

SENATE BILL NO. 24

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY SENATOR MCGUIRE

Introduced: 1/19/11

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Sport Fishing Guide Services Board and licensing
2 requirements for sport fishing guide-outfitters, sport fishing outfitters, sport fishing
3 assistant guides, and sport fishing transporters; making conforming amendments;
4 allowing the Department of Fish and Game to collect information on guiding services;
5 and providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
8 to read:

9 PURPOSE. The purpose of this Act is to promote the health, safety, and welfare of the
10 guided fish angler and the stability of the sport fish guide industry in the state by regulating
11 the activities of providers of sport fishing guide, outfitter, and transportation services.

12 * **Sec. 2.** AS 08.01.010 is amended by adding a new paragraph to read:

13 (39) Sport Fishing Guide Services Board (AS 08.57.010).

* **Sec. 3.** AS 08 is amended by adding a new chapter to read:

Chapter 57. Sport Fishing Guide-outfitters and Related Occupations.

Article 1. Sport Fishing Guide-outfitters, Outfitters, Assistant Guides, and Transporters.

Sec. 08.57.010. Creation and membership of board. (a) For the purposes of licensing and regulating the activities of providers of sport fishing guide, sport fishing outfitter, sport fishing assistant guide and sport fishing transportation services to persons engaging in sport fishing in the interest of the state's fisheries resources, the Sport Fishing Guide Services Board is created. For administrative purposes, the board is in the Department of Commerce, Community, and Economic Development.

(b) The board consists of nine members appointed by the governor and subject to confirmation by the legislature as follows:

(1) five members who are currently licensed sport fishing guide-outfitters or sport fishing outfitters under this chapter, representing both salt water and fresh water sport fishing guide-outfitters or sport fishing outfitters; at least three of the five members shall be currently licensed sport fishing guide-outfitters;

(2) one member who is a currently licensed sport fishing transporter under this chapter;

(3) one member of the Board of Fisheries;

(4) two public members who

(A) are familiar with the Alaska sport fishing industry;

(B) do not hold a current license issued under this chapter or a current commercial fishing license issued under AS 16; and

(C) are familiar with concerns of private landowners and access issues related to sport fishing activities under this chapter.

(c) The board members serve staggered three-year terms.

(d) Members of the board do not receive compensation, but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

Sec. 08.57.020. Board assistance. State agencies shall provide the board with information, data, or technical assistance requested by the board for the purposes of licensing and regulating the activities of providers of sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing transportation

1 services.

2 **Sec. 08.57.030. Duties and powers of board.** (a) The board shall

3 (1) prepare and grade

4 (A) a qualification examination, in written and oral form, for a
5 sport fishing guide-outfitter and sport fishing outfitter license that requires
6 demonstration that the applicant is qualified generally to provide sport fishing
7 guide-outfitter and sport fishing outfitter services, as appropriate, and, in
8 particular, possesses knowledge of fishing and sport fishing laws and
9 regulations; and

10 (B) a certification examination, in written and oral form, for
11 each sport fish guide use unit in which the sport fishing guide-outfitter or sport
12 fishing outfitter intends to provide services; the examination must require
13 demonstration that the applicant is qualified to provide sport fishing guide-
14 outfitter or sport fishing outfitter, as appropriate, in the sport fish guide use unit
15 for which the applicant seeks to be certified and, in particular, must require
16 demonstration that the applicant possesses knowledge of the terrain, water,
17 transportation problems, fish, and other characteristics of the sport fish guide
18 use unit;

19 (2) authorize the issuance of a sport fishing guide-outfitter, sport
20 fishing outfitter, sport fishing assistant guide, or sport fishing transporter license if the
21 applicant for the license satisfies the requirements for the license;

22 (3) impose appropriate disciplinary sanctions on a licensee under this
23 chapter;

24 (4) require an applicant for issuance or renewal of any class of license
25 issued under this chapter to state in a written and signed document whether the
26 applicant's right to obtain, or exercise the privileges granted by, a sport fishing guide-
27 outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing
28 transporter license is revoked or suspended in this state or another state or in Canada
29 or Mexico;

30 (5) regularly disseminate information regarding examinations and
31 other qualifications for all classes of licenses described in this chapter;

(6) adopt procedural and substantive regulations required by this chapter;

(7) provide for administration of examinations for sport fishing guide-outfitter and sport fishing outfitter licenses at least twice a year; and

(8) meet at least twice annually.

(b) The board may adopt regulations as the board considers appropriate to

(1) establish a code of ethics for professions regulated by the board;

(2) authorize the department to obtain a copy of a sport fishing guide-outfitter's logbooks or outfitter service records from the Department of Fish and Game that are required by AS 16.05.396;

(3) establish sport fish guide use units and registration requirements for sport fish guide use units;

(4) establish, as necessary for resource conservation purposes and to promote economic stability within the sport fish guide industry,

(A) the maximum number of licensees who may operate in a sport fish guide use unit; and

(B) a concessionaire program to achieve the maximum number of licensees in sport fish guide use units.

Article 2. Licensing and Certification.

Sec. 08.57.100. Eligibility for licenses. Notwithstanding AS 08.57.110 - 08.57.150, a person may not receive or renew a sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing transporter license if the person's right to obtain or exercise the privileges granted by a sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing transporter license or registration is suspended or revoked in this state or another state or in Canada or Mexico.

Sec. 08.57.110. Sport fishing guide-outfitter license. (a) On and after January 1, 2013, the department shall issue a biennial sport fishing guide-outfitter license to a natural person if the person

(1) is 18 years of age or older;

(2) is a citizen of the United States, Canada, or Mexico, or is a resident

1 alien;

2 (3) is certified in first aid and cardiopulmonary resuscitation by the
3 American Red Cross or a similar organization;

4 (4) holds a license to carry passengers for hire issued by the United
5 States Coast Guard if, in the provision of sport fishing guide services, the person
6 operates a vessel and the license is required by the United States Coast Guard for the
7 area in which the sport fishing guide-outfitter provides sport fishing guide services;

8 (5) holds a current sport fishing license from this state;

9 (6) has passed a qualification examination for a sport fishing guide-
10 outfitter license;

11 (7) has passed a certification examination prepared by the board for the
12 sport fish guide use unit or units in which the person operates;

13 (8) has been licensed as and performed the services of a sport fishing
14 assistant guide in the state for at least 20 days in each of three years and received a
15 favorable recommendation from at least one licensed sport fishing guide-outfitter;

16 (9) satisfies all additional requirements adopted in regulation by the
17 board;

18 (10) has applied for a sport fishing guide-outfitter license on a form
19 provided by the department and paid the license application fee and the sport fishing
20 guide-outfitter license fee.

21 (b) A person may not provide sport fishing guide-outfitter services unless the
22 person holds a current sport fishing guide-outfitter license.

23 (c) A sport fishing guide-outfitter may guide or outfit sport fishing activities
24 and may provide transportation services, personally or through a sport fishing assistant
25 guide, to clients of the sport fishing guide-outfitter.

26 (d) A person who is licensed as a sport fishing guide-outfitter may be
27 employed by another sport fishing guide-outfitter to perform the functions of a sport
28 fishing assistant guide and may operate as a sport fishing assistant guide.

29 (e) A sport fishing guide-outfitter may

30 (1) directly provide sport fishing guide-outfitter services to clients;

31 (2) directly supervise an assistant guide who provides sport fishing

1 assistant guide services to clients; or

2 (3) directly supervise a sport fishing guide-outfitter who is not certified
3 for the sport fish guide use unit in which the sport fishing guide-outfitter is operating.

4 (f) While engaged in providing sport fishing guide-outfitter services, a sport
5 fishing guide-outfitter shall have the following documents readily available for
6 inspection on request of a representative of the Department of Fish and Game or a
7 peace officer of the state:

8 (1) a current sport fishing guide-outfitter license;

9 (2) the current licenses, tags, permits, and reporting forms that are
10 required to engage in the sport fishery for which the sport fishing guide services are
11 being provided;

12 (3) a driver's license or similar identification card that is issued by a
13 state or federal agency and that bears a photograph of the sport fishing guide-outfitter.

14 (g) A master sport fishing guide-outfitter license authorizes a sport fishing
15 guide-outfitter to use the title master sport fishing guide-outfitter, but is, for all other
16 purposes under this chapter, a sport fishing guide-outfitter license. The department
17 shall issue a biennial, renewable master sport fishing guide-outfitter license to a
18 natural person if the person

19 (1) is, at the time of application for a master sport fishing guide-
20 outfitter license, currently licensed as a sport fishing guide-outfitter under this section;

21 (2) provides an affidavit certifying that the person has operated in the
22 state as a sport fishing guide-outfitter for at least 12 of the last 15 years, including the
23 year immediately preceding the year in which the person applies for a master sport
24 fishing guide-outfitter license;

25 (3) submits 10 letters from clients for whom the person has personally
26 provided sport fishing guiding or outfitting services that give the sport fishing guide-
27 outfitter favorable evaluations; and

28 (4) applies for a master sport fishing guide-outfitter license on a form
29 provided by the department and pays the application fee, if any.

30 **Sec. 08.57.120. Sport fishing outfitter license.** (a) On and after January 1,
31 2013, the department shall issue a biennial sport fishing outfitter license to a natural

1 person if the person

2 (1) is 18 years of age or older;

3 (2) is a citizen of the United States, Canada, or Mexico, or is a resident
4 alien;

5 (3) is certified in first aid and cardiopulmonary resuscitation by the
6 American Red Cross or a similar organization;

7 (4) holds a current sport fishing license from this state;

8 (5) has passed a qualification examination for a sport fishing outfitter
9 license;

10 (6) has passed a certification examination prepared by the board for the
11 sport fish guide use unit in which the person operates;

12 (7) satisfies all additional requirements adopted in regulation by the
13 board; and

14 (8) has applied for a sport fishing outfitter license on a form provided
15 by the department and paid the license application fee and the sport fishing outfitter
16 license fee.

17 (b) A person may not provide sport fishing outfitter services unless the person
18 holds a current sport fishing outfitter license.

19 (c) A sport fishing outfitter may not provide sport fishing guide-outfitter
20 services or transportation services, personally or through a sport fishing assistant
21 guide.

22 (d) A sport fishing outfitter may not be physically present with the client
23 during any portion of the sport fishing activities.

24 (e) A sport fishing outfitter shall provide an activity report on a form provided
25 by the Department of Fish and Game, which must contain all information the
26 Department of Fish and Game requires.

27 (f) While engaged in providing sport fishing outfitting services, a sport fishing
28 outfitter shall have the following documents readily available for inspection on request
29 of a representative of the Department of Fish and Game or a peace officer of the state:

30 (1) a current sport fishing outfitter license; and

31 (2) a driver's license or similar identification card that is issued by a

1 state or federal agency and that bears a photograph of the sport fishing outfitter.

2 **Sec. 08.57.130. Sport fishing assistant guide license.** (a) On and after
3 January 1, 2013, the department shall issue a biennial sport fishing assistant guide
4 license to a natural person if the person

5 (1) is 18 years of age or older;

6 (2) is a citizen of the United States, Canada, or Mexico, or is a resident
7 alien;

8 (3) is certified in first aid and cardiopulmonary resuscitation by the
9 American Red Cross or a similar organization;

10 (4) holds a license to carry passengers for hire issued by the United
11 States Coast Guard if, in the provision of sport fishing guide services, the person
12 operates a vessel and the license is required by the United States Coast Guard for the
13 area in which the sport fishing assistant guide provides sport fishing guide services;

14 (5) holds a current sport fishing license from this state;

15 (6) provides to the department a written employment agreement from a
16 currently licensed sport fishing guide-outfitter who employs the sport fishing assistant
17 guide or has passed a sport fishing assistant guide course approved by the board;

18 (7) satisfies all additional requirements adopted in regulation by the
19 board; and

20 (8) has applied for a sport fishing assistant guide license on a form
21 provided by the department and pays the license application fee and the license fee.

22 (b) A person may not provide sport fishing assistant guide services unless the
23 persons holds a current sport fishing assistant guide license.

24 (c) A sport fishing assistant guide may not participate in a guided sport fishing
25 activity unless under the supervision and employ of a currently licensed sport fishing
26 guide-outfitter.

27 (d) While providing sport fishing assistant guide services, a sport fishing
28 assistant guide shall have the following documents readily available for inspection on
29 request of a representative of the Department of Fish and Game or a peace officer of
30 the state:

31 (1) a current sport fishing assistant guide license;

(2) the current licenses, tags, permits, and reporting forms that are required to engage in the sport fishery for which the sport fishing assistant guide services are being provided;

(3) a driver's license or similar identification card that is issued by a state or federal agency and that bears a photograph of the sport fishing assistant guide; and

(4) proof of employment by a currently licensed sport fishing guide-outfitter.

Sec. 08.57.140. Sport fishing transporter license. (a) On and after January 1, 2013, the department shall issue a biennial sport fishing transporter license to a natural person if the person is a licensed big game transporter under AS 08.54.650 or

(1) applies for a sport fishing transporter license on a form provided by the department;

(2) pays the license application fee and the license fee; and

(3) satisfies all additional requirements adopted in regulation by the board.

(b) A person may not provide sport fishing transporter services and accommodations unless the person holds a current sport fishing transporter license.

(c) A sport fishing transporter

(1) may provide transportation services and accommodations to persons engaging in sport fishing in the field

(A) at a permanent lodge, house, or cabin owned by the transporter; or

(B) on a boat with permanent living quarters;

(2) may not provide sport fishing guide-outfitter, sport fishing outfitter, or sport fishing assistant guide services without holding the appropriate licenses.

(d) While providing transportation services, a sport fishing transporter shall have the following documents readily available for inspection:

(1) a current sport fishing transporter license;

(2) a driver's license or similar identification card that is issued by a state or federal agency and that bears a photograph of the sport fishing transporter.

1 (e) In this section, "field"

2 (1) means an area outside of established year-round dwellings,
3 businesses, or other developments associated with a city, town, or village;

4 (2) does not include permanent hotels or roadhouses on the state road
5 system or state or federally maintained airports.

6 **Sec. 08.57.150. Renewal of sport fishing guide-outfitter, sport fishing**
7 **outfitter, sport fishing assistant guide, and sport fishing transporter licenses. (a)**

8 An applicant for renewal of a sport fishing guide-outfitter, sport fishing outfitter, sport
9 fishing assistant guide, or sport fishing transporter license shall submit

10 (1) a request for renewal of the license on a form provided by the
11 department;

12 (2) an affidavit that all required logbooks and reports due during the
13 term of the prior license have been filed as required; and

14 (3) the appropriate license fees for the next licensing period.

15 (b) The department may not renew a sport fishing guide-outfitter, sport fishing
16 outfitter, sport fishing assistant guide, or sport fishing transporter license under this
17 section unless all fees have been paid in full.

18 (c) The department may not issue a license to a person who held a sport
19 fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport
20 fishing transporter license and who has failed to renew the license under this section
21 for four consecutive years unless the person again meets the qualifications for initial
22 issuance of the license under AS 08.57.110 - 08.57.140, as appropriate.

23 **Sec. 08.57.160. Financial responsibility and other requirements for sport**
24 **fishing guide-outfitters, sport fishing outfitters, and sport fishing transporters. (a)**

25 The department shall require satisfactory proof of sport fishing guide-outfitters, sport
26 fishing outfitters, and sport fishing transporters of a general liability insurance policy
27 or marine protection and indemnity insurance policy, covering the services provided
28 by the person and the person's employees to clients engaged in sport fishing that
29 provides coverage of at least \$100,000 for each incident, and \$300,000 for all
30 incidents in a year. The person shall maintain the insurance required by this subsection
31 for the duration of the license.

(b) If a sport fishing guide-outfitter or sport fishing assistant guide personally pilots an aircraft to transport clients during the provision of sport fishing activities, the sport fishing guide-outfitter or sport fishing assistant guide shall have a commercial pilot's rating or a minimum of 500 hours of flying time in the state.

Article 3. Enforcement.

Sec. 08.57.200. Discipline of a sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, and sport fishing transporter. (a) The board may impose a disciplinary sanction in a timely manner under (b) of this section and in accordance with AS 08.01.075 if the board finds that a licensee

(1) is convicted of a violation of a state or federal statute or regulation relating to sport fishing or to provision of sport fishing guide-outfitter, sport fishing assistant guide, sport fishing outfitter, or sport fishing transportation services;

(2) has failed to file records or reports required by law;

(3) has negligently misrepresented or omitted a material fact on an application for any class of sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing transporter license;

(4) has breached an agreement with a client to provide sport fishing guide-outfitter, sport fishing outfitter, or sport fishing transportation services to a client; or

(5) has failed to comply with limitations or conditions of the professional practice of the licensee.

(b) The board may impose the following disciplinary sanctions, singly or in combination:

(1) permanently revoke a license;

(2) suspend a license for a specified period;

(3) censure or reprimand a licensee;

(4) impose limitations or conditions on the professional practice of a licensee;

(5) impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of the licensee;

(6) impose probation requiring a licensee to report regularly to the

board on matters related to the grounds for probation;

(7) impose a civil fine not to exceed \$5,000.

(c) The board shall permanently revoke a license issued under this chapter if the board finds, after a hearing, that the license was obtained through fraud, deceit, or misrepresentation.

(d) A certified copy of a judgment of conviction of a licensee for an offense is conclusive evidence of the commission of that offense in a disciplinary proceeding instituted against the licensee under this section based on that conviction, regardless of whether the conviction resulted from a plea of nolo contendere or the conviction is under appeal, unless the conviction is overturned on appeal.

(e) A person whose license is suspended or revoked under this section may not engage in the provision of sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing transportation services during the period of license suspension or revocation.

(f) If the board revokes a license under this section, the person whose license has been revoked shall immediately surrender the license to the department.

(g) The board may, before a final hearing is held or during an appeal, summarily suspend a licensee from practice of a profession under this chapter for a period of not more than 30 days if the board finds that the licensee poses a clear and immediate danger to the public health and safety. A person is entitled to a hearing before the board to appeal a summary suspension within seven days after the order of suspension is issued. A person may appeal an adverse decision of the board on an appeal of summary suspension to a court of competent jurisdiction.

Sec. 08.57.210. Unlawful acts. (a) It is unlawful for a

(1) person who is licensed under this chapter to intentionally obstruct or hinder or attempt to obstruct or hinder lawful sport fishing engaged in by a person who is not a client of the person;

(2) sport fishing assistant guide to knowingly guide or outfit sport fishing activities except while employed and supervised by a sport fishing guide-outfitter;

(3) person who is licensed under this chapter to knowingly enter or

1 remain on private, state, or federal land unlawfully during the course of providing
 2 sport fishing guide-outfitter, sport fishing outfitting, sport fishing assistant guide, or
 3 sport fishing transportation services;

4 (4) sport fishing guide-outfitter to knowingly engage in providing sport
 5 fishing guide services outside of a sport fish guide use unit for which the sport fishing
 6 guide-outfitter is certified unless the registration requirement for the unit has been
 7 suspended by the board or unless the board has not adopted by regulation a
 8 registration requirement for a sport fish guide use unit;

9 (5) person to knowingly guide or outfit without having a current sport
 10 fishing guide-outfitter, sport fishing outfitter, or sport fishing assistant guide license
 11 and a valid Alaska sport fishing license in actual possession;

12 (6) person who is licensed under this chapter to

13 (A) commit or aid in the commission of a violation of this
 14 chapter, a regulation adopted under this chapter, or a state or federal sport
 15 fishing statute or regulation; or

16 (B) permit the licensee's client to commit a violation of a
 17 regulation adopted under this chapter or a state or federal sport fishing statute
 18 or regulation that the licensee knows or should know is being or will be
 19 committed without

20 (i) attempting to prevent it, short of using force; and

21 (ii) promptly reporting the violation to the Department
 22 of Public Safety by the most expeditious reasonable means available;

23 (7) person without a current sport fishing guide-outfitter license to
 24 knowingly guide or outfit or advertise as or represent to be a sport fishing guide-
 25 outfitter;

26 (8) person without a current master sport fishing guide-outfitter license
 27 to knowingly advertise as or represent to be a master sport fishing guide-outfitter;

28 (9) person without a current sport fishing outfitter license to knowingly
 29 outfit or advertise as or represent to be a sport fishing outfitter;

30 (10) person without a current sport fishing assistant guide license to
 31 knowingly provide sport fishing assistant guide services;

1 (11) person without a current sport fishing guide-outfitter or
 2 transporter license to knowingly provide sport fishing transportation services or
 3 advertise as or represent to be a sport fishing transporter;

4 (12) person to knowingly provide sport fishing guide-outfitter, sport
 5 fishing assistant guide, sport fishing outfitter, or sport fishing transportation services
 6 during the period for which the person's license to provide that service is suspended or
 7 revoked;

8 (13) person who is licensed as a sport fishing transporter, or who
 9 provides transportation services under a transporter license, to knowingly accompany
 10 or direct a client of the person in sport fishing activities except as necessary to perform
 11 the specific duties of transporting, embarking, or disembarking a client or clients, their
 12 equipment, or fish harvested by the client or clients.

13 (b) Except as provided in (c) - (e) of this section, in addition to disciplinary
 14 sanctions imposed under AS 08.57.200, a person who commits an offense set out in
 15 (a) of this section, is guilty of a class A misdemeanor.

16 (c) A person licensed as a sport fishing guide-outfitter who, without any
 17 culpable mental state, advertises as or represents to be a master sport fishing guide-
 18 outfitter is guilty of a violation.

19 (d) In addition to disciplinary sanctions imposed under AS 08.57.200, a
 20 person who, without any culpable mental state, violates AS 08.57.110(f) is guilty of a
 21 violation.

22 (e) In addition to disciplinary sanctions imposed under AS 08.57.200, a person
 23 who knowingly violates AS 08.57.110(f) is, for a

24 (1) first offense in a three-year period, guilty of a violation; and

25 (2) second or subsequent offense in a three-year period, guilty of a
 26 class B misdemeanor.

27 (f) In addition to any other penalty provided by law, a court may revoke a
 28 license issued under this chapter of a person who is convicted under this chapter, and
 29 equipment may be seized and forfeited in accordance with AS 16.05.190 and
 30 16.05.195.

31 **Sec. 08.57.220. Responsibility of sport fishing guide-outfitter, assistant**

guide, outfitter, or transporter for violations. A sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing transporter is equally responsible

(1) under AS 08.57.200 for a violation of this chapter, a regulation adopted under this chapter, or a state or federal sport fishing statute or regulation, committed by a person while in the course of the person's employment with the sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing transporter; or

(2) under AS 08.57.210 for a violation of this chapter, a regulation adopted under this chapter, or a state or federal sport fishing statute or regulation, committed by a person while in the course of the person's employment with the sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing transporter if the sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport fishing transporter expressly or impliedly authorizes an unlawful act.

Sec. 08.57.230. Sport fishing guide-outfitter, outfitter, and transporter records. (a) A person who holds a sport fishing guide-outfitter license issued under AS 08.57.110, a sport fishing outfitter license issued under AS 08.57.120, or a sport fishing transporter license issued under AS 08.57.140 shall comply with the reporting requirements of AS 16.05.396.

(b) A person who is required to complete a report under this section may not provide false information or omit material facts in a report.

(c) A person who is required to complete a report under this section may not be issued a license under AS 08.57.110 unless the Department of Fish and Game has received all reports required under AS 16.05.396 and this section.

Sec. 08.57.240. License and examination fees. (a) The Department of Fish and Game shall set fees under AS 08.01.065 for a

- (1) sport fishing guide-outfitter license;
- (2) sport fishing outfitter license;
- (3) sport fishing assistant guide license;
- (4) sport fishing transporter license;

1 (5) license application fee.

2 (b) In setting license fees, the Department of Fish and Game shall consider the
3 cost of reporting and reimburse the department for costs associated with reporting.

4 (c) The license fee for the sport fishing guide-outfitter, outfitter, or assistant
5 guide license is in addition to the fee required for a sport fishing license issued by the
6 Department of Fish and Game under AS 16.05.340.

7 (d) An applicant for a qualifying examination for a sport fishing guide-
8 outfitter license or outfitter license shall pay a fee established by regulations adopted
9 under AS 08.01.065.

10 (e) The fee for the sport fishing transporter license must be equal to the fee for
11 the sport fishing guide-outfitter.

12 (f) The amount of the license fee for a nonresident may not be less than two
13 times the amount of the license fee for a resident and may be increased by the board
14 by regulation.

15 **Article 4. General Provisions.**

16 **Sec. 08.57.490. Definitions.** In this chapter,

17 (1) "board" means the Sport Fishing Guide Services Board;

18 (2) "client" means a person who is a member of a fishing party that
19 engages or uses a person to provide sport fishing guide services and who is not a
20 licensed sport fishing guide-outfitter or sport fishing assistant guide;

21 (3) "compensation"

22 (A) means payment, remuneration, and other benefits received
23 in return for services;

24 (B) includes wages or other employment benefits given directly
25 or indirectly to an individual or organization, and any dues, payments, fees, or
26 other remuneration given directly or indirectly to a fishing club, business,
27 organization, or individual who provides sport fishing guide services;

28 (C) does not include reimbursement for the actual daily
29 expenses for fuel, food, or bait;

30 (4) "department" means the Department of Commerce, Community,
31 and Economic Development;

1 (5) "fish" means any species of aquatic finfish, invertebrate, or
2 amphibian, in any stage of its life cycle, found in or introduced into the state, and
3 includes any part of the aquatic finfish, invertebrate, or amphibian;

4 (6) "sport fishing" means the taking of or attempting to take for
5 personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by
6 hook and line held in the hand, or by hook and line with the line attached to a pole or
7 rod that is held in the hand or closely attended, or by other means defined by the
8 Board of Fisheries;

9 (7) "sport fishing guide services"

10 (A) means assistance, for compensation or with the intent to
11 receive compensation, to a person to take or to attempt to take fish by
12 accompanying or physically directing a person during sport fishing activities;

13 (B) does not include services provided by an assistant,
14 deckhand, or similar person who works directly under the supervision of and
15 on the same vessel as the sport fishing guide or sport fishing assistant guide;

16 (8) "sport fishing outfitter services" means the provision, for
17 compensation or with the intent to receive compensation, of vessels and sport fishing
18 equipment to one or more persons who use them for sport fishing activities if the
19 provider of the services does not direct or accompany, and is not present with, the
20 person or persons while the sport fishing activities are occurring; in this paragraph, the
21 provision of vessels and sport fishing equipment includes rentals, leases, or other
22 exchanges where transfer of ownership does not occur and the vessel or sport fishing
23 equipment is returned to the provider;

24 (9) "take" means taking, pursuing, fishing, or in any manner
25 disturbing, capturing, or killing or attempting to take, pursue, fish, or in any manner
26 capture or kill fish;

27 (10) "transportation services" means the carriage, for compensation or
28 with the intent to receive compensation, of persons engaged in sport fishing, their
29 equipment, or fish harvested to or from sport fishing activities and the advertising of
30 these services; "transportation services" does not include the carriage by aircraft of
31 persons engaged in sport fishing, their equipment, or fish harvested

(A) on nonstop flights between airports listed in the Alaska supplement to the Airmen's Guide published by the Federal Aviation Administration; or

(B) by an air taxi operator or air carrier for which the carriage of those persons, their equipment, or fish harvested is only an incidental portion of its business; in this subparagraph, "incidental" means transportation provided to those persons by an air taxi operator or air carrier who does not

(i) charge more than the usual tariff or charter rate for the carriage of those persons, their equipment, or fish harvested;

(ii) advertise transportation services or sport fishing activities to the public; in this sub-subparagraph, "advertise" means soliciting persons seeking to engage in sport fishing to be customers of an air taxi operator or air carrier for the purpose of providing air transportation for sport fishing activities through the use of print or electronic media, including advertising at trade shows, or the use of sport fishing broker services or other promotional services;

(11) "vessel" means a floating craft, powered, towed, rowed, or otherwise propelled, that is used for delivering, landing, or taking fish within the jurisdiction of the state.

* **Sec. 4.** AS 16.05.395 is amended to read:

Sec. 16.05.395. Sport fishing vessel registration. For calendar year 2005 and subsequent calendar years, a person may not use a vessel to provide sport fishing services under **AS 08.57** [AS 16.40.260 - 16.40.299] unless the vessel is registered with the department and proof of registration is attached to and clearly visible on the vessel while the vessel is used to provide sport fishing services. The department shall register vessels used to provide sport fishing services, and provide proof of registration, without charge. The department may adopt regulations as the department finds necessary to implement this section.

* **Sec. 5.** AS 16.05 is amended by adding new sections to read:

Sec. 16.05.396. Sport fishing guide-outfitter, sport fishing outfitter, and sport fishing transporter records; confidentiality of records and activity reports.

1 (a) The department may collect information from sport fishing guide-outfitters,
2 including

3 (1) the name and license number of each vessel that is used in
4 providing sport fishing guide services;

5 (2) the amount of fishing effort, catch, and harvest by clients of a sport
6 fishing guide-outfitter;

7 (3) the locations fished during the provision of sport fishing guide
8 services; and

9 (4) other information that the department requires by regulation.

10 (b) The department may collect information from sport fishing outfitters and
11 transporters.

12 (c) Information collected under this section is confidential to the extent
13 provided under AS 16.05.815 or AS 40.25.110.

14 (d) The department may adopt regulations under AS 44.62 (Administrative
15 Procedure Act) that it considers necessary to implement this section.

16 (e) The department shall make sport fishing log books received under this
17 section and activity reports received under AS 08.57.140 available for law
18 enforcement purposes to state agencies, federal law enforcement agencies, and other
19 law enforcement agencies on request.

20 (f) Forms, records, and reports required under this chapter may be distributed,
21 received, and stored electronically.

22 **Sec. 16.05.398. Sport fishing guide-outfitter, sport fishing outfitter, sport**
23 **fishing assistant guide, and sport fishing transporter fees.** The department shall
24 perform the duties prescribed in AS 08.57.240.

25 * **Sec. 6.** AS 25.27.244(s)(2) is amended to read:

26 (2) "license"

27 (A) means, except as provided in (B) of this paragraph, a
28 license, certificate, permit, registration, or other authorization that, at the time
29 of issuance, will be valid for more than 150 days and that may be acquired
30 from a state agency to perform an occupation, including the following:

31 (i) license relating to boxing or wrestling under

1 AS 05.10;
 2 (ii) authorization to perform an occupation regulated
 3 under AS 08;
 4 (iii) teacher certificate under AS 14.20;
 5 (iv) authorization under AS 18.08 to perform
 6 emergency medical services;
 7 (v) asbestos worker certification under AS 18.31;
 8 (vi) boiler operator's license under AS 18.60.395;
 9 (vii) certificate of fitness under AS 18.62;
 10 (viii) hazardous painting certification under AS 18.63;
 11 (ix) security guard license under AS 18.65.400 -
 12 18.65.490;
 13 (x) license relating to insurance under AS 21.27;
 14 (xi) employment agency permit under AS 23.15.330 -
 15 23.15.520;
 16 (xii) registration as a broker-dealer, an agent, a state
 17 investment adviser, or an investment adviser representative under
 18 AS 45.55.030;
 19 (xiii) certification as a pesticide applicator under
 20 AS 46.03.320;
 21 (xiv) certification as a storage tank worker or contractor
 22 under AS 46.03.375;
 23 (xv) certification as a water and wastewater works
 24 operator under AS 46.30;
 25 (xvi) commercial crewmember fishing license under
 26 AS 16.05.480 other than an entry permit or interim-use permit under
 27 AS 16.43;
 28 (xvii) fish transporter permit under AS 16.05.671;
 29 (xviii) sport fishing guide-outfitter license under
 30 AS 08.57.110 [OPERATOR LICENSE UNDER AS 16.40.260];
 31 (xix) sport fishing outfitter [GUIDE] license under

1 **AS 08.57.120** [AS 16.40.270];

2 (B) does not include

3 (i) a vessel license issued under AS 16.05.490 or
4 16.05.530;

5 (ii) [REPEALED

6 (iii)] a business license issued under AS 43.70;

7 **(iii)** [(iv)] an entry permit or interim-use permit issued
8 under AS 16.43; or

9 **(iv)** [(v)] a driver's license issued under AS 28.15;

10 * **Sec. 7.** AS 41.21.506(b) is amended to read:

11 (b) The commissioner shall adopt regulations under AS 44.62 (Administrative
12 Procedure Act) that are necessary to achieve the purposes of AS 41.21.500 - 41.21.514
13 and to implement the plan adopted under (a) of this section. The regulations must

14 (1) designate incompatible uses and prohibit or restrict them; and

15 (2) establish a registration, licensing, or comparable procedure for
16 professional fishing guides and such additional fishing guide controls as the
17 commissioner considers necessary; notwithstanding the requirements established by
18 the commissioner to implement this paragraph, the commissioner shall establish a
19 procedure by which the holder of a valid sport fishing **guide-outfitter** [OPERATOR]
20 license issued under **AS 08.57.110** [AS 16.40.260] may petition for, and the director
21 of the division of parks, or the director's designee, shall expeditiously issue, a waiver
22 to allow the sport fishing **guide-outfitter** [OPERATOR] license holder **access to the**
23 [TO USE THE SERVICES IN THE] Kenai River Special Management Area **for**
24 **guide-outfitter services even if the guide-outfitter** [OF A GUIDE LICENSED
25 UNDER AS 16.40.270 WHO] has not completed the procedures and additional
26 controls that are required by the department under this paragraph; the waiver
27 authorized in this paragraph applies only for the duration of the sport fishing season
28 during which the waiver application is submitted and only if the sport fishing operator
29 license holder

30 (A) employing the licensed guide has lost the services of a
31 licensed guide because of unforeseen circumstances; and

(B) is unable to hire as a replacement an available licensed guide who has satisfied all the requirements of this paragraph, including those required by regulation.

* **Sec. 8.** Section 8, ch. 70, SLA 2004, as amended by sec. 3, ch. 61, SLA 2009, and sec. 1, ch. 48, SLA 2010, is amended to read:

Sec. 8. AS 16.05.340(a)(26); AS 16.40.260, 16.40.270, 16.40.280, 16.40.290, 16.40.299 [; AS 25.27.244(s)(2)(A)(xviii), AND 25.27.244(s)(2)(A)(xix)] are repealed January 1, **2013** [2012].

* **Sec. 9.** Sections 22 and 31, ch. 58, SLA 2010, are repealed.

* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INITIAL APPOINTMENT OF MEMBERS OF THE SPORT FISHING GUIDE SERVICES BOARD. (a) Notwithstanding AS 08.57.010(c), added by sec. 3 of this Act, and AS 39.05.055, the governor shall appoint the initial members of the Sport Fishing Guide Services Board to serve terms as follows and shall designate the terms to be served by each person appointed:

- (1) three members serve for one year;
- (2) three members serve for two years; and
- (3) three members serve for three years.

(b) The governor shall appoint persons who are active, licensed registered guides under AS 16.40.260 - 16.40.299 at the time of appointment to fill the initial registered guide-outfitter positions on the Sport Fishing Guide Services Board.

* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICATIONS. The Sport Fishing Guide Services Board shall

- (1) accept applications for sport fishing guide-outfitter licenses, sport fishing outfitter licenses, sport fishing assistant guide licenses, and sport fishing transporter licenses, and be available to administer, not later than April 1, 2012, the required examinations and certification under AS 08.57.030(a)(1), as added by sec. 3 of this Act; and
- (2) issue, effective January 1, 2013, to those applicants under (1) of this section who satisfy all requirements for a particular license a valid sport fishing guide-

1 outfitter license, sport fishing outfitter license, sport fishing assistant guide license, or sport
2 fishing transporter license.

3 * **Sec. 12.** Section 32, ch. 58, SLA 2010, is repealed.

4 * **Sec. 13.** Sections 8, 9, and 12 of this Act take effect January 1, 2013.

5 * **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect January 1, 2012.