

SENATE BILL NO. 79

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY SENATOR MEYER

Introduced: 3/13/13

Referred: Labor and Commerce, 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 providing for an effective date by repealing the effective date of sec. 32, ch. 58, SLA
6 2010; and providing for an effective date."

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

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

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

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

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

* **Sec. 3.** AS 08.03.010(c) is amended by adding a new paragraph to read:

(22) Sport Fishing Guide Services Board (AS 08.57.010) - June 30, 2019.

* **Sec. 4.** 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) The Sport Fishing

Guide Services Board is created. For administrative purposes, the board is created in the Department of Commerce, Community, and Economic Development.

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

(1) five members who are currently licensed guide-outfitters or outfitters under this chapter, at least three of whom shall be currently licensed guide-outfitters; the five members must include both salt water and fresh water guide-outfitters or 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, or have not held, a license issued under this chapter or a 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 governor shall appoint the members under (b) of this section to give the board a reasonable geographic balance among regions of the state.

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

(e) 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.

1 **Sec. 08.57.020. Board assistance.** (a) State agencies shall provide the board
 2 with information, data, or technical assistance requested by the board for the purposes
 3 of licensing and regulating the activities of providers of sport fishing guide-outfitter,
 4 outfitter, assistant guide, or transportation services.

5 (b) The board shall provide to the Department of Fish and Game the name and
 6 license number and license status of each person licensed under AS 08.57.

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

8 (1) prepare and grade

9 (A) a written qualification examination for a sport fishing
 10 guide-outfitter license and a written qualification examination for a sport
 11 fishing outfitter license that requires that the applicant demonstrate general
 12 qualifications appropriate to providing guide-outfitter or outfitter services and
 13 particular knowledge of fishing and sport fishing laws and regulations;

14 (B) a written certification examination for each guide use area
 15 in which the guide-outfitter or outfitter intends to provide services; the
 16 examination must require that the applicant demonstrate the qualifications
 17 appropriate to providing guide-outfitter or outfitter services in the guide use
 18 area for which the applicant seeks to be certified and, in particular, must
 19 require that the applicant demonstrate knowledge of the terrain, water,
 20 transportation problems, fish, and other characteristics of the guide use area;
 21 and

22 (C) an electronic version of the examinations under (A) and (B)
 23 of this paragraph that the board offers in a manner accessible to the public;

24 (2) authorize the issuance of a sport fishing guide-outfitter license,
 25 sport fishing outfitter license, sport fishing assistant guide license, or sport fishing
 26 transporter license if the applicant for the license satisfies the requirements for the
 27 license;

28 (3) certify a guide-outfitter or outfitter to provide guide-outfitter or
 29 outfitter services in a guide use area for which the guide-outfitter or outfitter has
 30 passed an examination under (a)(1)(B) of this section;

31 (4) impose appropriate disciplinary sanctions on a licensee under this

chapter;

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

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

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

(8) administer examinations for guide-outfitter and outfitter licenses at least twice a year, both in person and electronically;

(9) meet at least twice annually;

(10) report to the governor and the legislature on the effect of sport fishing on the state's economy and make recommendations to mitigate constraints, including those of the government, on sport fishing and the sport fishing industry;

(11) during the first 10 days of the regular legislative session, make an annual report of the board's recommendations to the governor and notify the legislature that the report is available; and

(12) maintain the confidentiality of information collected by the Department of Fish and Game and provided to the board under AS 16.05.396(c), unless the information is used by the board in a proceeding against a licensee under this chapter.

(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) establish guide use areas and registration requirements for guide use areas;

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

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

(B) a guide concession program to regulate the maximum number of licensees in sport fish guide use areas.

Article 2. Licensing and Certification.

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

Sec. 08.57.110. Sport fishing guide-outfitter license. (a) 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 alien;

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

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

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

(6) has passed the qualification examination under AS 08.57.030 for a sport fishing guide-outfitter license;

(7) has passed a certification examination prepared by the board for each guide use area or unit in which the person operates;

(8) meets one of the following criteria:

(A) has been licensed and has performed services as a guide-outfitter or assistant guide in the state for at least 20 days in each of any three years under this chapter or former AS 16.40.260 or 16.40.270;

(B) has performed the services of an assistant guide in a

manner the board determines has directly contributed to the person's experience and competency to practice as a guide-outfitter; or

(C) has been licensed and has performed services as a big game guide-outfitter, class-A assistant guide, or assistant guide under AS 08.54 for at least 20 days in each of any three years in a manner the board determines has directly contributed to the person's experience and competence to practice as a guide-outfitter;

(9) has been favorably recommended by at least one person licensed under this section or former AS 16.40.260 or 16.40.270;

(10) satisfies all additional requirements adopted in regulation by the board; and

(11) has applied for a guide-outfitter license on a form provided by the department and paid the license application fee and the guide-outfitter license fee.

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

(c) A guide-outfitter may

(1) be employed by another guide-outfitter to perform the functions of an assistant guide;

(2) provide transportation or guide services to clients, either directly or through an assistant guide; and

(3) provide outfitter services.

(d) A guide-outfitter shall

(1) supervise an assistant guide on a day on which the assistant guide provides guide services to clients of the guide-outfitter;

(2) supervise a guide-outfitter employed as an assistant guide on a day on which the employed guide-outfitter provides services outside of a guide use area for which the employed guide-outfitter is certified under AS 08.57.030(a)(3);

(3) be physically present in the state on a day on which an assistant guide, or guide-outfitter employed as an assistant guide, provides guide services to clients of the guide-outfitter; and

(4) when providing guide services, have the following documents

1 readily available for inspection on the request of a representative of the Department of
2 Fish and Game or a peace officer of the state:

3 (A) a current sport fishing guide-outfitter license;

4 (B) the current licenses, tags, permits, and reporting forms
5 required to engage in the sport fishery in which the guide services are being
6 provided;

7 (C) proof of certification under AS 08.57.030(a)(3) for the
8 guide-outfitter to directly, or through an assistant guide, provide guide services
9 in the guide use area in which the guide-outfitter or assistant guide employed
10 by the guide-outfitter is operating; and

11 (D) a driver's license or similar identification card issued by a
12 state or federal agency that bears a photograph of the guide-outfitter.

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

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

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

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

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

28 **Sec. 08.57.120. Sport fishing outfitter license.** (a) The department shall issue
29 a biennial sport fishing outfitter license to a natural person if the person

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

31 (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 current sport fishing license from this state;

5 (5) has passed a qualification examination for a outfitter license;

6 (6) has passed a certification examination prepared by the board for the
7 guide use area in which the person intends to operate;

8 (7) satisfies all additional requirements adopted in regulation by the
9 board; and

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

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

14 (c) An outfitter may not provide guide-outfitter services or transportation
15 services, personally or through an assistant guide.

16 (d) An outfitter may not be physically present with the client during any
17 portion of the sport fishing activities.

18 (e) An outfitter shall provide an activity report on a form provided by the
19 Department of Fish and Game, which must contain all information the Department of
20 Fish and Game requires.

21 (f) When providing outfitting services, an outfitter shall have the following
22 documents readily available for inspection on request of a representative of the
23 Department of Fish and Game or a peace officer of the state:

24 (1) a current outfitter license;

25 (2) proof of certification under AS 08.57.030(a)(3) for the outfitter to
26 provide outfitter services in the guide use area in which the outfitter is operating; and

27 (3) a driver's license or similar identification card issued by a state or
28 federal agency that bears a photograph of the outfitter.

29 **Sec. 08.57.130. Sport fishing assistant guide license.** (a) The department
30 shall issue a biennial sport fishing assistant guide license to a natural person if the
31 person

- 1 (1) is 16 years of age or older;
- 2 (2) is a citizen of the United States, Canada, or Mexico, or is a resident
- 3 alien;
- 4 (3) is certified in first aid and cardiopulmonary resuscitation by the
- 5 American Red Cross or a similar organization;
- 6 (4) holds a license to carry passengers for hire issued by the United
- 7 States Coast Guard if, in the provision of sport fishing guide services, the person
- 8 operates a vessel and the license is required by the United States Coast Guard for the
- 9 guide use area in which the assistant guide provides guide services;
- 10 (5) holds a current sport fishing license from this state;
- 11 (6) provides to the department
 - 12 (A) a written employment agreement from a currently licensed
 - 13 guide-outfitter who employs and supervises the assistant guide; or
 - 14 (B) proof that the person has passed a sport fishing assistant
 - 15 guide course approved by the board;
- 16 (7) satisfies all additional requirements adopted in regulation by the
- 17 board; and
- 18 (8) has applied for a sport fishing assistant guide license on a form
- 19 provided by the department and pays the license application fee and the license fee.
- 20 (b) Except as provided by AS 08.57.110(c), a person may not provide sport
- 21 fishing assistant guide services unless the person holds a current assistant guide
- 22 license.
- 23 (c) A sport fishing assistant guide may not participate in a guided sport fishing
- 24 activity unless under the supervision and employ of a currently licensed guide-
- 25 outfitter.
- 26 (d) When providing assistant guide services, an assistant guide shall have the
- 27 following documents readily available for inspection on request of a representative of
- 28 the Department of Fish and Game or a peace officer of the state:
 - 29 (1) a current assistant guide license;
 - 30 (2) the current licenses, tags, permits, and reporting forms that are
 - 31 required to engage in the sport fishery for which the 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 assistant guide; and

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

Sec. 08.57.140. Sport fishing transporter license. (a) The department shall issue a biennial sport fishing transporter license to a natural person if the person

(1) applies for a 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 transportation services unless the person holds a current transporter license.

(c) A transporter

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

(A) a permanent lodge, house, or cabin;

(B) a vessel with permanent living quarters; or

(C) an aircraft;

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

(d) When providing transportation services, a 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 transporter.

(e) In this section, "field" has the meaning given in AS 08.54.790.

Sec. 08.57.150. Renewal of sport fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, and sport fishing transporter licenses. (a) An applicant for renewal of a sport fishing guide-outfitter, sport fishing outfitter, sport

1 fishing assistant guide, or sport fishing transporter license shall submit

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

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

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

7 (b) The department may not renew the license of a person who held a sport
8 fishing guide-outfitter, sport fishing outfitter, sport fishing assistant guide, or sport
9 fishing transporter license under this chapter unless

10 (1) all fees have been paid in full; and

11 (2) the applicant provides evidence of continued professional
12 competence as required by the board.

13 **Sec. 08.57.160. Financial responsibility and other requirements for sport**
14 **fishing guide-outfitters, outfitters, and transporters.** The department shall require
15 satisfactory proof of guide-outfitters, outfitters, and transporters of a general liability
16 insurance policy or marine protection and indemnity insurance policy, covering the
17 services provided by the person and the person's employees to clients engaged in sport
18 fishing that provides coverage of at least \$100,000 for each incident and \$300,000 for
19 all incidents in a year. The person shall maintain the insurance required by this section
20 for the duration of the license.

21 **Article 3. Enforcement.**

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

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

29 (2) has failed to file records or reports required by law or has provided
30 false information or omitted material facts in a record or report required by law;

31 (3) has negligently misrepresented or omitted a material fact on an

1 application for any class of sport fishing guide-outfitter, sport fishing outfitter, sport
2 fishing assistant guide, or sport fishing transporter license;

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

6 (5) has failed to comply with limitations or conditions on the
7 professional practice of the licensee established by this chapter or a regulation adopted
8 by the board under this chapter.

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

11 (1) permanently revoke a license;

12 (2) suspend a license for a specified period;

13 (3) censure or reprimand a licensee;

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

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

18 (6) impose probation requiring a licensee to report regularly to the
19 board on matters related to the grounds for probation;

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

21 (c) If the board imposes a disciplinary sanction under (b) of this section, the
22 board may notify the applicable state and federal agencies.

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

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

31 (f) A person whose license is suspended or revoked under this section may not

1 provide guide-outfitter, outfitter, assistant guide, or transportation services during the
2 period of license suspension or revocation.

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

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

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

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

16 (2) an assistant guide to knowingly guide or outfit sport fishing
17 activities unless the assistant guide is employed and supervised by a guide-outfitter,
18 except as provided in (c) of this section;

19 (3) a person who is licensed under this chapter to knowingly enter or
20 remain on private, state, or federal land unlawfully during the course of providing
21 guide-outfitter, outfitting, assistant guide, or transportation services;

22 (4) a guide-outfitter to knowingly engage in providing sport fishing
23 guide services outside of a guide use area for which the guide-outfitter is certified
24 unless the registration requirement for the guide use area has been suspended by the
25 board or unless the board has not adopted by regulation a registration requirement for
26 a guide use area;

27 (5) a person who is licensed under this chapter to

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

31 (B) permit the licensee's client to commit a violation of a

1 regulation adopted under this chapter or a state or federal sport fishing statute
 2 or regulation that the licensee knows or should know is being or will be
 3 committed without

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

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

7 (6) a person without a current guide-outfitter license to knowingly
 8 profess to be, or use the title of, guide-outfitter;

9 (7) a person without a current master sport fishing guide-outfitter
 10 license to knowingly profess to be, or use the title of, master sport fishing guide-
 11 outfitter;

12 (8) a person without a current sport fishing outfitter license to
 13 knowingly outfit or advertise as or represent to be a outfitter;

14 (9) a person without a current sport fishing assistant guide license to
 15 knowingly provide assistant guide services;

16 (10) a person without a current sport fishing guide-outfitter or
 17 transporter license to knowingly provide transportation services or advertise as or
 18 represent to be a transporter;

19 (11) a person to knowingly provide guide-outfitter, assistant guide,
 20 outfitter, or transportation services during the period for which the person's license to
 21 provide that service is suspended or revoked;

22 (12) a person who is licensed as a transporter, or who provides
 23 transportation services under a transporter license, to knowingly accompany or direct a
 24 client of the person in sport fishing activities except as necessary to perform the
 25 specific duties of transporting, embarking, or disembarking a client or clients, the
 26 client's or clients' equipment, or fish harvested by the client or clients.

27 (b) Except as provided in (c) - (f) of this section, in addition to disciplinary
 28 sanctions imposed under AS 08.57.200, a person who commits an offense set out in
 29 (a) of this section is guilty of a class A misdemeanor and may be punished as provided
 30 in AS 12.55.

31 (c) Notwithstanding (a)(2) of this section, the board may adopt regulations that

1 allow an assistant guide to guide and outfit sport fishing activities without supervision
2 by a guide-outfitter.

3 (d) A person licensed as a guide-outfitter, but not as a master sport fishing
4 guide-outfitter, who, without any culpable mental state, advertises as or represents to
5 be a master sport fishing guide-outfitter is guilty of a violation and may be punished as
6 provided in AS 12.55.

7 (e) In addition to disciplinary sanctions imposed under AS 08.57.200, a person
8 who, without any culpable mental state, violates AS 08.57.110(d)(4), 08.57.120(f),
9 08.57.130(d), or 08.57.140(d) is guilty of a violation and may be punished as provided
10 in AS 12.55.

11 (f) In addition to disciplinary sanctions imposed under AS 08.57.200, a person
12 who knowingly violates AS 08.57.110(d)(4), 08.57.120(f), 08.57.130(d), or
13 08.57.140(d) is, for a

14 (1) first offense in a three-year period, guilty of a violation and may be
15 punished as provided in AS 12.55; and

16 (2) second or subsequent offense in a three-year period, guilty of a
17 class B misdemeanor and may be punished as provided in AS 12.55.

18 (g) In addition to any other penalty provided by law, a court may revoke a
19 license issued under this chapter of a person who is convicted under this chapter, and
20 equipment may be seized and forfeited in accordance with AS 16.05.190 and
21 16.05.195.

22 **Sec. 08.57.220. Responsibility of sport fishing guide-outfitter, outfitter, or**
23 **transporter for violations.** A guide-outfitter, outfitter, or transporter is equally
24 responsible

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

29 (2) under AS 08.57.210 for a violation of this chapter, a regulation
30 adopted under this chapter, or a state or federal sport fishing statute or regulation,
31 committed by a person in the course of the person's employment with the guide-

1 outfitter, outfitter, or transporter if the guide-outfitter, outfitter, or transporter
2 expressly or impliedly authorizes an unlawful act.

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

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

11 **Sec. 08.57.240. License and examination fees.** (a) The department shall set
12 fees under AS 08.01.065 for

- 13 (1) a guide-outfitter license;
- 14 (2) an outfitter license;
- 15 (3) an assistant guide license;
- 16 (4) a transporter license;
- 17 (5) a license application;
- 18 (6) guide use area registration for sport fishing guide-outfitters and
19 sport fishing outfitters.

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

23 (c) An applicant for a qualifying examination for a guide-outfitter license or
24 outfitter license shall pay a fee established by regulations adopted under
25 AS 08.01.065.

26 (d) The fee for the transporter license must be equal to the fee for the guide-
27 outfitter.

28 (e) A license fee for a nonresident may include an additional charge
29 established by the board by regulation that is as close as is practicable to the maximum
30 allowed by law.

31 **Article 4. General Provisions.**

Sec. 08.57.490. Definitions. In this chapter,

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

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

(3) "compensation"

(A) means, regardless of the source, direct or indirect payment, remuneration, in-kind services or privileges, and other benefits received in return for services;

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

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

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

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

(6) "guide services" means a service provided, for compensation or with the intent to receive compensation, to a person to take or to attempt to take fish by accompanying or physically directing a person during sport fishing activities; "guide services" does not include services provided by an assistant, deckhand, or similar person who works directly under the supervision of and on the same vessel or at the same fishing site as the sport fishing guide-outfitter or sport fishing assistant guide;

(7) "guide use area" means an area designated by the Sport Fishing Guide Services Board that lies within a geographic sport fishing area established by the Board of Fisheries under AS 16.05.251.

(8) "knowingly" has the meaning given in AS 11.81.900(a);

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

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

(11) "supervise" means providing direction, control, instruction, and evaluation of an employee; supervision may be in-person, telephonic, or electronic;

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

(13) "transportation services" means the carriage, for compensation or with the intent to receive compensation, of persons engaged in guided sport fishing, the persons' equipment or fish taken during guided sport fishing activities and the advertising of these services;

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

* **Sec. 5.** AS 16.05.395 is amended to read:

Sec. 16.05.395. Sport fishing vessel registration. A [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 and the Sport Fishing Guide Services Board established under AS 08.57 may adopt regulations as the department and the Sport Fishing Guide Services Board find [FINDS] necessary to implement this section.

* **Sec. 6.** AS 16.05 is amended by adding a new section to read:

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

(a) The department shall collect information from guide-outfitters licensed under AS 08.57, including

(1) the name and license number of each licensee under AS 08.57 providing sport fishing guide services;

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

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

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

(b) The department may collect other appropriate information from outfitters and transporters licensed under AS 08.57.

(c) Information collected under this section is confidential to the extent provided under AS 16.05.815 or AS 40.25.110 but shall be shared with the Sport Fishing Guide Services Board under 08.57.020.

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

(e) The department shall make sport fishing log books received under this section and activity reports received under AS 08.57.120 available for law enforcement purposes to state agencies, federal law enforcement agencies, and other law enforcement agencies on request.

(f) Forms, records, and reports required under this section shall be distributed, received, and stored electronically.

* **Sec. 7.** AS 25.27.244(s)(2) is amended to read:

1 (2) "license"

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

6 (i) license relating to boxing or wrestling under
7 AS 05.10;

8 (ii) authorization to perform an occupation regulated
9 under AS 08;

10 (iii) teacher certificate under AS 14.20;

11 (iv) authorization under AS 18.08 to perform
12 emergency medical services;

13 (v) asbestos worker certification under AS 18.31;

14 (vi) boiler operator's license under AS 18.60.395;

15 (vii) certificate of fitness under AS 18.62;

16 (viii) hazardous painting certification under AS 18.63;

17 (ix) security guard license under AS 18.65.400 -
18 18.65.490;

19 (x) license relating to insurance under AS 21.27;

20 (xi) employment agency permit under AS 23.15.330 -
21 23.15.520;

22 (xii) registration as a broker-dealer, an agent, a state
23 investment adviser, or an investment adviser representative under
24 AS 45.55.030;

25 (xiii) certification as a pesticide applicator under
26 AS 46.03.320;

27 (xiv) certification as a storage tank worker or contractor
28 under AS 46.03.375;

29 (xv) certification as a water and wastewater works
30 operator under AS 46.30;

31 (xvi) commercial crewmember fishing license under

AS 16.05.480 other than an entry permit or interim-use permit under AS 16.43;

(xvii) fish transporter permit under AS 16.05.671;

(xviii) sport fishing guide-outfitter license under AS 08.57.110 [OPERATOR LICENSE UNDER AS 16.40.260];

(xix) sport fishing outfitter [GUIDE] license under AS 08.57.120 [AS 16.40.270];

(xx) sport fishing assistant guide license under AS 08.57.130;

(xxi) sport fishing transporter license under AS 08.57.140;

(B) does not include

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

(ii) [REPEALED

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

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

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

* **Sec. 8.** AS 41.21.506(b) is amended to read:

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

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

(2) establish a registration, licensing, or comparable procedure for professional fishing guides and [SUCH] additional fishing guide controls [AS] the commissioner considers necessary; notwithstanding the requirements established by the commissioner to implement this paragraph, the commissioner shall establish a procedure by which the holder of a valid sport fishing guide-outfitter [OPERATOR] license issued under AS 08.57.110 [AS 16.40.260] may petition for, and the director of the division of parks, or the director's designee, shall expeditiously issue, a waiver

to allow the sport fishing guide-outfitter [OPERATOR] license holder access to the
 [TO USE THE SERVICES IN THE] Kenai River Special Management Area for
guide-outfitter services even if the guide-outfitter [OF A GUIDE LICENSED
 UNDER AS 16.40.270 WHO] has not completed the procedures and additional
 controls that are required by the department under this paragraph; the waiver
 authorized in this paragraph applies only for the duration of the sport fishing season
 during which the waiver application is submitted and only if the sport fishing operator
 license holder

(A) employing the licensed guide has lost the services of a
 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. 9.** Section 8, ch. 70, SLA 2004, as amended by sec. 3, ch. 61, SLA 2009, sec. 1, ch.
 48, SLA 2010, sec. 1, ch. 13, SLA 2011, and sec. 1, ch. 30, SLA 2012, 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, 2016 [2015].

* **Sec. 10.** Sections 22 and 31, ch. 58, SLA 2010, are repealed.

* **Sec. 11.** 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(d), added by sec. 4 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

- (1) five persons who are active, licensed registered guides under AS 16.40.260

1 - 16.40.299 at the time of appointment to fill the initial registered guide-outfitter positions;

2 (2) one person who, at the time of appointment, is currently active providing
3 carriage, for compensation, to persons engaged in sport fishing, to fill the initial sport fishing
4 transporter position;

5 (3) one person who is a member of the Board of Fisheries to fill the Board of
6 Fisheries position; and

7 (4) two people who are not, and have not been, active licensed, registered
8 guides under AS 16.40.260 - 16.40.299 and do not hold, and have not held, a commercial
9 fishing license or permit under AS 16, to fill the public member positions.

10 (c) The governor shall appoint the initial members of the board to give the board a
11 reasonable geographic balance among the regions of the state.

12 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 APPLICATIONS. (a) The Sport Fishing Guide Services Board shall accept
15 applications for sport fishing guide-outfitter licenses, sport fishing outfitter licenses, sport
16 fishing assistant guide licenses, and sport fishing transporter licenses, and be available to
17 administer, not later than April 1, 2015, the required examinations and certification under
18 AS 08.57.030(a)(1), as added by sec. 4 of this Act; and

19 (b) The board shall issue, effective January 1, 2016, to those applicants under (a) of
20 this section who satisfy all requirements for a particular license, a valid sport fishing guide-
21 outfitter license, sport fishing outfitter license, sport fishing assistant guide license, or sport
22 fishing transporter license. Notwithstanding AS 08.57.110(a), 08.57.120(a), 08.57.130(a), and
23 08.57.140(a), as added by sec. 4 of this Act, when issuing licenses under this section, the
24 board may provide that half the licenses issued are for a one-year term. The fee charged by
25 the Department of Commerce, Community, and Economic Development for a license that is
26 valid for one year shall be half the fee charged for a biennial license.

27 * **Sec. 13.** Section 32, ch. 58, SLA 2010, is repealed.

28 * **Sec. 14.** Sections 9, 10, and 13 of this Act take effect January 1, 2015.

29 * **Sec. 15.** Except as provided in sec. 14 of this Act, this Act takes effect January 1, 2014.