

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 2, 2012

1:05 p.m.

MEMBERS PRESENT

Representative Steve Thompson, Vice Chair
Representative Wes Keller
Representative Bob Lynn
Representative Lance Pruitt
Representative Max Gruenberg
Representative Lindsey Holmes
Representative Mike Hawker (alternate)

MEMBERS ABSENT

Representative Carl Gatto, Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 229

"An Act relating to activities, including violations and penalties, under the supervision of the Big Game Commercial Services Board."

- MOVED CSHB 229(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 229

SHORT TITLE: BIG GAME COMMERCIAL SERVICES BOARD

SPONSOR(S): REPRESENTATIVE(S) FEIGE

04/06/11	(H)	READ THE FIRST TIME - REFERRALS
04/06/11	(H)	RES, JUD
04/08/11	(H)	RES AT 1:00 PM BARNES 124
04/08/11	(H)	Heard & Held
04/08/11	(H)	MINUTE(RES)
02/15/12	(H)	RES AT 1:00 PM BARNES 124
02/15/12	(H)	Heard & Held
02/15/12	(H)	MINUTE(RES)
02/17/12	(H)	RES AT 1:00 PM BARNES 124
02/17/12	(H)	Moved CSHB 229(RES) Out of Committee
02/17/12	(H)	MINUTE(RES)
02/20/12	(H)	RES RPT CS(RES) NT 6DP 2NR 1AM

02/20/12 (H) DP: MUNOZ, FOSTER, DICK, P.WILSON,
SEATON, FEIGE
02/20/12 (H) NR: GARDNER, HERRON
02/20/12 (H) AM: KAWASAKI
03/02/12 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

MICHAEL PASCHALL, Staff
Representative Eric Feige
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 229 on behalf of the sponsor,
Representative Feige.

PAUL E. JOHNSON, Chair
Big Game Commercial Services Board
Department of Commerce, Community & Economic Development (DCCED)
Elfin Cove, Alaska

POSITION STATEMENT: Testified in support of HB 229, and
responded to questions.

KEVEN SAXBY, Senior Assistant Attorney General
Natural Resources Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Responded to questions during discussion of
HB 229.

ALPHEUS BULLARD, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency (LAA)
Juneau, Alaska

POSITION STATEMENT: As the drafter, responded to questions
during discussion of HB 229.

WAYNE KUBAT
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 229.

ACTION NARRATIVE

[1:05:02 PM](#)

VICE CHAIR STEVE THOMPSON called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Thompson, Gruenberg, Holmes, Lynn, Keller, and Hawker (alternate) were present at the call to order. Representative Pruitt arrived as the meeting was in progress. Representative Gatto was excused.

HB 229 - BIG GAME COMMERCIAL SERVICES BOARD

[1:05:41 PM](#)

VICE CHAIR THOMPSON announced that the only order of business would be HOUSE BILL NO. 229, "An Act relating to activities, including violations and penalties, under the supervision of the Big Game Commercial Services Board." [Before the committee was CSHB 229(RES).]

The committee took an at-ease from 1:06 p.m. to 1:09 p.m.

[1:09:02 PM](#)

MICHAEL PASCHALL, Staff, Representative Eric Feige, Alaska State Legislature, on behalf of the sponsor, Representative Feige, explained that HB 229 was developed at the request of the Big Game Commercial Services Board ("the Board"), and is intended to address problems the Board has found with the statutes pertaining to licensure of big-game guides. Section 1 of HB 229 would provide the Board with the authority to promulgate necessary regulations - not just statutorily-required regulations - for big-game guides, thereby addressing a concern that existing statute doesn't already provide that authority. Section 2 would establish licensure for retired master guide-outfitters, specifying, however, that any such licensees may not then guide or outfit under such licenses. Section 3 would specify that a registered guide-outfitter may be employed by another registered guide-outfitter to provide the services of a class-A assistant guide in any game management unit.

MR. PASCHALL explained that Section 4 would specify that a registered guide-outfitter who contracts for a guided hunt shall be in the field supervising, participating in, and conducting the hunt, unless [the board adopts regulations that would allow] his/her employed [registered guide-outfitter or] class-A assistant guide to conduct that hunt. Section 5 would authorize the Board to suspend or revoke licensure of those found to be engaged in conduct involving unprofessionalism, moral turpitude, or gross immorality; this provision was included at the request

of the Board because currently it has no disciplinary authority over its licensees.

REPRESENTATIVE GRUENBERG questioned whether the terms, "unprofessionalism", "moral turpitude", and "gross immorality" as used in Section 5 were defined.

MR. PASCHALL declined to speculate. Continuing on with his explanation of HB 229, he indicated that Section 6 would make the suspension of a license for violating [AS 08.54.720(a)(8)] discretionary - currently such suspension is mandatory; [AS 08.54.720(a)(8) specifies that it's unlawful to knowingly commit, knowingly aid in the commission of, or knowingly permit the commission of a violation of AS 08.54, of regulations adopted under AS 08.54, or of state/federal wildlife/game statutes/regulations]. Section 7 would authorize the department to collect fees related to Section 2's proposed new retired-status master guide-outfitter license. Section 8 would specify that as used in AS 08.54, the phrase, "any class of guide license" does not include a retired-status master guide-outfitter license, and that the term, "licensee" does not mean a holder of such a license. Mr. Paschall offered his understanding that Section 8 would ensure that such licensees do not actually guide.

MR. PASCHALL, in response to a question, indicated that the sponsor is amenable to forthcoming amendments included in members' packets.

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PAUL E. JOHNSON, Chair, Big Game Commercial Services Board, Department of Commerce, Community & Economic Development (DCCED) - after mentioning that he is licensed as a registered guide-outfitter, and providing information about the Board's current makeup - stated that he is very much in support of HB 229, which is intended to alleviate problems the Board has encountered with current statute. He offered his understanding that the statutes pertaining to most other boards already include a provision similar to that being proposed by Section 5 regarding conduct involving unprofessionalism, moral turpitude, or gross immorality; and that several other boards provide for retired-status licenses. In response to a question, he indicated that the change proposed by Section 6 is necessary to address a problem.

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KEVEN SAXBY, Senior Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law (DOL), in response to questions - after mentioning that he provides legal advice to the Big Game Commercial Services Board - explained that should Section 5 of HB 229 become law, it might be necessary for the Board to promulgate regulations defining the terms, "unprofessionalism", "moral turpitude", and "gross immorality" as used therein; that the Board already has the statutory authority to promulgate such regulations; and that those terms are common to other statutes regulating professional licensees, and thus there is probably case law on point.

[1:32:57 PM](#)

ALPHEUS BULLARD, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), acknowledging that those terms aren't currently defined in either the statutes or the regulations pertaining to [big-game guides and related occupations], opined that such a lack won't impede the Board in adopting definitions for those terms, additionally surmising that any such existing regulatory definitions related to other professions probably aren't applicable to the Big Game Commercial Services Board.

MR. SAXBY, in response to another question, assured the committee that the DOL would be able to defend Section 5 should it engender litigation.

[1:38:21 PM](#)

WAYNE KUBAT, after mentioning that he is licensed as a registered master guide/outfitter, said he supports HB 229, but has not yet had time to review all of the changes incorporated into CSHB 229(RES). Of primary concern to him, he relayed, is that industry be able to understand what's required of it, but current statutory language makes doing so difficult.

VICE CHAIR THOMPSON ascertained that no one else wished to testify, and noted that members' packets contain several possible amendments.

[1:41:38 PM](#)

REPRESENTATIVE HOLMES made a motion to adopt Amendment 1, labeled 27-LS0764\D.3, Bullard, 3/1/12, which read:

Page 1, lines 3 - 4:

Delete "**master guide-outfitter license**"

Insert "**license for certain retired guides and outfitters**"

Page 2, lines 3 - 12:

Delete all material and insert:

"**Sec. 08.54.608. Retired status license.** (a) On retiring from guiding or outfitting, or both, and on payment of an appropriate one-time fee, an individual who has held a license issued under AS 08.54.610, 08.54.620, or 08.54.630 that has not been suspended or revoked under AS 08.54.710 may apply for a retired status license. The retired status license shall indicate whether the individual was licensed as a master guide-outfitter, registered guide-outfitter, class-A assistant guide, or assistant guide. An individual holding a retired status license may not guide, outfit, or take charge of a camp in the state under the retired status license. A retired status license is valid for the life of the license holder and does not require renewal.

(b) An individual with a retired status license issued under (a) of this section may apply for a new registered guide-outfitter license under AS 08.54.610, a new class-A assistant guide license under AS 08.54.620, or a new assistant guide license under AS 08.54.630."

Page 3, line 28:

Delete "**master guide-outfitter**"

Page 4, line 1:

Delete "master guide-outfitter license"

Insert "license issued under AS 08.54.608"

Page 4, line 3:

Delete "master guide-outfitter"

VICE CHAIR THOMPSON objected for the purpose of discussion.

REPRESENTATIVE HOLMES explained that Amendment 1 would alter Section 2 of the bill so as to provide retired-status licenses for all levels of guide and guide-outfitter.

VICE CHAIR THOMPSON closed public testimony on HB 229.

VICE CHAIR THOMPSON removed his objection, and, upon ascertaining that there were no further objections, announced that Amendment 1 was adopted.

VICE CHAIR THOMPSON observed that Amendment 2, labeled 27-LS0764\D.5, Bullard, 3/2/12, proposes a similar change to Section 2 of HB 229; Amendment 2 read:

Page 1, line 3:

Delete "**master**"

Page 2, lines 3 - 12:

Delete all material and insert:

"Sec. 08.54.608. Retired status license. (a) On retiring from guiding or outfitting, or both, and on payment of an appropriate one-time fee, an individual who has held a license issued under AS 08.54.610 that has not been suspended or revoked under AS 08.54.710 may apply for a retired status license. The retired status license shall indicate whether the individual was licensed as a master guide-outfitter or as a registered guide-outfitter. An individual holding a retired status license may not guide or outfit in the state under the retired status license. A retired status license is valid for the life of the license holder and does not require renewal.

(b) An individual with a retired status license issued under (a) of this section may apply for a new registered guide-outfitter license under AS 08.54.610."

Page 3, line 28:

Delete "**master guide-outfitter**"

Page 4, line 1:

Delete "master guide-outfitter license"

Insert "license issued under AS 08.54.608"

Page 4, line 3:

Delete "master guide-outfitter"

REPRESENTATIVE KELLER explained that he would not be offering Amendment 2 because Amendment 1 had already been adopted.

[1:43:17 PM](#)

REPRESENTATIVE HOLMES made a motion to adopt Amendment 3, labeled 27-LS0764\D.2, which read:

Page 2, line 16:

Delete "a class-A"

Insert "[sic]

(1) a class-A assistant guide in a game management unit if the registered guide-outfitter providing the services of a class-A assistant guide is able to demonstrate, to the satisfaction of the board, adequate knowledge of and experience in the game management unit; and

(2) an"

VICE CHAIR THOMPSON objected for the purpose of discussion.

REPRESENTATIVE HOLMES explained that Amendment 3 would alter Section 3 of the bill so as to specify that a [registered guide-outfitter] may be employed by another registered guide-outfitter to provide the services of a class-A assistant guide in a game management unit that he/she has demonstrably-adequate knowledge of and experience in, [or to provide the services of an assistant guide in any game management unit]; specifically, under Amendment 3, in order to serve as a class-A assistant guide, the employed [registered guide-outfitter] would be required to demonstrate his/her adequate knowledge and experience to the Board's satisfaction. She offered her understanding that Amendment 3 is intended to provide the Board with broad discretion to determine what constitutes adequate knowledge and experience.

MR. JOHNSON indicated that the Board would be amenable to the change proposed by Amendment 3.

VICE CHAIR THOMPSON removed his objection to the adoption of Amendment 3, and noted that there were no further objections. [Although nothing further was stated, the committee treated Amendment 3 as having been adopted.]

[1:45:33 PM](#)

REPRESENTATIVE HOLMES made a motion to adopt Amendment 4, labeled 27-LS0764\D.4, Bullard, 3/1/12, which read:

Page 2, lines 20 - 28:

Delete all material and insert:

"* **Sec. 4.** AS 08.54.610(e) is amended to read:

(e) A registered guide-outfitter who contracts for a guided hunt shall be

[(1) PHYSICALLY PRESENT IN THE FIELD WITH THE CLIENT AT LEAST ONCE DURING THE CONTRACTED HUNT; AND

(2)] in the field supervising and participating in the contracted hunt. The contracting registered guide-outfitter shall also conduct the hunt, unless the hunt, under regulations adopted by the board, is being conducted by a class-A assistant guide or a registered guide-outfitter employed by the contracting registered guide-outfitter."

VICE CHAIR THOMPSON objected for the purpose of discussion.

REPRESENTATIVE HOLMES first made a motion to amend Amendment 4 such that the word, "primarily" would be added after the words, "shall be" and before the retained words, "in the field". There being no objection, Amendment 4 was so amended.

REPRESENTATIVE HOLMES then ventured that Amendment 4, as amended, would provide clarifying language for Section 4 of the bill, specifically with regard to what the referenced regulations adopted by the board shall pertain to. She added that the amendment to Amendment 4 addresses situations in which the [contracting registered guide-outfitter] must temporarily absent himself/herself from the field.

MR. JOHNSON concurred that Amendment 4, as amended, would provide clarity. He indicated, though, that the Board would need time to promulgate Section 4's referenced regulations.

REPRESENTATIVE HOLMES offered her understanding that an amendment would be forthcoming to address that issue.

VICE CHAIR THOMPSON removed his objection, ascertained that there were no further objections, and announced that Amendment 4, as amended, was adopted.

[1:48:54 PM](#)

VICE CHAIR THOMPSON made a motion to adopt Conceptual Amendment 5, to provide - by adding a Section 9 to CSHB 229(RES) - an effective date of April 1, 2013.

REPRESENTATIVE HOLMES objected for the purpose of discussion, and asked whether the proposed effective date would apply to the entire bill or just to a specific section of the bill.

VICE CHAIR THOMPSON said he assumes it would apply to the entire bill. He questioned whether that would create a problem.

MR. JOHNSON said it wouldn't create a problem, but he would prefer that [such a delayed effective date] not apply to the entire bill.

The committee took an at-ease from 1:50 p.m. to 1:52 p.m.

REPRESENTATIVE HOLMES removed her objection to the motion.

VICE CHAIR THOMPSON withdrew Conceptual Amendment 5.

[1:53:01 PM](#)

VICE CHAIR THOMPSON made a motion to adopt Conceptual Amendment 6, to provide - by adding a Section 9 and a Section 10 to CSHB 229(RES) - an effective date of April 1, 2013, for Sections 3, 4, and 5, and an immediate effective date for all other sections of HB 229, respectively.

REPRESENTATIVE HOLMES objected for the purpose of discussion.

MR. JOHNSON characterized Conceptual Amendment 6 as workable and helpful.

REPRESENTATIVE HOLMES removed her objection.

REPRESENTATIVE GRUENBERG noted that an amendment in members' packets labeled 27-LS0764\D.1, Bullard, 2/29/12, provides for a similar change and includes language conforming the title; that amendment read:

Page 1, line 3:
Delete "**and**"

Page 1, line 4, following "**license**":
Insert "**; and providing for an effective date**"

Page 4, following line 3:
Insert new bill sections to read:
"*** Sec. 9.** Section 4 of this Act takes effect July 1, 2013.
*** Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

REPRESENTATIVE HOLMES remarked that Conceptual Amendment 6 should also make conforming changes to the title.

VICE CHAIR THOMPSON acknowledged that point.

REPRESENTATIVE HOLMES again removed her objection.

VICE CHAIR THOMPSON ascertained that there were no further objections to the motion, and announced that Conceptual Amendment 6 was adopted.

MR. PASCHALL, in response to a question, reiterated that the sponsor is amenable to the amendments.

REPRESENTATIVE HOLMES and KELLER characterized HB 299 as a good bill.

[1:56:24 PM](#)

REPRESENTATIVE KELLER moved to report CSHB 229(RES), as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 229(JUD) was reported from the House Judiciary Standing Committee.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:57 p.m.