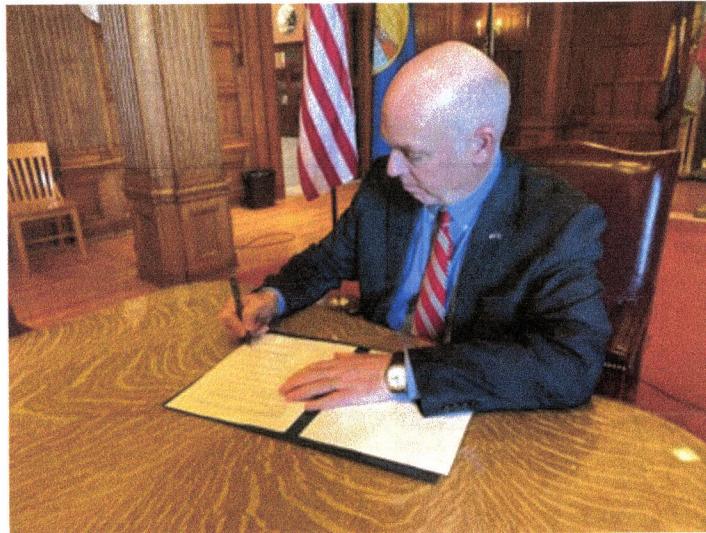


EXHIBIT 1  
DATE 3-19-2021  
SB 275



# Governor Gianforte Launches Red Tape Relief Task Force

## Gianforte Signs First Executive Order

Tuesday, January 5, 2021/Categories: [Governor's Office](#), [Montana.gov](#)/Tags:

HELENA, Mont. – Signing his first executive order, Governor Greg Gianforte today established the Red Tape Relief Task Force.

Governor Gianforte, who campaigned on the promise of conducting a top-to-bottom regulatory review of all state agencies, will rely on the task force to identify excessive, outdated, and unnecessary regulations.

Lieutenant Governor Kristen Juras will lead the advisory council.

**“The message from Montana small business owners, farmers, and ranchers has been loud and clear: unnecessary red tape is out of control, and they need help. Today we’re taking our first steps to provide them with much needed red tape relief, and I’m grateful to Lieutenant Governor Juras for leading the charge,”** Governor Gianforte said after signing the executive order.

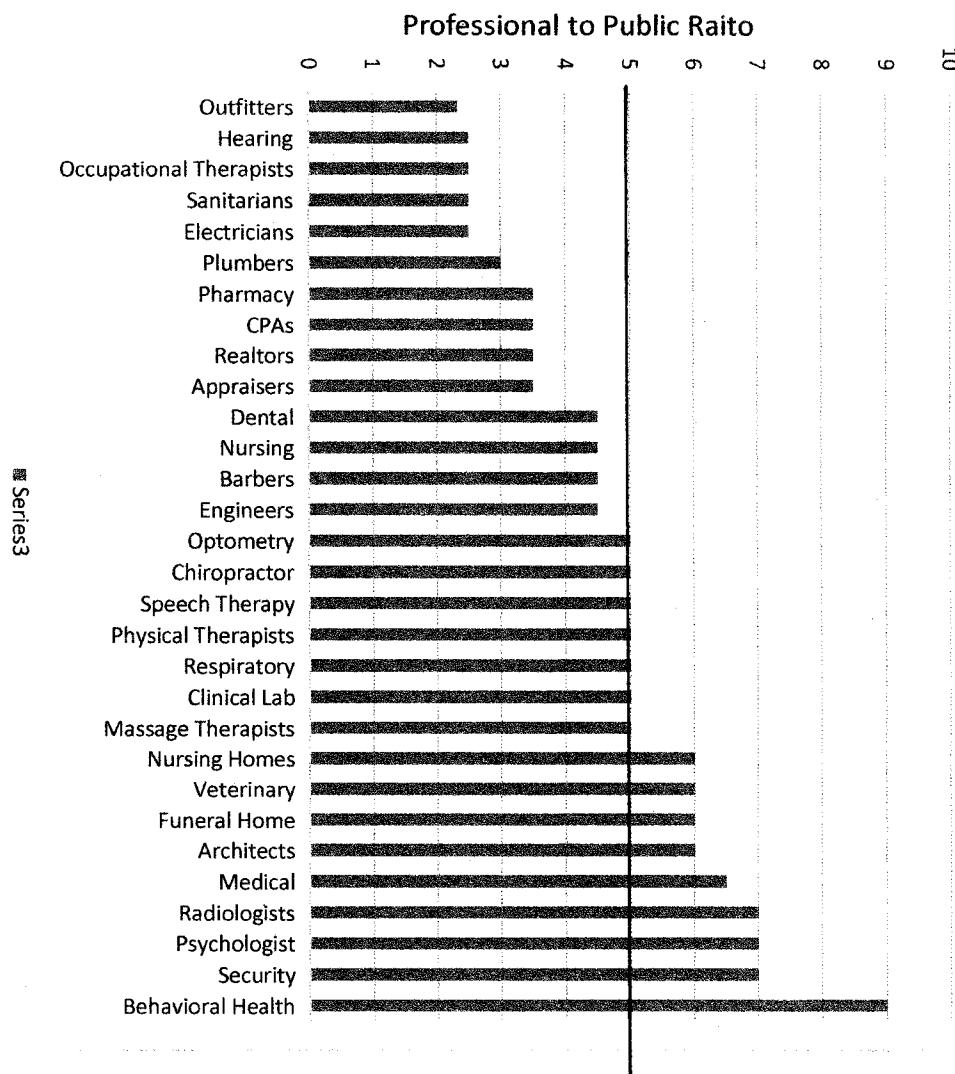
The Red Tape Relief Task Force will present its report and proposals to the governor by August 1, 2021.

The full text of Executive Order No. 1-2021 may be found [HERE](#).

###

Abbreviated Department Name	Total		Ratio of Professio		Licensees	
	Number of Board Members	Number of Public Members	nal to Public	Licensees	per Board Member	
Outfitters	7	3	2	3,000	429	
Hearing	5	2	3			
Occupational Therapists	5	2	3			
Sanitarians	5	2	3			
Electricians	5	2	3	5,936	1187	
Plumbers	9	3	3			
Pharmacy	7	2	4			
CPAs	7	2	4			
Realtors	7	2	4	8,320	1189	
Appraisers	7	2	4			
Dental	9	2	5			
Nursing	9	2	5	22,970	2552	
Barbers	9	2	5	13,136	1460	
Engineers	9	2	5			
Optometry	5	1	5			
Chiropractor	5	1	5			
Speech Therapy	5	1	5			
Physical Therapists	5	1	5			
Respiratory	5	1	5			
Clinical Lab	5	1	5			
Massage Therapists	5	1	5			
Nursing Homes	6	1	6			
Veterinary	6	1	6			
Funeral Home	6	1	6			
Architects	6	1	6			
Medical	13	2	7	14,343	1103	
Radiologists	7	1	7			
Psychologist	7	1	7			
Security	7	1	7			
Behavioral Health	9	1	9	8,468	941	
			5			

## Professional to Public



**SB 275 – An Act generally revising the Board of Outfitters an Outfitting laws and enforcement, revising Board of Outfitters membership Boards duties and revising laws related to partial or temporary transfer of an outfitting business and addressing enforcement powers of wardens relating to some portions of outfitter law.**

Section #	What it does:
<b>Section 1</b> Amends MCA § 2-15-1773	<ul style="list-style-type: none"> <li>Reduces the size of the board from 7 members to 5</li> <li>Defines the make up of the board to be consistent with existing licensing endorsement and business types <ul style="list-style-type: none"> <li>One outfitter representing public land hunting and fishing, knowledgeable in governmental permitting and preferably with packing endorsement</li> <li>One outfitter licensed only as a fishing outfitter</li> <li>One outfitter representing a private land outfit</li> <li>One outfitter with both hunting and fishing with their business being predominantly fishing</li> <li>One Montana-based business owner who engages in non-outfitted business reliant on local outdoor recreation industry</li> </ul> </li> </ul>
<b>Section 2</b> Amends MCA § 37-47-201	<ul style="list-style-type: none"> <li>Removes from statue and places responsibility with the Board to determine by ARM what reporting forms are required and what information is to be collected</li> </ul>
<b>Section 3</b> Amends MCA § 34- 47-301	<ul style="list-style-type: none"> <li>Maintains the requirement to maintain records required by the Board but removes the requirement to submit records</li> </ul>
<b>Section 4</b> Amends MCA § 37-47-302	<ul style="list-style-type: none"> <li>Places responsibility for equipment and facility inspections with the board and removes “or its designated agent” option</li> </ul>
<b>Section 5</b> Amends MCA § 37-47-310	<p>Modifies the transfer or amendment of outfitters license by allowing partial sale of the outfitter business.</p> <ul style="list-style-type: none"> <li>Provides clarity for the partial sale or temporary transfer of a hunting or fishing outfitter's business may not be prohibited</li> <li>Maintains the exemption for Bearverhead and Big Hole restrictions on partial sale</li> </ul>

<b>Section 6</b> Amends MCA § 37-47-313	Clarifies the exempt services outside the scope of the licensed service of hunting and fishing. <ul style="list-style-type: none"> <li>Includes drop camp, or the accompaniment of a customer engaged in non-hunting and non-fishing activities.</li> <li>Defined In-field assistance as the pursuit of fish or game including instruction for the pursuit of fish and game.</li> </ul>
<b>Section 7</b> Amends MCA § 37-47-341	Incorporates provisions of 27-1-753 Limitation on Liability In Sport Or Recreational Opportunity to better define the scope of negligence or misconduct while acting as a guide of outfitter
<b>Section 8</b> Amends MCA § 37-47-344	Removes requirement to deposit fines paid under this section to counties and state special revenue fund
<b>Section 9</b> Amends MCA § 37-47-345	Clarifies the role of enforcement related to Board rules and stipulates complaints be filed complaints are to be filed with the Board and the role of the board in requesting investigations
<b>Section 10</b> Amends MCA § 37-47-401	Incorporates 27-1-753 Limitation on Liability In Sport Or Recreational Opportunity
<b>Section 11</b> Amends MCA § 87-1-506	Amends the enforcement powers of wardens related to violations in title 37 47 345 and rules adopted by the board.
<b>Section 12</b> Amends MCA § 87-6-702	Removes reference to Board rules
<b>New Section 13</b>	Repeals 87-6-105 Penalties in addition to Title 37 removing the double fines for administrative violations
<b>New Section 14</b>	Provides for a 60-day period to effect the transition from a seven member board to a five member board
<b>New Section 15</b>	
<b>New Section 16</b>	

## SB 275

### Speaking Truth to Fiction

SB 275 specifically addresses excessive, outdated, and unnecessary regulations that when adopted will collectively save the state thousands of dollars and improve the business environment, one of Montana's leading tourism industries.

The following addresses clearly and factually the opposition arguments so decisions can be based on the merits of the legislation and not misrepresentations.

Opposition Argument	SB 275 Facts
“SB 275 would remove accountability for outfitters”	<p>Outfitters will remain accountable to the licensing board subject to the active supervision of the Commissioner of Labor and subject to the provisions of the Montana Administrative Procedures Act.</p> <p>SB 275 specifically addresses excessive, outdated, and unnecessary regulations and will be a cost savings to state and improve the outfitting business environment, while maintaining rigorous licensing standards and oversight.</p> <ul style="list-style-type: none"><li>❖ Proposed changes in SB 275 have been reviewed, with no objections raised, by Department of Labor and Industry and the Montana Fish Wildlife and Parks</li><li>❖ SB 275 is consistent with the Red Tape Relief Task Force created by Governor Gianforte on January 5, 2021 calling for a top-to-bottom regulatory review of all state agencies, to identify excessive, outdated, and unnecessary regulations.</li></ul>
Eric Clewis – MWF – “Every industry is required to keep records. This industry should be as well.”  Eric Melson – BHA – “Removing reporting requirements will make it difficult to enforce any violations.”	<p>SB 275 relies on the authority of the Board to establish reporting requirements through ARM. ARM rules are far more adaptive to changing needs. Currently records are submitted to the Board of Outfitters and stored at great expense but are stored in a manner that is largely unusable.</p> <ul style="list-style-type: none"><li>❖ Under SB 275, the Board will establish rules and prescribe forms and content and retention standards.</li><li>❖ SB 275 eliminates the requirement of the yearly submission of these records.</li><li>❖ Outfitters will be obligated to retain and produce records like requirements for tax records. Records are required to be maintained and are subject to</li></ul>

	<p>audit or investigation as authorized through statute and rule, including criminal investigations by the Montana Fish, Wildlife &amp; Parks</p> <ul style="list-style-type: none"> <li>❖ Currently records are not stored or collated in any usable form by the Board of Outfitters. SB 275 improves that condition.</li> </ul>
<p>Eric Clewis – MWF – Outfitting relies on a public resource. Removing sportspersons will completely remove hunting representation and leave “the outfitting industry to police itself”.</p>	<p>SB 275 reduces the size of the Board consistent with other State licensing boards and amends the composition and to accurately reflect lines of business/license endorsements in practice.</p> <ul style="list-style-type: none"> <li>❖ The current board is oversized compared to boards serving similar numbers of licensees. There is no material benefit derived from a large Board and the proposed restructuring addresses the needed professional expertise and public member involvement.</li> <li>❖ Three public members on an outfitter Board makes the licensee-to-public member ratio 1.3 to 1. The statewide average is 5:1, and this change places the Board of Outfitters with a higher public member participation at 4:1. SB 275 exceeds the state average (5 to 1) which is shared by the Boards of Chiropractor, Optometry, Respiratory, and Physical Therapists.</li> <li>❖ As it is in all other boards, the interests of the public are safeguarded through the active supervision authority of the Commissioner of Labor as well as the MAPA process.</li> <li>❖ Costs for Board support will drop 29%, approximately \$4,600 per year. That equates to 22 Outfitter renewal payments. SB 275 right sizes the Board relative to the number of licenses served and the ratio of public to professional members when compared to other State Boards.</li> <li>❖ Under SB 275 there will be four outfitter members, each representing a particular area of expertise and current business models. One public member, who is not tied to the outfitting industry but has a stake in a well-regulated industry.</li> <li>❖ Professional Boards exist to regulate and police their own industry, focusing on licensing and qualification standards, professional conduct and promoting safeguards for public safety and welfare.</li> </ul>

<p>"relaxes the requirements for reporting private land leased for exclusive hunting operations"</p>	<p>SB 275 eliminates unnecessary procedures, forms and reporting that does not achieve a specific licensure purposes and places responsibility with the Board of Outfitters to adopt rules related to reporting requirements.</p> <ul style="list-style-type: none"> <li>❖ The infamous "Map" intended to indicate what private land is being utilized by outfitters based on submitted annual data has been a colossal failure. The result has been a project that was massively expensive, never accurate and widely ignored upon eventual publishing.</li> </ul>
<p>Eric Melson – BHA – SB 275 removes the power of wardens to enforce violations and delegates enforcement to the Board. "Both outfitters and unguided sportspersons should be subject to the same rules and same enforcement as everyone else."</p>	<p>SB 275 removes the duplicative legal process created when administrative jurisdiction was transferred from the Department of Fish, Wildlife and Parks (FWP) to the Department of Labor (DLI).</p> <p>It is misleading to say SB 275 makes investigations come at the request of the Board, when SB 275 only affects unprofessional conduct investigations, not criminal investigations:</p> <ul style="list-style-type: none"> <li>❖ The MBO is charged with enforcing the administrative provisions of Title 47, chapter 37, MCA, and rules adopted pursuant to that chapter (MCA 37-47-201(2))</li> <li>❖ FWP enforces Title 87 Fish &amp; Game criminal violations.</li> <li>❖ Under SB 275 outfitters remain subject to criminal prosecuted for any Title 87 Fish &amp; Game violations.</li> <li>❖ Under SB 275 outfitters remain subject to disciplinary actions by the MBO for administrative Title 47 licensing violations.</li> <li>❖ Enforcement of unlicensed outfitting or guiding is the sole domain of FWP enforcement due to the passage of the "Poacher's Package," and this proposal does not modify that.</li> <li>❖ Under SB wardens will refer Title 37 administrative violations to the Board of Outfitters. This eliminates the double adjudication that currently happens because of administrative violations residing in both Title 87 and Title 37.</li> </ul>

<p>“It’s basically putting outfitters in charge of policing themselves”</p>	<p>Each professional and occupational licensing board under the Montana Department of Labor &amp; Industry for administrative purposes is a board of professionals “policing themselves.”</p> <ul style="list-style-type: none"> <li>❖ The MBO is charged with enforcing the provisions of Title 47, chapter 37 and like every other professional and occupational licensing board, the MBO is subject to the active supervision of Montana’s Commissioner of Labor.</li> </ul>
<p>Eric Clewis – MWF – SB 275 would hinder FWP efforts to manage wildlife as the records help the Department to track elk populations on leased private land.</p>	<p>Game management is on reliant on Outfitter records and never has been. The Commission and FWP are responsible for data requirements for management not a licensing board under the Department of Labor and Industries.</p> <ul style="list-style-type: none"> <li>❖ FWP has never requested outfitter records for wildlife management or biological purposes.</li> <li>❖ The data collected by the Board of Outfitters resides in an irretrievable PDF format that is unusable for such an application.</li> <li>❖ The cost of modifying the system to make these records available exceeds \$1.5 million.</li> <li>❖ This is done independently by FWP through harvest reporting surveys and aerial surveys. Stating that biological data is determined through outfitter client report logs is simply inaccurate and misinformed.</li> </ul>

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**Outfitter Administration Burden Reduction Act**  
**House Business and Labor Committee**

Actions recommended in SB 275 specifically address excessive, outdated, and unnecessary regulations and will collectively save the state thousands of dollars and improve the outfitting business environment, one of Montana's leading tourism industries.

SB 275 is consistent with the Red Tape Relief Task Force created by Governor Gianforte on January 5, 2021 calling for a **top-to-bottom regulatory review of all state agencies, to remove excessive, outdated, and unnecessary regulations.** It also builds on work done by the 2019 Legislature in passing SB 222 last session.

**Five Categories and Objectives of SB 275:**

Proposed amendments contained in SB 275 may be grouped into the following five categories and objectives:

1. **Double Adjudication:** Remove the duplicative legal process created when administrative jurisdiction was transferred from the Department of Fish, Wildlife and Parks (FWP) to the Department of Labor (DLI).
2. **Board Construct:** Reduce the size and amend the composition of the Board to be consistent with other State licensing Boards and to accurately reflect lines of business/license endorsements in practice.
3. **Reporting:** Revises unnecessary procedures, forms and reporting that does not achieve a specific objective for licensure purposes and place responsibility back with the Board of Outfitters to adopt rules related to reporting requirements.
4. **Transfer of Outfitter Business:** Provide for the transfer Outfitter businesses without statutory restrictions based on river use days.
5. **Amendments Comporting with Ch. 410, laws of 2015:** Remove inconsistencies between extant Board of Outfitter statutes and 2015 amendments to MCA §§ 27-1-753 and 28-2-702 relative to liability waivers.

**1. Double Adjudication:**

*Statement of the Problem*

Under current statute, FWP wardens criminally investigate licensed outfitters and guides for licensing law violations. Licensees are thus subjected to criminal proceedings and pay fines and costs as part of that adjudication process. Once this process has been completed, the licensee then must report the violation to the MBO, which initiates the administrative process. Licensees are thus subjected to licensing proceedings and pay fines and costs as part of that adjudication process. This "double adjudication" process criminalizes licensing violations and subjects these particular licensees to two sets of consequences administered by two separate agencies.

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*Salient Points:*

- The nature of these infractions are administrative, and it makes little sense to address them in the criminal system.
- Licensees are unfairly subject to double fines for infractions addressed by both processes.
- Fines collected from criminal proceedings are insufficient to cover time and expense for FWP enforcement, and then the MBO duplicates those efforts when it sanctions its licensees in administrative proceedings.
- Because the FWP process is criminal in nature, licensees' civil rights are at stake, a consequence not enforced against licensees of other boards.
- The MBO is charged with enforcing the provisions of Title 47, chapter 37, MCA, and rules adopted pursuant to that chapter (MCA 37-47-201(2); meanwhile FWP's mission is to provide for the stewardship of the fish, wildlife, parks, and recreational resources of Montana (<https://fwp.mt.gov/aboutfwp>)).
- This amendment would in **NO WAY** exempt outfitters from criminal prosecution for any Title 87 Fish & Game violations.
- This amendment would in **NO WAY** exempt outfitters from disciplinary action by the MBO for any Title 47 licensing violations.
- It should be noted that unlicensed outfitting or guiding is the sole domain of FWP enforcement due to the passage of the "Poacher's Package," and this proposal does not modify that.

## **2. Board Construct**

### *Statement of the Problem*

The Board of Outfitters serves a vital function in regulating the Outfitting and Guiding industry in Montana.

- Current Board is oversized. With 2 license types (outfitters and guides) and a total of about 2,935 active licensees (820 Outfitters, 2,115 Guide), the MBO is relatively large with seven members (e.g. the nine-member Board of Nursing licenses 5 individual license types (more than 20,000 licensees) along with all nursing education programs in the state).
- Professional to public ratio is skewed. In addition, the average Board composition is a ratio of 5 professional members to 1 public member, but the MBO is 4 professionals to 3 public members. This oversized board is expensive to maintain and minimizes the voice of the professional subject matter experts for no valid reason. Like dozens of other boards, the interests of the public are safeguarded through the active supervision authority of the Commissioner of Labor (37-1-121(1)(d)). SB 275 will right-size the Board, adjust the professional-to-public ratio consistent with other boards, and meet the experience and expertise requirements necessary for a functioning Board, because the law presumes the board has "experience, technical

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competence, and specialized knowledge" when it comes to evaluating evidence in contested cases (see MCA § 2-4-612(7)).

- Revisions to the qualifications of the Outfitter members align with the prevalent business models and the accompanying required endorsement types that make up the Montana outfitting industry.
  - 1 outfitter licensed for both hunting and fishing, representing a public land hunting and fishing outfit knowledgeable in government permitting and preferably with a packing endorsement;
  - 1 outfitter licensed as a private land hunting outfitter;
  - 1 outfitter licensed only as a fishing outfitter;
  - 1 outfitter licensed for both hunting and fishing, with their business being predominantly fishing; and
  - 1 public member who is a Montana based business owner, who engages in non-outfitted business reliant on the local outdoor industry.
- Without the specific expertise included as part of the Board construct it is anticipated that errors will be made and service to the industry and public will be diminished.
- Reducing the size of the Board from 7 to 5 will cut excess costs for the Board, which in turn will hold down license fees for licensees that are by and large seasonal.
  - There is no material benefit derived from such a large Board and the proposed restructuring addresses the needed professional expertise and public member involvement.
  - Three public members on an outfitter Board is excessive. Of the 30 Boards, no other Board has a 2 to 1 ratio of professional to public membership. The statewide average is 5:1.
  - Over the last 20 years, Board member appointments from the public result in at least one if not two members absent from most quarterly meetings. The number of times all three public member appointees has been present at any given meeting is very low.
  - Savings for Board support will be dropped by 29%, estimated to be approximately \$4,600 per year when travel, meals and lodging are considered. That equates to 22 Outfitter renewal payments.

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**3. Reporting:**

*Statement of the Problem*

Required annual reporting of information beyond the scope of that needed by the licensing board has resulted in an unnecessary administrative burden on licensees. These annual reports are time consuming to compile by the outfitter, are archived in a manner that are unusable by the Board of Outfitters or any other entity, expensive to administer and store and have not been utilized for any wildlife management or legitimate licensing purpose. Under SB 275 records will be retained by the outfitter and made available for audit or inspection by appropriate officials.

- SB 275 does not remove requirement for outfitters to maintain client data, but rather the submittal and retention by the Board. Under SB 275, the Board will establish rules and prescribe forms and content and retention standards. These records would be required to be maintained subject to audit or investigation as authorized through statute and rule.
- No other category of license is required to submit annual data to the DL&I to this extent, and the cost associated with storage and administration of the data is borne by the licensees. This would be the equivalent of sending in all the data supporting a tax return into the IRS
- The Department does not have the budget, staff, or technology to assimilate this data electronically, so retrieval for any analysis of any of the information has to be done manually with reams of paper documents and PDF files. To date when the Department is requested to provide data for analysis, it declines due to lack of manpower and budget. To do so will require a new, multimillion dollar software revision.
- To date, FWP has not accessed the data for any biological management purpose, as it has alleged was necessary in the past. If FWP ultimately determines it needs specific data for purposes of managing wildlife, then it would be appropriate to create the request, mechanism, and funding within FWP rather than laying the burden on a licensing Board. The newly funded licensing system is the appropriate vehicle.
- Data needed for purposes of establishing guide experience will be generated with affidavits supplied by specific employers of a license candidate as it is done for other classes of license such as CPAs, Electricians, Plumbers, etc.
- The infamous "Map" intended to indicate what private land is being utilized by outfitters based on submitted annual data has been a colossal failure. The result has been a project that was massively expensive, never accurate and widely ignored upon eventual publishing.
- Amendments developed with FWP enforcement are supported and consistent with the intent of SB 275.

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**4. Transfer of Outfitter Business**

*Statement of the Problem*

There are statutory restrictions on the sale of Outfitter businesses that limit how an outfitter may choose to manage the partial or full sale or transfer of business interests. Such a restriction on transfers restricts fair trade without a legitimate state purpose. Additionally, interpretations of these statutory restrictions are interfering with the development of recreational management plans that place restrictions on guided use on some rivers because the ability to sell, transfer or trade allocated days is prohibited unless an entire business is sold. This is another example of how management objectives are being improperly injected into the professional licensing system.

- Proposed amendments to 37-47-310 remove originally unintended restrictions against the property rights of licensees.
- An exception for the transfer of Beaverhead and Big Hole River has been retained in this draft. Alternatively, the Commission of Parks could address the intertwined issues by its rulemaking process before SB 275 reverses all restrictions if appropriate time is provided under the Effective Date section of SB 275.

**5. Amendments Comporting with Ch. 410, laws of 2015**

*Statement of the Problem*

During 64<sup>th</sup> Legislative Session in 2015 M.C.A. §§ 27-1-753 and 28-2-702 were amended to allow the use of pre-activity recreational release and waiver style documents to improve contractual strength of release and waiver documents available to the recreation industry as part of the contract for services. Simply put, the measure put Montana on par with other states necessitating litigation brought forth be based on true potential liability versus triggering automatic settlement in fear of the cost of litigation.

There remain statutory inconsistencies that as of yet neglect to recognize and conform to the 2015 legislation. Proposed amendments to the following statutes are deemed corrections to inconsistencies and add clarity to the intent of previous changes: 37-47-313, 37-47-341, and 37-47-401.

- Proposed amendments to 37-47-341 and 37-47-401 are necessary to conform Board of Outfitters statutes to the amendments implemented by Ch. 410, laws of 2015 (the Montana Recreation Provider Protection Act).
- Proposed amendments to 37-47-313, correct inconsistent language for the exemption of services that are outside the jurisdiction of the Board of Outfitters.

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**Conclusion:**

SB 275 will be revenue positive by reducing excess administrative costs and duplicative efforts. The main thrust of this legislation is to "right-size" the regulatory environment and appropriately define the reach of a licensing agency and the resulting reporting by licensees like other licensing bureaus within the State. The effort is entirely consistent with the Governors call for a top-to-bottom regulatory review of all state agencies to identify excessive, outdated, and unnecessary regulations. SB 275 is good law.