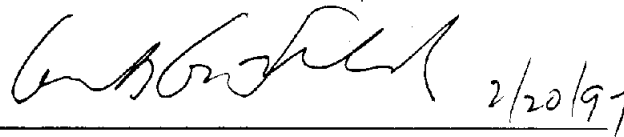
EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments will receive \$10,200 from DPHHS to perform inspections on guest ranches and outfitting and guide facilities. Inspections are likely to cost an average of \$100 to local governments, but DPHHS will be reimbursing \$34.

TECHNICAL NOTES:

The Board of Outfitters, Department of Commerce POL Bureau, conducts inspections in conjunction with an outfitter application for licensure. Although accommodations are inspected, when listed as a part of the application, the purposes of the two inspections are very different and there does not appear to be a duplication of recommendations.

  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

 2/20/97  
 LORENTS GROSFIELD, PRIMARY SPONSOR      DATE

Fiscal Note for SB0338, as introduced

**SB 338**

SENATE BILL NO. 338

INTRODUCED BY GROSFIELD

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSURE OF CERTAIN GUEST RANCHES AND  
OUTFITTING AND GUIDE FACILITIES BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES;  
PROVIDING DEFINITIONS; REQUIRING THE DEPARTMENT TO ADOPT RULES; REQUIRING NEGOTIATED  
RULEMAKING; ~~PROVIDING FOR LICENSE FEES; PROVIDING FOR 2-YEAR LICENSES AND STAGGERED~~  
~~LICENSE DATES; REQUIRING AN OPPORTUNITY FOR CORRECTION OF CERTAIN LICENSING VIOLATIONS;~~  
AMENDING SECTIONS 50-50-102, 50-51-101, 50-51-102, 50-51-103, 50-51-201, ~~50-51-204~~, 50-51-207,  
AND 50-51-401, MCA; AND PROVIDING EFFECTIVE DATES."

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

**SECTION 1. SECTION 50-50-102, MCA, IS AMENDED TO READ:**

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

(1) "Baked goods" means breads, cakes, candies, cookies, pastries, and pies that are not  
potentially hazardous foods.

(2) (a) "Commercial establishment" means an establishment operated primarily for profit.

(b) The term does not include a farmer's market.

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

(4) "Establishment" means a food manufacturing establishment, meat market, food service  
establishment, food warehouse, frozen food plant, commercial food processor, or perishable food dealer.

(5) "Farmer's market" means a farm premises, a roadside stand owned and operated by a farmer,  
or an organized market authorized by the appropriate municipal or county authority.

(6) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale  
for human consumption.

(7) "Food manufacturing establishment" means a commercial establishment and buildings or  
structures in connection with it used to manufacture or prepare food for sale or human consumption, but

1 does not include milk producers' facilities, milk pasteurization facilities, milk product manufacturing plants,  
2 slaughterhouses, or meat packing plants.

3 (8) (a) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria,  
4 short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or  
5 beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, nightclub, industrial feeding  
6 establishment, catering kitchen, commissary, private organization routinely serving the public, or similar  
7 place where food or drink is prepared, served, or provided to the public with or without charge.

8 (b) The term does not include establishments, vendors, or vending machines that sell or serve only  
9 packaged, nonperishable foods in their unbroken, original containers or a private organization serving food  
10 only to its members.

11 (c) The term does not include a seasonal establishment or a small establishment, as defined in  
12 50-51-102, that serves food only to its registered guests.

13 (9) (a) "Food warehouse" means a commercial establishment and buildings or structures in  
14 connection with it used to store food, drugs, or cosmetics for distribution to retail outlets.

15 (b) The term does not include a wine, beer, or soft drink warehouse that is separate from facilities  
16 where brewing occurs.

17 (10) "Frozen food plant" means a place used to freeze, process, or store food, including facilities  
18 used in conjunction with the frozen food plant, and a place where individual compartments are offered to  
19 the public on a rental or other basis.

20 (11) "Meat market" means a commercial establishment and buildings or structures in connection  
21 with it used to process, store, or display meat or meat products for sale to the public or for human  
22 consumption.

23 (12) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under  
24 26 U.S.C. 501.

25 (13) "Perishable food dealer" means a person or commercial establishment that is in the business  
26 of purchasing and selling perishable food to the public.

27 (14) "Person" means a person, partnership, corporation, association, cooperative group, or other  
28 entity engaged in operating, owning, or offering services of an establishment.

29 (15) (a) "Potentially hazardous food" means a food that is natural or synthetic and is in a form  
30 capable of supporting:



- 1 (i) the rapid and progressive growth of infectious or toxigenic microorganisms; or  
2 (ii) the growth and toxin production of *Clostridium botulinum*.
- 3 (b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or  
4 heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.
- 5 (c) The term does not include:
- 6 (i) an air-cooled, hard-boiled egg with intact shell;  
7 (ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24°C  
8 (75°F);  
9 (iii) a food with a water activity (aw) value of 0.85 or less;  
10 (iv) a food in an unopened hermetically sealed container that is commercially processed to achieve  
11 and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or  
12 (v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid  
13 and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium*  
14 *botulinum* cannot occur.
- 15 (16) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters,  
16 marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration  
17 (pH) of 4.6 or below when measured at 24°C (75°F) and that are aseptically processed, packaged, and  
18 sealed.
- 19 (b) The term does not include:
- 20 (i) tomatoes or food products containing tomatoes; or  
21 (ii) any other food substrate or product preserved by any method other than that described in  
22 subsection (16)(a).
- 23 (17) "Raw and unprocessed farm products" means fruits, vegetables, and grains sold at a farmer's  
24 market in their natural state that are not packaged and labeled and are not:
- 25 (a) cooked;  
26 (b) canned;  
27 (c) preserved, except for drying;  
28 (d) combined with other food products; or  
29 (e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures."  
30

1           **Section 2.** Section 50-51-101, MCA, is amended to read:

2           "**50-51-101. ~~Purpose Findings and purpose of regulation.~~** (1) It is ~~hereby found and declared~~ that  
3 the public welfare requires control and regulation of the operation of establishments providing lodging space  
4 accommodations, ~~as defined in 50-51-102 hereof,~~ and the control, inspection, and regulation of persons  
5 ~~engaged therein providing accommodations~~ in order to prevent or eliminate unsanitary and unhealthful  
6 conditions and practices, which conditions and practices may endanger public health. It is further found  
7 ~~and declared~~ that the regulation of establishments providing lodging space accommodations ~~as above~~  
8 ~~outlined~~ is in the interest of social well-being and the health and safety of the state and all of its people.

9           (2) The legislature recognizes that there is a wide disparity in the type of establishments, especially  
10 in the size, the time of year at which the establishments operate, and the ability of small establishments  
11 with few employees and a limited operating season to conform to the same standards to which larger  
12 establishments are required to conform. These factors must be considered, especially in the operation of  
13 small or seasonal businesses that are such an important part of Montana's tourism business. For these  
14 reasons, the legislature believes that department rules must be tailored to properly and reasonably address  
15 differences in the size, location, purpose, and time of year of operation of certain small or seasonal  
16 establishments. The legislature believes that rules governing certain small or seasonal establishments must  
17 be limited to requirements meant to ensure basic health standards and should not detract from the rustic,  
18 out-of-doors experience offered by many guest ranches and outfitter and guide facilities and desired by  
19 many tourists."

20

21           **Section 3.** Section 50-51-102, MCA, is amended to read:

22           "**50-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following  
23 definitions apply:

24           (1) "Department" means the department of public health and human services provided for in  
25 2-15-2201.

26           (2) "Establishment" means a hotel, motel, roominghouse, guest ranch, outfitting and guide facility,  
27 boardinghouse, or tourist home THAT PROVIDES SLEEPING ACCOMMODATIONS FOR NINE OR MORE  
28 GUESTS AT ONE TIME.

29           (3) "Guest ranch" means a facility that:

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

- 1 disposal, and a kitchen;
- 2 (b) furnishes sleeping accommodations on advance reservations for a minimum stay;
- 3 (c) provides hunting, horseback riding, fishing, or a working cattle ranch experience to its guests;
- 4 and
- 5 (d) is a small establishment or a seasonal establishment.
- 6 ~~(3)~~(4) "Hotel" or "motel" includes a building or structure kept, used, maintained as, advertised as,
- 7 or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodginghouse, or place
- 8 where sleeping accommodations are furnished for a fee to transient guests, with or without meals.
- 9 (5) "Outfitting and guide facility" means a facility that:
- 10 (a) uses one or more permanent structures, one or more of which have running water, sewage
- 11 disposal, and a kitchen;
- 12 (b) furnishes sleeping accommodations to guests;
- 13 (c) offers hunting, fishing, or recreational services in conjunction with the services of an outfitter
- 14 or guide, as defined in 37-47-101; and
- 15 (d) is a small establishment or a seasonal establishment.
- 16 ~~(4)~~(6) "Person" includes an individual, partnership, corporation, association, county, municipality,
- 17 cooperative group, or other entity engaged in the business of operating, owning, or offering the services
- 18 of a hotel, motel, boardinghouse, tourist home, guest ranch, outfitting and guide facility, or roominghouse.
- 19 ~~(5)~~(7) "Roominghouse" or "boardinghouse" means buildings in which separate sleeping rooms are
- 20 rented that provide sleeping accommodations for three or more persons on a weekly, semimonthly,
- 21 monthly, or permanent basis, whether or not meals or central kitchens are provided but without separated
- 22 cooking facilities or kitchens within each room, and whose occupants do not need professional nursing or
- 23 personal-care services provided by the facility.
- 24 (8) "Seasonal establishment" means a guest ranch or outfitting and guide facility operating for less
- 25 than 120 days in a calendar year and offering accommodations to AT LEAST 9 BUT NO MORE THAN 40
- 26 people ~~or fewer~~ at one time.
- 27 (9) "Small establishment" means a guest ranch or an outfitting and guide facility offering
- 28 accommodations to AT LEAST 9 BUT NO MORE THAN 24 people ~~or fewer~~ at one time.
- 29 ~~(6)~~(10) "Tourist home" means an establishment or premises where sleeping accommodations are
- 30 furnished to transient guests for hire or rent on a daily or weekly rental basis in a private home when the

1 accommodations are offered for hire or rent for the use of the traveling public.

2 ~~(7)(11)~~ "Transient guest" means a guest for only a brief stay, such as the traveling public."

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4 **Section 4.** Section 50-51-103, MCA, is amended to read:

5 **"50-51-103. Department authorized to adopt rules.** (1) The department may adopt and enforce  
6 rules to preserve the public health and safety.

7 ~~These rules shall~~ (2) Rules applicable to a hotel, motel, roominghouse, boardinghouse, or tourist  
8 home must relate to construction, furnishings, housekeeping, personnel, sanitary facilities and controls,  
9 water supply, sewerage and sewage disposal system, refuse collection and disposal, registration and  
10 supervision, and fire and life safety code.

11 (3) The department shall adopt rules governing guest ranches and outfitting and guide facilities.  
12 The rules must take into consideration the size, type, location, and seasonal operations of an establishment  
13 and may include only rules to:

14 (a) ensure that the establishment has safe drinking water and an adequate water supply;

15 (b) ensure an adequate and sanitary sewage system and refuse disposal system;

16 (c) address food safety concerns, such as adequate storage and, refrigeration, AND FOOD  
17 HANDLING; and

18 (d) establish staggered license expiration dates by implementing an initial licensing period  
19 determined by the department.

20 (4) Rules adopted to implement subsection (3) must be adopted through negotiated rulemaking  
21 pursuant to the Montana Negotiated Rulemaking Act.

22 (5) THE DEPARTMENT SHALL DEVELOP GUIDELINES FOR COUNTY SANITARIANS TO ENSURE  
23 THE UNIFORM APPLICATION OF RULES STATEWIDE. THE GUIDELINES MUST BE RELATIVE TO EACH  
24 TYPE OF ESTABLISHMENT.

25 (6) UPON RECEIVING AN APPLICATION FOR LICENSURE, THE DEPARTMENT SHALL TIMELY  
26 PROVIDE THE APPLICANT WITH A COPY OF THE RULES APPROPRIATE FOR THE APPLICANT'S TYPE OF  
27 ESTABLISHMENT."

28

29 **Section 5.** Section 50-51-201, MCA, is amended to read:

30 **"50-51-201. License required.** (1) Each year, every ~~Except as provided in this section,~~ a A person

1 engaged in the business of conducting or operating a hotel, motel, tourist home, boardinghouse, or  
 2 roominghouse an establishment shall annually procure a license issued by the department.

3 ~~(2) The department may issue a license to a guest ranch or outfitting and guide facility only for a~~  
 4 ~~license term of 2 years after an initial license term determined by the department.~~ Guest ranches and  
 5 ~~outfitting and guide facilities need not apply for a license pursuant to this chapter for the first time until the~~  
 6 ~~later of:~~

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

10 ~~(b) July 1, 1998.~~

11 ~~(2)(3) A separate license is required for each establishment; however, However, when more than~~  
 12 ~~one of each type of establishment is operated on the same premises and under the same management, only~~  
 13 ~~one license is required that must enumerate on the certificate the types of establishments licensed.~~

14 ~~(3)(4) Before a license may be issued by the department, it must be validated by the local health~~  
 15 ~~officer or, if there is no local health officer, the sanitarian, in the county where the establishment is~~  
 16 ~~located."~~

17

18 ~~Section 5. Section 50-51-204, MCA, is amended to read:~~

19 ~~"50-51-204. License fee — late fee. (1) There shall be paid An applicant for an annual license or~~  
 20 ~~a license with an initial license term of less than 1 year shall pay to the department with each application~~  
 21 ~~for such a license or for renewal of such a license an annual license fee of \$40. An applicant for a biennial~~  
 22 ~~license or a license with an initial license term of more than 1 year shall pay a license or renewal fee of \$80.~~  
 23 ~~The department shall deposit 85% of the fees collected under this section into the local board inspection~~  
 24 ~~fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees into~~  
 25 ~~the account provided for in 50-51-110.~~

26 ~~(2) In addition to the license fee required under subsection (1), the department shall collect a late~~  
 27 ~~fee from any licensee who has failed to submit a license renewal fee prior to the expiration of his a current~~  
 28 ~~license and who operates an establishment governed by this part in the next licensing year or 2 year period~~  
 29 ~~in the case of a biennial license. The late fee is \$25 and must be deposited in the account provided for in~~  
 30 ~~50-51-110."~~

1           **Section 6.** Section 50-51-207, MCA, is amended to read:

2           "**50-51-207. Expiration date of license.** ~~Each annual license shall expire on December 31 following~~  
3 ~~expires 1 year after its date of issue unless canceled for cause. Each biennial license expires 2 years from~~  
4 ~~the date of issuance. Licenses issued for the purpose of implementing staggered licensing terms expire on~~  
5 ~~the date determined by the department.~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2), EACH LICENSE  
6 EXPIRES ON DECEMBER 31 FOLLOWING ITS DATE OF ISSUE UNLESS CANCELED FOR CAUSE.

7           (2) THE DEPARTMENT MAY AMEND OR ISSUE LICENSES TO PROVIDE FOR STAGGERED  
8 EXPIRATION DATES. THE DEPARTMENT MAY PROVIDE FOR INITIAL LICENSE TERMS OF GREATER  
9 THAN 12 MONTHS BUT NO MORE THAN 23 MONTHS IN ADOPTING STAGGERED EXPIRATION DATES.  
10 THEREAFTER, LICENSES EXPIRE ANNUALLY. A LICENSE FEE FOR THE TERM OF A LICENSE DURING  
11 IMPLEMENTATION OF STAGGERED LICENSES MAY BE PRORATED BY THE DEPARTMENT."

12  
13           **Section 7.** Section 50-51-401, MCA, is amended to read:

14           "**50-51-401. Civil penalties -- injunctions not barred.** (1) An establishment that violates this  
15 chapter or rules adopted by the department pursuant to this chapter is subject to a civil penalty not to  
16 exceed \$500.

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

20           ~~(2)(3)~~ Civil action to impose penalties, as provided under this section, does not bar injunctions to  
21 enforce compliance with this chapter or to enforce compliance with a rule adopted by the department  
22 pursuant to this chapter."

23  
24           **NEW SECTION. SECTION 8. COORDINATION INSTRUCTION. IF SENATE BILL NO. 118 IS NOT**  
25 **PASSED AND APPROVED:**

26           (1) SECTION 50-50-102(8)(C) OF THESE AMENDMENTS MUST INCLUDE THE WORDS "BED AND  
27 BREAKFAST OR A" FOLLOWING "INCLUDE A";

28           (2) SECTION 50-51-102 MUST INCLUDE THE FOLLOWING DEFINITION: "(1) "BED AND  
29 BREAKFAST" MEANS A PRIVATE, OWNER- OR MANAGER-OCCUPIED RESIDENCE THAT IS USED AS A  
30 PRIVATE RESIDENCE BUT IN WHICH:

1           (A) BREAKFAST IS SERVED AND IS INCLUDED IN THE CHARGE FOR A GUEST ROOM; AND

2           (B) THE NUMBER OF DAILY GUESTS SERVED DOES NOT EXCEED 18."

3           (3) 50-51-102(2) AND (6) OF THE FIRST READING COPY OF THIS BILL MUST INCLUDE "BED AND  
4 BREAKFAST," FOLLOWING "MOTEL,".

5           (4) 50-51-401(2) OF THE FIRST READING COPY OF THIS BILL MUST INCLUDE THE WORDS "A  
6 BED AND BREAKFAST OR" FOLLOWING "AGAINST".

7

8           NEW SECTION. Section 9. Effective dates. (1) Except as provided in subsection (2), [this act] is  
9 effective July 1, 1998.

10           (2) [Section 3 and this section] are effective on passage and approval.

11

-END-

## 1 SENATE BILL NO. 338

2 INTRODUCED BY GROSFIELD

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSURE OF CERTAIN GUEST RANCHES AND  
5 OUTFITTING AND GUIDE FACILITIES BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES;  
6 PROVIDING DEFINITIONS; REQUIRING THE DEPARTMENT TO ADOPT RULES; REQUIRING NEGOTIATED  
7 RULEMAKING; ~~PROVIDING FOR LICENSE FEES; PROVIDING FOR 2-YEAR LICENSES AND STAGGERED~~  
8 LICENSE DATES; REQUIRING AN OPPORTUNITY FOR CORRECTION OF CERTAIN LICENSING VIOLATIONS;  
9 AMENDING SECTIONS 50-50-102, 50-51-101, 50-51-102, 50-51-103, 50-51-201, ~~50-51-204~~, 50-51-207,  
10 AND 50-51-401, MCA; AND PROVIDING EFFECTIVE DATES."

11

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**



## 1 SENATE BILL NO. 338

2 INTRODUCED BY GROSFIELD

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSURE OF CERTAIN GUEST RANCHES AND  
5 OUTFITTING AND GUIDE FACILITIES BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES;  
6 DEREGULATING FOOD SERVICE IN CERTAIN ESTABLISHMENTS THAT SERVE FOOD ONLY TO  
7 REGISTERED GUESTS; PROVIDING DEFINITIONS; REQUIRING THE DEPARTMENT TO ADOPT RULES;  
8 REQUIRING NEGOTIATED RULEMAKING; ~~PROVIDING FOR LICENSE FEES~~; PROVIDING FOR ~~2-YEAR~~  
9 ~~LICENSES~~ AND STAGGERED LICENSE DATES; REQUIRING AN OPPORTUNITY FOR CORRECTION OF  
10 CERTAIN LICENSING VIOLATIONS; AMENDING SECTIONS 50-50-102, 50-51-101, 50-51-102, 50-51-103,  
11 50-51-201, ~~50-51-204~~, 50-51-207, AND 50-51-401, MCA; AND PROVIDING EFFECTIVE DATES."

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

14  
15 SECTION 1. SECTION 50-50-102, MCA, IS AMENDED TO READ:

16 "50-50-102. **Definitions.** Unless the context requires otherwise, in this chapter, the following  
17 definitions apply:

18 (1) "Baked goods" means breads, cakes, candies, cookies, pastries, and pies that are not  
19 potentially hazardous foods.

20 (2) (a) "Commercial establishment" means an establishment operated primarily for profit.

21 (b) The term does not include a farmer's market.

22 (3) "Department" means the department of public health and human services provided for in  
23 2-15-2201.

24 (4) "Establishment" means a food manufacturing establishment, meat market, food service  
25 establishment, food warehouse, frozen food plant, commercial food processor, or perishable food dealer.

26 (5) "Farmer's market" means a farm premises, a roadside stand owned and operated by a farmer,  
27 or an organized market authorized by the appropriate municipal or county authority.

28 (6) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale  
29 for human consumption.

30 (7) "Food manufacturing establishment" means a commercial establishment and buildings or

1 structures in connection with it used to manufacture or prepare food for sale or human consumption, but  
2 does not include milk producers' facilities, milk pasteurization facilities, milk product manufacturing plants,  
3 slaughterhouses, or meat packing plants.

4 (8) (a) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria,  
5 short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or  
6 beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, nightclub, industrial feeding  
7 establishment, catering kitchen, commissary, private organization routinely serving the public, or similar  
8 place where food or drink is prepared, served, or provided to the public with or without charge.

9 (b) The term does not include establishments, vendors, or vending machines that sell or serve only  
10 packaged, nonperishable foods in their unbroken, original containers or a private organization serving food  
11 only to its members.

12 ~~(c) The term does not include a seasonal establishment or a small AN establishment, as defined~~  
13 ~~in 50-51-102, that serves food only to its registered guests.~~

14 (9) (a) "Food warehouse" means a commercial establishment and buildings or structures in  
15 connection with it used to store food, drugs, or cosmetics for distribution to retail outlets.

16 (b) The term does not include a wine, beer, or soft drink warehouse that is separate from facilities  
17 where brewing occurs.

18 (10) "Frozen food plant" means a place used to freeze, process, or store food, including facilities  
19 used in conjunction with the frozen food plant, and a place where individual compartments are offered to  
20 the public on a rental or other basis.

21 (11) "Meat market" means a commercial establishment and buildings or structures in connection  
22 with it used to process, store, or display meat or meat products for sale to the public or for human  
23 consumption.

24 (12) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under  
25 26 U.S.C. 501.

26 (13) "Perishable food dealer" means a person or commercial establishment that is in the business  
27 of purchasing and selling perishable food to the public.

28 (14) "Person" means a person, partnership, corporation, association, cooperative group, or other  
29 entity engaged in operating, owning, or offering services of an establishment.

30 (15) (a) "Potentially hazardous food" means a food that is natural or synthetic and is in a form

1 capable of supporting:

2 (i) the rapid and progressive growth of infectious or toxigenic microorganisms; or

3 (ii) the growth and toxin production of *Clostridium botulinum*.

4 (b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or  
5 heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.

6 (c) The term does not include:

7 (i) an air-cooled, hard-boiled egg with intact shell;

8 (ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24°C  
9 (75°F);

10 (iii) a food with a water activity (aw) value of 0.85 or less;

11 (iv) a food in an unopened hermetically sealed container that is commercially processed to achieve  
12 and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or

13 (v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid  
14 and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium*  
15 *botulinum* cannot occur.

16 (16) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters,  
17 marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration  
18 (pH) of 4.6 or below when measured at 24°C (75°F) and that are aseptically processed, packaged, and  
19 sealed.

20 (b) The term does not include:

21 (i) tomatoes or food products containing tomatoes; or

22 (ii) any other food substrate or product preserved by any method other than that described in  
23 subsection (16)(a).

24 (17) "Raw and unprocessed farm products" means fruits, vegetables, and grains sold at a farmer's  
25 market in their natural state that are not packaged and labeled and are not:

26 (a) cooked;

27 (b) canned;

28 (c) preserved, except for drying;

29 (d) combined with other food products; or

30 (e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures."

1

2

**Section 2.** Section 50-51-101, MCA, is amended to read:

3

**"50-51-101. Purpose Findings and purpose of regulation.** (1) ~~It is hereby found and declared~~ that the public welfare requires control and regulation of the operation of establishments providing lodging space accommodations, ~~as defined in 50-51-102 hereof,~~ and the control, inspection, and regulation of persons engaged therein providing accommodations in order to prevent or eliminate unsanitary and unhealthful conditions and practices, which conditions and practices may endanger public health. It is further found ~~and declared~~ that the regulation of establishments providing lodging space accommodations ~~as above outlined~~ is in the interest of social well-being and the health and safety of the state and all of its people.

10

(2) The legislature recognizes that there is a wide disparity in the type of establishments, especially in the size, the time of year at which the establishments operate, and the ability of small establishments with few employees and a limited operating season to conform to the same standards to which larger establishments are required to conform. These factors must be considered, especially in the operation of small or seasonal businesses that are such an important part of Montana's tourism business. For these reasons, the legislature believes that department rules must be tailored to properly and reasonably address differences in the size, location, purpose, and time of year of operation of certain small or seasonal establishments. The legislature believes that rules governing certain small or seasonal establishments must be limited to requirements meant to ensure basic health standards and should not detract from the rustic, out-of-doors experience offered by many guest ranches and outfitter and guide facilities and desired by many tourists."

21

22

**Section 3.** Section 50-51-102, MCA, is amended to read:

23

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

25

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

27

(2) "Establishment" means a hotel, motel, roominghouse, guest ranch, outfitting and guide facility, boardinghouse, or tourist home ~~THAT PROVIDES SLEEPING ACCOMMODATIONS FOR NINE OR MORE GUESTS AT ONE TIME.~~

30

(3) "Guest ranch" means a facility that:

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

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

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

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

7           ~~(3)~~(4) "Hotel" or "motel" includes a building or structure kept, used, maintained as, advertised as,  
8 or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodginghouse, or place  
9 where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

10           (5) "Outfitting and guide facility" means a facility that:

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

13           (b) furnishes sleeping accommodations to guests;

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

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

17           ~~(4)~~(6) "Person" includes an individual, partnership, corporation, association, county, municipality,  
18 cooperative group, or other entity engaged in the business of operating, owning, or offering the services  
19 of a hotel, motel, boardinghouse, tourist home, guest ranch, outfitting and guide facility, or roominghouse.

20           ~~(5)~~(7) "Roominghouse" or "boardinghouse" means buildings in which separate sleeping rooms are  
21 rented that provide sleeping accommodations for three or more persons on a weekly, semimonthly,  
22 monthly, or permanent basis, whether or not meals or central kitchens are provided but without separated  
23 cooking facilities or kitchens within each room, and whose occupants do not need professional nursing or  
24 personal-care services provided by the facility.

25           (8) "Seasonal establishment" means a guest ranch or outfitting and guide facility operating for less  
26 than 120 days in a calendar year and offering accommodations to AT LEAST 9 BUT NO MORE THAN 40  
27 people ~~or fewer~~ at one time.

28           (9) "Small establishment" means a guest ranch or an outfitting and guide facility offering  
29 accommodations to AT LEAST 9 BUT NO MORE THAN 24 people ~~or fewer~~ at one time.

30           ~~(6)~~(10) "Tourist home" means an establishment or premises where sleeping accommodations are

1 furnished to transient guests for hire or rent on a daily or weekly rental basis in a private home when the  
2 accommodations are offered for hire or rent for the use of the traveling public.

3 ~~(7)(11)~~ "Transient guest" means a guest for only a brief stay, such as the traveling public."  
4

5 **Section 4.** Section 50-51-103, MCA, is amended to read:

6 "**50-51-103. Department authorized to adopt rules.** (1) The department may adopt and enforce  
7 rules to preserve the public health and safety.

8 ~~These rules shall~~ (2) Rules applicable to a hotel, motel, roominghouse, boardinghouse, or tourist  
9 home must relate to construction, furnishings, housekeeping, personnel, sanitary facilities and controls,  
10 water supply, sewerage and sewage disposal system, refuse collection and disposal, registration and  
11 supervision, and fire and life safety code.

12 (3) The department shall adopt rules governing guest ranches and outfitting and guide facilities.  
13 The rules must take into consideration the size, type, location, and seasonal operations of an establishment  
14 and may include only rules to:

15 (a) ensure that the establishment has safe drinking water and an adequate water supply;

16 (b) ensure an adequate and sanitary sewage system and refuse disposal system;

17 (c) address food safety concerns, such as adequate storage and, refrigeration, AND FOOD  
18 HANDLING; and

19 (d) establish staggered license expiration dates by implementing an initial licensing period  
20 determined by the department.

21 (4) Rules adopted to implement subsection (3) must be adopted through negotiated rulemaking  
22 pursuant to the Montana Negotiated Rulemaking Act.

23 (5) THE DEPARTMENT SHALL DEVELOP GUIDELINES FOR COUNTY SANITARIANS TO ENSURE  
24 THE UNIFORM APPLICATION OF RULES STATEWIDE. THE GUIDELINES MUST BE RELATIVE TO EACH  
25 TYPE OF ESTABLISHMENT.

26 (6) UPON RECEIVING AN APPLICATION FOR LICENSURE, THE DEPARTMENT SHALL TIMELY  
27 PROVIDE THE APPLICANT WITH A COPY OF THE RULES APPROPRIATE FOR THE APPLICANT'S TYPE OF  
28 ESTABLISHMENT."

29

30 **Section 5.** Section 50-51-201, MCA, is amended to read:

1           "50-51-201. **License required.** (1) ~~Each year, every~~ Except as provided in this section, a ~~EXCEPT~~  
 2 AS PROVIDED IN SUBSECTION (2), A person engaged in the business of conducting or operating a ~~hotel,~~  
 3 ~~metel, tourist home, boardinghouse, or roominghouse~~ an establishment shall annually procure a license  
 4 issued by the department.

5           (2) A GUEST RANCH OR AN OUTFITTING AND GUIDE FACILITY THAT DOES NOT MEET THE  
 6 DEFINITIONS IN 50-51-102 AND THAT PROVIDES ACCOMMODATIONS TO FEWER THAN NINE PEOPLE  
 7 DURING EACH DAY OF OPERATION IS NOT REQUIRED TO OBTAIN A LICENSE UNDER SUBSECTION (1).

8           ~~(2)(3) The department may issue a license to a guest ranch or outfitting and guide facility only for~~  
 9 ~~a license term of 2 years after an initial license term determined by the department.~~ Guest ranches and  
 10 ~~outfitting and guide facilities need not apply for a license pursuant to this chapter for the first time until the~~  
 11 ~~later of:~~

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

15           (b) July 1, 1998.

16           ~~(2)(3)(4)~~ A separate license is required for each establishment; ~~however,~~ However, when more  
 17 than one ~~of each~~ type of establishment is operated on the same premises and under the same management,  
 18 only one license is required that must enumerate on the certificate the types of establishments licensed.

19           ~~(3)(4)(5)~~ Before a license may be issued by the department, it must be validated by the local health  
 20 officer or, if there is no local health officer, the sanitarian, in the county where the establishment is  
 21 located."

22  
 23           ~~Section 5. Section 50-51-204, MCA, is amended to read:~~

24           ~~"50-51-204. License fee -- late fee. (1) There shall be paid An applicant for an annual license or~~  
 25 ~~a license with an initial license term of less than 1 year shall pay to the department with each application~~  
 26 ~~for such a license or for renewal of such a license an annual license fee of \$40. An applicant for a biennial~~  
 27 ~~license or a license with an initial license term of more than 1 year shall pay a license or renewal fee of \$80.~~  
 28 The department shall deposit ~~85% of the fees collected under this section into the local board inspection~~  
 29 ~~fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees into~~  
 30 ~~the account provided for in 50-51-110.~~

1           ~~(2) In addition to the license fee required under subsection (1), the department shall collect a late~~  
 2 ~~fee from any licensee who has failed to submit a license renewal fee prior to the expiration of his a current~~  
 3 ~~license and who operates an establishment governed by this part in the next licensing year or 2-year period~~  
 4 ~~in the case of a biennial license. The late fee is \$25 and must be deposited in the account provided for in~~  
 5 ~~50-51-110."~~

6  
 7           **Section 6.** Section 50-51-207, MCA, is amended to read:

8           **"50-51-207. Expiration date of license.** ~~Each annual license shall expire on December 31 following~~  
 9 ~~expires 1 year after its date of issue unless canceled for cause. Each biennial license expires 2 years from~~  
 10 ~~the date of issuance. Licenses issued for the purpose of implementing staggered licensing terms expire on~~  
 11 ~~the date determined by the department. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), EACH LICENSE~~  
 12 ~~EXPIRES ON DECEMBER 31 FOLLOWING ITS DATE OF ISSUE UNLESS CANCELED FOR CAUSE.~~

13           ~~(2) THE DEPARTMENT MAY AMEND OR ISSUE LICENSES TO PROVIDE FOR STAGGERED~~  
 14 ~~EXPIRATION DATES. THE DEPARTMENT MAY PROVIDE FOR INITIAL LICENSE TERMS OF GREATER~~  
 15 ~~THAN 12 MONTHS BUT NO MORE THAN 23 MONTHS IN ADOPTING STAGGERED EXPIRATION DATES.~~  
 16 ~~THEREAFTER, LICENSES EXPIRE ANNUALLY. A LICENSE FEE FOR THE TERM OF A LICENSE DURING~~  
 17 ~~IMPLEMENTATION OF STAGGERED LICENSES MAY BE PRORATED BY THE DEPARTMENT."~~

18  
 19           **Section 7.** Section 50-51-401, MCA, is amended to read:

20           **"50-51-401. Civil penalties -- injunctions not barred.** (1) An establishment that violates this  
 21 chapter or rules adopted by the department pursuant to this chapter is subject to a civil penalty not to  
 22 exceed \$500.

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

26           ~~(2)(3)~~ Civil action to impose penalties, as provided under this section, does not bar injunctions to  
 27 enforce compliance with this chapter or to enforce compliance with a rule adopted by the department  
 28 pursuant to this chapter."

29  
 30           **NEW SECTION. SECTION 8. COORDINATION INSTRUCTION. IF SENATE BILL NO. 118 IS NOT**



1 PASSED AND APPROVED:

2 (1) SECTION 50-50-102(8)(C) OF THESE AMENDMENTS MUST INCLUDE THE WORDS "BED AND  
3 BREAKFAST OR A" FOLLOWING "INCLUDE A":

4 (2) SECTION 50-51-102 MUST INCLUDE THE FOLLOWING DEFINITION: "(1) "BED AND  
5 BREAKFAST" MEANS A PRIVATE, OWNER- OR MANAGER-OCCUPIED RESIDENCE THAT IS USED AS A  
6 PRIVATE RESIDENCE BUT IN WHICH:

7 (A) BREAKFAST IS SERVED AND IS INCLUDED IN THE CHARGE FOR A GUEST ROOM; AND

8 (B) THE NUMBER OF DAILY GUESTS SERVED DOES NOT EXCEED 18."

9 (3) 50-51-102(2) AND (6) OF THE FIRST READING COPY OF THIS BILL MUST INCLUDE "BED AND  
10 BREAKFAST," FOLLOWING "MOTEL,".

11 (4) 50-51-401(2) OF THE FIRST READING COPY OF THIS BILL MUST INCLUDE THE WORDS "A  
12 BED AND BREAKFAST OR" FOLLOWING "AGAINST".

13

14 NEW SECTION. Section 9. Effective dates. (1) Except as provided in subsection (2), [this act] is  
15 effective July 1, 1998.

16 (2) [Section 3 and this section] are effective on passage and approval.

17

-END-

## 1 SENATE BILL NO. 338

2 INTRODUCED BY GROSFIELD

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSURE OF CERTAIN GUEST RANCHES AND  
 5 OUTFITTING AND GUIDE FACILITIES BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES;  
 6 DEREGULATING FOOD SERVICE IN CERTAIN ESTABLISHMENTS THAT SERVE FOOD ONLY TO  
 7 REGISTERED GUESTS; PROVIDING DEFINITIONS; REQUIRING THE DEPARTMENT TO ADOPT RULES;  
 8 REQUIRING NEGOTIATED RULEMAKING; ~~PROVIDING FOR LICENSE FEES~~; PROVIDING FOR ~~2-YEAR~~  
 9 ~~LICENSES AND~~ STAGGERED LICENSE DATES; REQUIRING AN OPPORTUNITY FOR CORRECTION OF  
 10 CERTAIN LICENSING VIOLATIONS; AMENDING SECTIONS 50-50-102, 50-51-101, 50-51-102, 50-51-103,  
 11 50-51-201, ~~50-51-204~~, 50-51-207, AND 50-51-401, MCA; AND PROVIDING EFFECTIVE DATES."

12

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

14

15 SECTION 1. SECTION 50-50-102, MCA, IS AMENDED TO READ:

16 "50-50-102. **Definitions.** Unless the context requires otherwise, in this chapter, the following  
 17 definitions apply:

18 (1) "Baked goods" means breads, cakes, candies, cookies, pastries, and pies that are not  
 19 potentially hazardous foods.

20 (2) (a) "Commercial establishment" means an establishment operated primarily for profit.

21 (b) The term does not include a farmer's market.

22 (3) "Department" means the department of public health and human services provided for in  
 23 2-15-2201.

24 (4) "Establishment" means a food manufacturing establishment, meat market, food service  
 25 establishment, food warehouse, frozen food plant, commercial food processor, or perishable food dealer.

26 (5) "Farmer's market" means a farm premises, a roadside stand owned and operated by a farmer,  
 27 or an organized market authorized by the appropriate municipal or county authority.

28 (6) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale  
 29 for human consumption.

30 (7) "Food manufacturing establishment" means a commercial establishment and buildings or

1 structures in connection with it used to manufacture or prepare food for sale or human consumption, but  
2 does not include milk producers' facilities, milk pasteurization facilities, milk product manufacturing plants,  
3 slaughterhouses, or meat packing plants.

4 (8) (a) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria,  
5 short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or  
6 beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, nightclub, industrial feeding  
7 establishment, catering kitchen, commissary, private organization routinely serving the public, or similar  
8 place where food or drink is prepared, served, or provided to the public with or without charge.

9 (b) The term does not include establishments, vendors, or vending machines that sell or serve only  
10 packaged, nonperishable foods in their unbroken, original containers or a private organization serving food  
11 only to its members.

12 (c) ~~The term does not include a seasonal establishment or a small AN establishment, as defined~~  
13 in 50-51-102, that serves food only to its registered guests.

14 (9) (a) "Food warehouse" means a commercial establishment and buildings or structures in  
15 connection with it used to store food, drugs, or cosmetics for distribution to retail outlets.

16 (b) The term does not include a wine, beer, or soft drink warehouse that is separate from facilities  
17 where brewing occurs.

18 (10) "Frozen food plant" means a place used to freeze, process, or store food, including facilities  
19 used in conjunction with the frozen food plant, and a place where individual compartments are offered to  
20 the public on a rental or other basis.

21 (11) "Meat market" means a commercial establishment and buildings or structures in connection  
22 with it used to process, store, or display meat or meat products for sale to the public or for human  
23 consumption.

24 (12) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under  
25 26 U.S.C. 501.

26 (13) "Perishable food dealer" means a person or commercial establishment that is in the business  
27 of purchasing and selling perishable food to the public.

28 (14) "Person" means a person, partnership, corporation, association, cooperative group, or other  
29 entity engaged in operating, owning, or offering services of an establishment.

30 (15) (a) "Potentially hazardous food" means a food that is natural or synthetic and is in a form

- 1 capable of supporting:
- 2 (i) the rapid and progressive growth of infectious or toxigenic microorganisms; or
- 3 (ii) the growth and toxin production of *Clostridium botulinum*.
- 4 (b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or
- 5 heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.
- 6 (c) The term does not include:
- 7 (i) an air-cooled, hard-boiled egg with intact shell;
- 8 (ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24°C
- 9 (75°F);
- 10 (iii) a food with a water activity (aw) value of 0.85 or less;
- 11 (iv) a food in an unopened hermetically sealed container that is commercially processed to achieve
- 12 and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or
- 13 (v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid
- 14 and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium*
- 15 *botulinum* cannot occur.
- 16 (16) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters,
- 17 marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration
- 18 (pH) of 4.6 or below when measured at 24°C (75°F) and that are aseptically processed, packaged, and
- 19 sealed.
- 20 (b) The term does not include:
- 21 (i) tomatoes or food products containing tomatoes; or
- 22 (ii) any other food substrate or product preserved by any method other than that described in
- 23 subsection (16)(a).
- 24 (17) "Raw and unprocessed farm products" means fruits, vegetables, and grains sold at a farmer's
- 25 market in their natural state that are not packaged and labeled and are not:
- 26 (a) cooked;
- 27 (b) canned;
- 28 (c) preserved, except for drying;
- 29 (d) combined with other food products; or
- 30 (e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures."

1

2 **Section 2.** Section 50-51-101, MCA, is amended to read:

3 **"50-51-101. Purpose Findings and purpose of regulation.** (1) It is ~~hereby found and declared~~ that  
4 the public welfare requires control and regulation of the operation of establishments providing lodging space  
5 accommodations, ~~as defined in 50-51-102 hereof,~~ and the control, inspection, and regulation of persons  
6 ~~engaged therein~~ providing accommodations in order to prevent or eliminate unsanitary and unhealthful  
7 conditions and practices, which conditions and practices may endanger public health. It is further found  
8 ~~and declared~~ that the regulation of establishments providing lodging space accommodations ~~as above~~  
9 ~~outlined~~ is in the interest of social well-being and the health and safety of the state and all of its people.

10 (2) The legislature recognizes that there is a wide disparity in the type of establishments, especially  
11 in the size, the time of year at which the establishments operate, and the ability of small establishments  
12 with few employees and a limited operating season to conform to the same standards to which larger  
13 establishments are required to conform. These factors must be considered, especially in the operation of  
14 small or seasonal businesses that are such an important part of Montana's tourism business. For these  
15 reasons, the legislature believes that department rules must be tailored to properly and reasonably address  
16 differences in the size, location, purpose, and time of year of operation of certain small or seasonal  
17 establishments. The legislature believes that rules governing certain small or seasonal establishments must  
18 be limited to requirements meant to ensure basic health standards and should not detract from the rustic,  
19 out-of-doors experience offered by many guest ranches and outfitter and guide facilities and desired by  
20 many tourists."

21

22 **Section 3.** Section 50-51-102, MCA, is amended to read:

23 **"50-51-102. Definitions.** Unless the context requires otherwise, in this chapter, the following  
24 definitions apply:

25 (1) "Department" means the department of public health and human services provided for in  
26 2-15-2201.

27 (2) "Establishment" means a hotel, motel, roominghouse, guest ranch, outfitting and guide facility,  
28 boardinghouse, or tourist home ~~THAT PROVIDES SLEEPING ACCOMMODATIONS FOR NINE OR MORE~~  
29 ~~GUESTS AT ONE TIME.~~

30 (3) "Guest ranch" means a facility that:

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

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

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

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

7 ~~(3)~~(4) "Hotel" or "motel" includes a building or structure kept, used, maintained as, advertised as,  
 8 or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodginghouse, or place  
 9 where sleeping accommodations are furnished for a fee to transient guests, with or without meals.

10 (5) "Outfitting and guide facility" means a facility that:

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

13 (b) furnishes sleeping accommodations to guests;

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

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

17 ~~(4)~~(6) "Person" includes an individual, partnership, corporation, association, county, municipality,  
 18 cooperative group, or other entity engaged in the business of operating, owning, or offering the services  
 19 of a hotel, motel, boardinghouse, tourist home, guest ranch, outfitting and guide facility, or roominghouse.

20 ~~(5)~~(7) "Roominghouse" or "boardinghouse" means buildings in which separate sleeping rooms are  
 21 rented that provide sleeping accommodations for three or more persons on a weekly, semimonthly,  
 22 monthly, or permanent basis, whether or not meals or central kitchens are provided but without separated  
 23 cooking facilities or kitchens within each room, and whose occupants do not need professional nursing or  
 24 personal-care services provided by the facility.

25 (8) "Seasonal establishment" means a guest ranch or outfitting and guide facility operating for less  
 26 than 120 days in a calendar year and offering accommodations to AT LEAST 9 BUT NO MORE THAN 40  
 27 people ~~or fewer~~ at one time.

28 (9) "Small establishment" means a guest ranch or an outfitting and guide facility offering  
 29 accommodations to AT LEAST 9 BUT NO MORE THAN 24 people ~~or fewer~~ at one time.

30 ~~(6)~~(10) "Tourist home" means an establishment or premises where sleeping accommodations are

1 furnished to transient guests for hire or rent on a daily or weekly rental basis in a private home when the  
2 accommodations are offered for hire or rent for the use of the traveling public.

3 ~~(7)(11)~~ "Transient guest" means a guest for only a brief stay, such as the traveling public."  
4

5 **Section 4.** Section 50-51-103, MCA, is amended to read:

6 "**50-51-103. Department authorized to adopt rules.** (1) The department may adopt and enforce  
7 rules to preserve the public health and safety.

8 ~~These rules shall~~ (2) Rules applicable to a hotel, motel, roominghouse, boardinghouse, or tourist  
9 home must relate to construction, furnishings, housekeeping, personnel, sanitary facilities and controls,  
10 water supply, sewerage and sewage disposal system, refuse collection and disposal, registration and  
11 supervision, and fire and life safety code.

12 (3) The department shall adopt rules governing guest ranches and outfitting and guide facilities.  
13 The rules must take into consideration the size, type, location, and seasonal operations of an establishment  
14 and may include only rules to:

15 (a) ensure that the establishment has safe drinking water and an adequate water supply;

16 (b) ensure an adequate and sanitary sewage system and refuse disposal system;

17 (c) address food safety concerns, such as adequate storage and, refrigeration, AND FOOD  
18 HANDLING; and

19 (d) establish staggered license expiration dates by implementing an initial licensing period  
20 determined by the department.

21 (4) Rules adopted to implement subsection (3) must be adopted through negotiated rulemaking  
22 pursuant to the Montana Negotiated Rulemaking Act.

23 (5) THE DEPARTMENT SHALL DEVELOP GUIDELINES FOR COUNTY SANITARIANS TO ENSURE  
24 THE UNIFORM APPLICATION OF RULES STATEWIDE. THE GUIDELINES MUST BE RELATIVE TO EACH  
25 TYPE OF ESTABLISHMENT.

26 (6) UPON RECEIVING AN APPLICATION FOR LICENSURE, THE DEPARTMENT SHALL TIMELY  
27 PROVIDE THE APPLICANT WITH A COPY OF THE RULES APPROPRIATE FOR THE APPLICANT'S TYPE OF  
28 ESTABLISHMENT."

29  
30 **Section 5.** Section 50-51-201, MCA, is amended to read:

1           "50-51-201. License required. (1) ~~Each year, every~~ Except as provided in this section, a ~~EXCEPT~~  
 2 AS PROVIDED IN SUBSECTION (2), A person engaged in the business of conducting or operating a ~~hotel,~~  
 3 ~~metel, tourist home, boardinghouse, or roominghouse~~ an establishment shall annually procure a license  
 4 issued by the department.

5           (2) A GUEST RANCH OR AN OUTFITTING AND GUIDE FACILITY THAT DOES NOT MEET THE  
 6 DEFINITIONS IN 50-51-102 AND THAT PROVIDES ACCOMMODATIONS TO FEWER THAN NINE PEOPLE  
 7 DURING EACH DAY OF OPERATION IS NOT REQUIRED TO OBTAIN A LICENSE UNDER SUBSECTION (1).

8           ~~(2)(3) The department may issue a license to a guest ranch or outfitting and guide facility only for~~  
 9 ~~a license term of 2 years after an initial license term determined by the department.~~ Guest ranches and  
 10 outfitting and guide facilities need not apply for a license pursuant to this chapter for the first time until the  
 11 later of:

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

15           (b) July 1, 1998.

16           ~~(2)(3)(4)~~ (4) A separate license is required for each establishment; ~~however,~~ However, when more  
 17 than one ~~of each~~ type of establishment is operated on the same premises and under the same management,  
 18 only one license is required that must enumerate on the certificate the types of establishments licensed.

19           ~~(3)(4)(5)~~ (5) Before a license may be issued by the department, it must be validated by the local health  
 20 officer or, if there is no local health officer, the sanitarian, in the county where the establishment is  
 21 located."

22  
 23           ~~Section 5. Section 50-51-204, MCA, is amended to read:~~

24           ~~"50-51-204. License fee — late fee. (1) There shall be paid An applicant for an annual license or~~  
 25 ~~a license with an initial license term of less than 1 year shall pay to the department with each application~~  
 26 ~~for such a license or for renewal of such a license an annual license fee of \$40. An applicant for a biennial~~  
 27 ~~license or a license with an initial license term of more than 1 year shall pay a license or renewal fee of \$80.~~  
 28 ~~The department shall deposit 85% of the fees collected under this section into the local board inspection~~  
 29 ~~fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees into~~  
 30 ~~the account provided for in 50-51-110.~~



1           ~~(2) In addition to the license fee required under subsection (1), the department shall collect a late~~  
 2 ~~fee from any licensee who has failed to submit a license renewal fee prior to the expiration of his a current~~  
 3 ~~license and who operates an establishment governed by this part in the next licensing year or 2 year period~~  
 4 ~~in the case of a biennial license. The late fee is \$25 and must be deposited in the account provided for in~~  
 5 ~~50-51-110."~~

6  
 7           **Section 6.** Section 50-51-207, MCA, is amended to read:

8           "**50-51-207. Expiration date of license.** ~~Each annual license shall expire on December 31 following~~  
 9 ~~expires 1 year after its date of issue unless canceled for cause. Each biennial license expires 2 years from~~  
 10 ~~the date of issuance. Licenses issued for the purpose of implementing staggered licensing terms expire on~~  
 11 ~~the date determined by the department. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), EACH LICENSE~~  
 12 ~~EXPIRES ON DECEMBER 31 FOLLOWING ITS DATE OF ISSUE UNLESS CANCELED FOR CAUSE.~~

13           ~~(2) THE DEPARTMENT MAY AMEND OR ISSUE LICENSES TO PROVIDE FOR STAGGERED~~  
 14 ~~EXPIRATION DATES. THE DEPARTMENT MAY PROVIDE FOR INITIAL LICENSE TERMS OF GREATER~~  
 15 ~~THAN 12 MONTHS BUT NO MORE THAN 23 MONTHS IN ADOPTING STAGGERED EXPIRATION DATES.~~  
 16 ~~THEREAFTER, LICENSES EXPIRE ANNUALLY. A LICENSE FEE FOR THE TERM OF A LICENSE DURING~~  
 17 ~~IMPLEMENTATION OF STAGGERED LICENSES MAY BE PRORATED BY THE DEPARTMENT."~~

18  
 19           **Section 7.** Section 50-51-401, MCA, is amended to read:

20           "**50-51-401. Civil penalties -- injunctions not barred.** (1) An establishment that violates this  
 21 chapter or rules adopted by the department pursuant to this chapter is subject to a civil penalty not to  
 22 exceed \$500.

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

26           ~~(2)(3)~~ Civil action to impose penalties, as provided under this section, does not bar injunctions to  
 27 enforce compliance with this chapter or to enforce compliance with a rule adopted by the department  
 28 pursuant to this chapter."  
 29

30           **NEW SECTION. SECTION 8. COORDINATION INSTRUCTION. IF SENATE BILL NO. 118 IS NOT**

1 PASSED AND APPROVED:

2 (1) SECTION 50-50-102(8)(C) OF THESE AMENDMENTS MUST INCLUDE THE WORDS "BED AND  
3 BREAKFAST OR A" FOLLOWING "INCLUDE A":

4 (2) SECTION 50-51-102 MUST INCLUDE THE FOLLOWING DEFINITION: "(1) "BED AND  
5 BREAKFAST" MEANS A PRIVATE, OWNER- OR MANAGER-OCCUPIED RESIDENCE THAT IS USED AS A  
6 PRIVATE RESIDENCE BUT IN WHICH:

7 (A) BREAKFAST IS SERVED AND IS INCLUDED IN THE CHARGE FOR A GUEST ROOM; AND

8 (B) THE NUMBER OF DAILY GUESTS SERVED DOES NOT EXCEED 18."

9 (3) 50-51-102(2) AND (6) OF THE FIRST READING COPY OF THIS BILL MUST INCLUDE "BED AND  
10 BREAKFAST," FOLLOWING "MOTEL,".

11 (4) 50-51-401(2) OF THE FIRST READING COPY OF THIS BILL MUST INCLUDE THE WORDS "A  
12 BED AND BREAKFAST OR" FOLLOWING "AGAINST".

13

14 NEW SECTION. Section 9. Effective dates. (1) Except as provided in subsection (2), [this act] is  
15 effective July 1, 1998.

16 (2) [Section 3 and this section] are effective on passage and approval.

17

-END-