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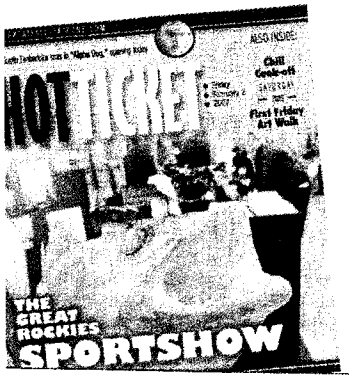

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egislation would make some illegal outfitting a felony

By MICHAEL BABCOCK
Tribune Outdoor Editor

typical scene on the ouri, thought game len Bryan Golie: Drift with three guys in it. fished while a third d. Looked like a guided so Golie checked them

e two out-of-staters had licenses but their le," they said, was just a l.

Next week, same place, same boat, same oarsman but different fishermen — also from out of state. The anglers seemed to be taking directions from the man rowing the boat.

"Is this an outfitted trip?" Golie asked the anglers. "Nope. He is just our friend," the flycasters responded.

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"I know what you are up to," Golie says he told the man at the oars. "You better stop it before you get into trouble."

But the guy with the drift boat — let's call him Oarsman — and the out-of-state friends denied anything was amiss. So, Golie went to work, and from up and down the Missouri River — Holter Dam to Craig — tips began trickling in.

What Golie and the other game wardens in Region 4 came up with, they say, is a classic case of an unlicensed outfitter, the very target of Senate Bill 100, a proposal before the Montana Legislature that would make it a felony to outfit without a license.

"This is a showpiece case for us," said Warden Sgt. Steve Vinnedge of Great Falls.

The Poachers Package

Senate Bill 100 is one of four bills initiated by the Montana Game Wardens Association that together are called the Poachers Package.

SB100 would revise the law relating to outfitting by defining outfitting, revising penalties and providing for additional sentencing conditions that may be applied for certain violations.

If it becomes law, someone convicted of felony illegal outfitting could spend up to five years in jail and be fined from $10,000 to $50,000. With a misdemeanor conviction under the current law, punishment is no more than a $1,000 fine and one year in jail.

But Vinnedge says misdemeanors mean little to an unlicensed outfitter, an opin-

EXHIBIT 1
DATE 3.22.07
SB 100

Outfitting

FROM 1A

ciation.

"When I was executive director, people would say, 'Why do I need to be licensed? I can do this without paying and I likely won't be caught, and if I am caught it is a slap on the wrist. It is a cost of doing business.'"

Oarsman, by the way, probably made between $100,000 and $120,000 for the two seasons he was outfitting on the Missouri, Vinnedge says.

"The fundamental reason for SB100 is that the risk for commercial wildlife exploitation is considerably outweighed by the financial reward under current law," said Sen. Larry Jent, D-Bozeman, the bill's sponsor.

With what an illegal outfitter can charge wealthy out-of-state clients, a $500 fine is not an adequate deterrent, Jent said.

"It is commendable and understandable why the legitimate outfitters are furious about this situation," he said.

Johnson said licensed outfitters are responsible for the safety of their clients, have to buy workers' compensation and liability insurance, have to keep detailed records for the state Board of Outfitters, and are responsible for seeing that clients obey the hunting and fishing laws of Montana.

"If you are not licensed, you don't have to jump through any of those hoops," she said.

Johnson said unlicensed outfitters impact Montana's resources in another way: If clients are seen not following state fishing and hunting regulations, it casts a bad image on the legitimate outfitter.

"If you want to operate like an outfitter and not be licensed you should be treated like a felon because you are one," Johnson added. "These people are outlaws and they are robbers."

Broad support for bill

Wayne Johnston, executive director for the Montana Board of Outfitters, said the board supports the bill.

"Part of the job of the Board of Outfitters is to regulate the outfitting industry and that includes getting rid of illegal outfitters," Johnston said.

The Fishing Outfitters Association of Montana also supports the bill. FOAM Executive Director Robin Cunningham said it is important to fishing outfitters that the bill spells out that someone commits the offense of illegal outfitting by either outfitting for three or more days in a calendar year or receives $1,000 per day for doing it.

Since fishing outfitters charge between $350 and $425 per day and most fishing trips in Montana last only a single day, they might never make the threshold of $1,000 from a single client. At the same time, an outfitted big-game hunting trip could cost $1,000 in just a day or two.

Cunningham said the three-day provision leads to an easier argument for prosecutors.

"Three days illustrates a conscious effort to break the law," Cunningham said.

Cunningham said he knows of no one opposing the bill, but he would not predict its passage.

"People are cautious of creeping criminalism, where all things become criminal and the felony level is a huge deal. It is a serious charge," he said.

Anti-poaching tool

Jim Kropp, head of law enforcement for Fish, Wildlife & Parks, said SB100 dovetails with the state's "Enough is Enough" anti-poaching campaign launched last year just before hunting season.

"These people are selling our wildlife," Kropp said. "People are coming in here and stealing our biggest and best. They are not coming here to hunt doe whitetails or cow elk. They are coming here to take our trophy animals.

"The second thing is, a lot of it has to do with leasing private land so it is contributing to the loss of access for Montana sportsmen," he added.

Kropp said illegal outfitting needs to be a felony so that out-of-staters who are witnesses or suspects can be forced to come back to Montana for trial.

Cascade County Attorney Brant Light said he has never heard of a suspect in a misdemeanor case being extradited to Montana.

"You can subpoena them, but they don't have to honor it," Light said.

And therein lies the problem with the Oarsman case.

Game wardens built an extensive case — seven binders full of records and evidence — against Oarsman. They turned the case over to the Department of Justice, where it waits to be prosecuted.

Oarsman at one time was a licensed outfitter but he lost his license when he was convicted of felony drug possession.

Vinnedge says game wardens have identified 222 possible charges against Oarsman and have issued citations to six licensed outfitters and a guide who, they allege, were helping him out.

But Deputy Cascade County Attorney Josh Racki deferred prosecution against the Livingston outfitters, who agreed to pay fines to TipMont, another of the anti-poaching programs in Montana. Their payments ranged from $200 to $2,500.

"In order to defer the charges, I was essentially trying to take away economic incentive for doing this, Racki said.

He said Oarsman was the real criminal.

"He knew he didn't have a license and he was breaking the law," Racki said.

Wardens have ledgers and appointment books that indicate Oarsman made more than $120,000 for fishing seasons in 2005 and 2006, which amounts to six or seven months of work.

Then there are the tips. Vinnedge says he doesn't know how much Oarsman made in gratuities.

"But what would a guy who makes $26.4 million per year tip?" Vinnedge asks. Good question. Vinnedge says that is the reported income of one of the "friends" of Oarsman.

Wardens also cited seven or eight clients who refused to help build the case against Oarsman.

"The ones who provided us with information were not charged ... they didn't understand. But one guy told me to go to hell ...," Vinnedge said.

"Our goal was not to charge the clients. Our goal was to build an airtight case against the bad guy," Vinnedge said.

There are other problems with the case, Racki said.

"All of these clients were from out of state, which makes them hard to subpoena," Racki said. "(Oarsman) had an outfitters license but he lost it so the clients themselves may not have known that he was illegally outfitting. There is no statute holding a responsible for knowing wh someone is a licensed guide."

Kropp, head of law enforce for FWP, says that even if SI becomes law, the charges ag Oarsman will not be felc because the crimes all occu before the bill, Kropp said

Oarsman, however, could jail if he's formally charged convicted for violating the ter his probation on the drug cha

Vinnedge said he hates to refer to illegal outfitters as o ters because it is like referring poacher as a hunter.

"Legal outfitting is a vi industry. It brings millions of lars to our economy," Kropp "These people are a threat to

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The Poachers Package

Four pieces of legislation proposed for this year's legislative session by the Mor tana Game Wardens Association make up what is known as the Poachers Pa age:

- Senate Bill 100, outfitting without a license: Revises the law relating to outfitti to make illegal outfitting a felony. It defines outfitting, revises penalties and pr vides for additional sentencing conditions that may be applied for certain viol tions.
- SB 115, the restitution bill. This directs that all money collected by courts as restitution for the illegal killing or the possession of certain wildlife be creditec to FWP for Hunter Education classes and law enforcement.
- SB 205, vacancy savings for game wardens. This bill would exempt game wa den positions from imposition of vacancy savings when setting the Fish, Wild & Parks.
- HB 226, duplicate licenses: Prohibits the holder of a replacement hunting licer from letting another person use the license. It lets FWP set rules and regulatic for the issuance of replacement licenses.