

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 11, 2014

1:36 p.m.

MEMBERS PRESENT

Representative Eric Feige, Co-Chair
Representative Dan Saddler, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Mike Hawker
Representative Craig Johnson
Representative Paul Seaton
Representative Scott Kawasaki
Representative Geran Tarr

MEMBERS ABSENT

Representative Kurt Olson

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 190(L&C)

"An Act permitting certain persons who are not licensed by the Big Game Commercial Services Board to provide or assist in providing certain guide services."

- MOVED CSSB 190(L&C) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 138(FIN) AM

"An Act relating to the purposes, powers, and duties of the Alaska Gasline Development Corporation; relating to an in-state natural gas pipeline, an Alaska liquefied natural gas project, and associated funds; requiring state agencies and other entities to expedite reviews and actions related to natural gas pipelines and projects; relating to the authorities and duties of the commissioner of natural resources relating to a North Slope natural gas project, oil and gas and gas only leases, and royalty gas and other gas received by the state including gas received as payment for the production tax on gas; relating to the tax on oil and gas production, on oil production, and on gas production; relating to the duties of the commissioner of revenue relating to a North Slope natural gas project and gas received as payment for tax; relating to confidential information and public record status of information provided to or in the custody of the Department of Natural Resources and the Department of Revenue; relating to apportionment factors of the

Alaska Net Income Tax Act; amending the definition of gross value at the 'point of production' for gas for purposes of the oil and gas production tax; clarifying that the exploration incentive credit, the oil or gas producer education credit, and the film production tax credit may not be taken against the gas production tax paid in gas; relating to the oil or gas producer education credit; requesting the governor to establish an interim advisory board to advise the governor on municipal involvement in a North Slope natural gas project; relating to the development of a plan by the Alaska Energy Authority for developing infrastructure to deliver affordable energy to areas of the state that will not have direct access to a North Slope natural gas pipeline and a recommendation of a funding source for energy infrastructure development; establishing the Alaska affordable energy fund; requiring the commissioner of revenue to develop a plan and suggest legislation for municipalities, regional corporations, and residents of the state to acquire ownership interests in a North Slope natural gas pipeline project; making conforming amendments; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 190

SHORT TITLE: DELEGATION OF GUIDE-OUTFITTER DUTIES

SPONSOR(s): SENATOR(s) HUGGINS

02/21/14	(S)	READ THE FIRST TIME - REFERRALS
02/21/14	(S)	L&C
03/11/14	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/11/14	(S)	-- MEETING CANCELED --
03/13/14	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/13/14	(S)	Heard & Held
03/13/14	(S)	MINUTE(L&C)
03/18/14	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/18/14	(S)	-- MEETING CANCELED --
03/20/14	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/20/14	(S)	Moved CSSB 190(L&C) Out of Committee
03/20/14	(S)	MINUTE(L&C)
03/21/14	(S)	L&C RPT CS 2DP 1NR NEW TITLE
03/21/14	(S)	DP: MICCICHE, OLSON
03/21/14	(S)	NR: STEDMAN
04/02/14	(S)	TRANSMITTED TO (H)
04/02/14	(S)	VERSION: CSSB 190(L&C)
04/03/14	(H)	READ THE FIRST TIME - REFERRALS

04/03/14 (H) RES
04/11/14 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

GARY ZEPP, Staff
Senator Charlie Huggins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced CSSB 190(L&C) on behalf of the sponsor, Senator Huggins.

BURKE WALDRON, Captain, Operations Commander
Division of Alaska Wildlife Troopers
Department of Public Safety (DPS)
Palmer, Alaska

POSITION STATEMENT: Answered questions regarding CSSB 190(L&C).

KELLY VREM, Chairman
Big Game Commercial Services Board
Sutton, Alaska

POSITION STATEMENT: Testified in support of CSSB 190(L&C).

RICHARD "DICK" ROHRER
Kodiak, Alaska

POSITION STATEMENT: Testified in support of CSSB 190(L&C).

SAM ROHRER, President
Alaska Professional Hunters Association
Kodiak, Alaska

POSITION STATEMENT: Testified in support of CSSB 190(L&C).

ROD ARNO, Executive Director
Alaska Outdoor Council (AOC)
Palmer, Alaska

POSITION STATEMENT: Testified in support of CSSB 190(L&C).

ACTION NARRATIVE

[1:36:35 PM](#)

CO-CHAIR DAN SADDLER called the House Resources Standing Committee meeting to order at 1:36 p.m. Representatives Seaton, P. Wilson, Kawasaki, Hawker, Johnson, Feige, and Saddler were present at the call to order. Representative Tarr arrived as the meeting was in progress.

SB 190-DELEGATION OF GUIDE-OUTFITTER DUTIES

[1:36:52 PM](#)

CO-CHAIR SADDLER announced that the only order of business is CS FOR SENATE BILL NO. 190(L&C), "An Act permitting certain persons who are not licensed by the Big Game Commercial Services Board to provide or assist in providing certain guide services."

[1:37:37 PM](#)

GARY ZEPP, Staff, Senator Charlie Huggins, Alaska State Legislature, introduced CSSB 190(L&C) on behalf of the sponsor, Senator Huggins. He clarified that this bill is unrelated to SB 160, the hunting guides' concession program. To provide background for the bill, he explained that in the late 1980s the legislature enacted statutes related to the guide-outfitter industry. Unfortunately, the enacted statutes inadvertently made it illegal to compensate unlicensed persons to pack game meat, hides, and perform other basic camp chores. Additionally, the guide-outfitter industry could not hire an unlicensed person in an apprenticeship or training structure to perform certain guide services and receive compensation. He said CSSB 190(L&C) would allow a registered guide-outfitter to delegate the packing of game meat, hides, and other gear to an unlicensed person and to compensate that person for carrying out those duties. Currently under AS 08.54.790(9)(C), it is illegal to compensate an unlicensed person for packing meat.

MR. ZEPP explained that Section 1(b) of the bill would enable a guide-outfitter to hire unlicensed persons for apprenticeship training in the big game guide industry, helping those persons to qualify to be an assistant guide and to be compensated for those services. Additionally, Section 1(b) would provide that a licensed, registered guide-outfitter, a class-A assistant guide, or an assistant guide must be physically present while training the unlicensed persons. Further, the bill clarifies existing statutes and makes a registered guide-outfitter equally responsible for a violation of state, federal, or game guiding statute or regulation committed by a person employed to provide guide services for the guide outfitter. The bill provides solutions for the guide-outfitter industry and clarifies existing laws regarding a guide-outfitter's responsibilities. As can be imagined, it is difficult to find folks to work for free. Currently, no opposition to the bill has been received from the Division of Alaska Wildlife Troopers, Department of

Commerce, Community & Economic Development, Big Game Commercial Services Board, Alaska Professional Hunters Association, Alaska Outdoor Council, or Safari Club International. The bill has two zero fiscal notes from the Department of Public Safety and the Department of Commerce, Community & Economic Development.

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MR. ZEPP, responding to Co-Chair Saddler about opposition to the bill, explained that during a previous hearing a concern was raised about the word "delegation" in Section 1(b). He met with the guide-outfitter to address this and created a committee substitute. He said the word "delegate" was replaced with "assist" because the concern was that delegation was too much authority to give to an unlicensed person.

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REPRESENTATIVE SEATON said the bill looks good to him but asked about the meaning of the language on page 1, line 14, which states the unlicensed person can assist in "tracking, killing, or attempting to kill". He inquired whether this is an interpretation that an unlicensed person who is with the guide can actually do the hunting for someone else in the field and can actually shoot or bow hunt the animal instead of the client.

MR. ZEPP understood that through this apprenticeship training program the person would be assisting, but not instructing a client, which can only be the guide-outfitter, the class-A assistant guide, or the assistant guide.

REPRESENTATIVE SEATON read from Section 1(b), saying he would like it to be clarified on the record that this is not a substitution so that a client is not hunting and someone else is hunting for the client because the unlicensed person can track and kill the animal. He said he understands about going after an animal that has been wounded, but he wants to understand the sideboards for what this new language would allow.

MR. ZEPP said he understood Representative Seaton.

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CO-CHAIR SADDLER, responding to Representative Kawasaki, clarified that the bill before the committee is CSSB 190(L&C), labeled 28-LS1466\C.

[1:44:09 PM](#)

REPRESENTATIVE P. WILSON drew attention to page 2, lines 2-4, which state, "An unlicensed person may only assist in providing a guide service under this subsection if a licensed registered guide-outfitter, class-A assistant guide, or assistant guide is physically present". She understood the guide does not have to be on site, but someone who is licensed must be on site.

MR. ZEPP answered correct.

REPRESENTATIVE P. WILSON asked whether an "assistant guide" must be licensed.

MR. ZEPP responded correct.

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REPRESENTATIVE KAWASAKI observed that Section 1(c), page 2, lines 7-11, lets the [Big Game Commercial Services Board] adopt regulation regarding persons who do not hold a license. He said the word "delegation" in previous bill versions gave him trouble and inquired whether the sponsor's intent is that delegation would still be done, but the word is just no longer in the bill.

MR. ZEPP allowed that concern with the word "delegation" was raised before. The sponsor tried to address that concern in Section 1(b) by replacing "delegation" with "assist". He said his understanding of Section 1(c) is that it is more about being able to compensate unlicensed persons for their services.

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REPRESENTATIVE SEATON said he is trying to understand the difference between Sections 1(a) and 1(b). He understood that under Section 1(a), an unlicensed person not in training can provide the services of packing, preparing, salvaging, or caring for a client's meat; packing trophies; and packing camping equipment. Under Section 1(b), an unlicensed person in training can do other services but those must be with a client. He asked what an unlicensed person would be training for.

MR. ZEPP answered Section 1(a) is a delegation of authority, but only for being able to carry things, such as meat or camping equipment. Section 1(b) is an assist at an apprenticeship program where a licensed guide-outfitter, class-A assistant guide, or an assistant guide must be physically present.

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REPRESENTATIVE SEATON said he wants to ensure it is understood how the "tracking, killing, or attempting to kill" for a client by an unlicensed person in training is confined. While he understood that this will be established through regulation, he said he does not know what the context of that is.

MR. ZEPP deferred to Captain Burke [Waldron] of the Alaska Wildlife Troopers for an answer.

BURKE WALDRON, Captain, Operations Commander, Division of Alaska Wildlife Troopers, Department of Public Safety, after receiving confirmation from Co-Chair Saddler that the question is about the difference between Sec. 08.54.635(a) and (b), explained that (b) allows an apprenticeship program where an unlicensed apprentice would be able to assist in the pursuit and the taking of animals while under the direct supervision of a registered guide, class-A assistant guide, or an assistant guide, which are licensed positions. He emphasized that the unlicensed person must be accompanied by a licensed guide. Under (a), the unlicensed person is allowed to pack things, such as meat or trophies, alone, without being accompanied.

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REPRESENTATIVE SEATON inquired whether an assistant guide has the ability to stalk, pursue, track, and kill an animal.

CAPTAIN WALDRON replied that [an assistant guide] has the licensed authority to guide a client to do those things, so [the assistant guide] is participating in the take. [The assistant guide] is not supposed to be the actual shooter.

REPRESENTATIVE SEATON expressed his concern that the bill seems to say the [unlicensed person] has more authority than the assistant guide because line 14 states "stalking, pursuing, tracking, killing, or attempting to kill big game". He stressed he wants to ensure that non-licensed personnel are not allowed to do more than the lower level licensed personnel.

CAPTAIN WALDRON answered that the language, "stalking, pursuing, tracking, killing", comes from the definition of "take". The unlicensed apprentice would have no more authority or ability to do those things than the licensed guide that is supervising the apprentice in the field.

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CO-CHAIR SADDLER drew attention to page 1, line 13, which states that the person "may assist in providing the guide services". He asked whether the unlicensed person can actually do the tracking, killing, and other things; in other words, how the conceptual line is drawn between assisting someone else doing it and "doing it yourself."

CAPTAIN WALDRON offered his understanding that the intent is for an apprenticeship program so [an unlicensed person] can do all of those things when in the supervision of a licensed guide. [An unlicensed person] can help spot, help stalk, help pursue -- things [an unlicensed person] is currently not allowed to do.

CO-CHAIR SADDLER understood the distinguishing element of this situation is that [the unlicensed person] is there under the supervision of a licensed guide or assistant guide for training purposes.

CAPTAIN WALDRON responded correct.

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REPRESENTATIVE KAWASAKI said he does not have much of a problem with the way the bill is now written. Commenting on the need for such a program generally, he said he does not want to have people who are unlicensed remain unlicensed indefinitely if they should actually be licensed.

CO-CHAIR SADDLER opened public testimony on CSSB 190(L&C).

[1:54:05 PM](#)

KELLY VREM, Chairman, Big Game Commercial Services Board, stated that CSSB 190(L&C) does not grant anyone any powers or any abilities that did not exist before. It is simply clarification. The guiding industry has been operating under the assumption that it was legal to hire people to pack meat or hire people to pack meat and go along to be instructed to gain the necessary days in the field and the years of experience to become an assistant guide. However, it was found out that the very precise language contained in the definition of guiding apparently precludes that, so this is a housekeeping measure. A person receiving the meat in return for packing a moose would technically be considered compensated. This bill allows for [licensed guides] to compensate people for removing game meat from the field.

Always before, the [licensed guides] had assumed this was legal and were surprised that it was not.

[1:56:00 PM](#)

MR. VREM, regarding (b), explained a person must have 60 days of training in the field before he/she can apply for an assistant guide license. Currently, a person could volunteer and not be compensated. However, it is unrealistic to expect someone to give up 60 days to be an apprentice. The bill would allow training of these people under the direct supervision of a [licensed guide]. His interpretation of direct supervision means within voice control -- through a normal level of voice the licensed person must be in control of the unlicensed person. He said regulations that the Big Game Commercial Services Board intends to adopt will reflect that it must be in very close proximity with voice control. If he had his way, he would use the word "participate" rather than "assist," because participating and observing is a more accurate description of what is going on. He offered his hope that the bill will pass so [an unlicensed person] can be compensated.

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CO-CHAIR FEIGE requested Mr. Vrem's opinion on how the bill would affect the overall professionalism of the guiding industry in Alaska.

MR. VREM replied it would allow [professionalism] to be raised. He reiterated that a person is already required to have 60 days of hunting experience in the state, at least 30 of which are in a guide camp. Currently there is a conflict in requiring training in order to be a guide, but a person cannot be compensated while getting that training. The bill will raise the standards for guiding and also protect what is currently customary; it will be a valuable asset to the guides to be able to train their personnel more thoroughly.

CO-CHAIR FEIGE asked whether Mr. Vrem believes the bill will contribute to the overall health of the state's guiding industry.

MR. VREM answered yes, adding that right now the guiding industry is increasing the skill set and the qualifications needed to become an assistant guide. Overall, the Big Game Commercial Services Board is in the process of upping the standards and this bill goes hand-in-glove with that.

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CO-CHAIR SADDLER quipped that within voice control for some guides will mean two square miles.

MR. VREM stated that packing is strictly labor or pure muscle, whereas (b) is a close contact situation.

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RICHARD "DICK" ROHRER related that he came to Alaska in 1965 and 1967 to work on the Kenai Peninsula as an unpaid apprentice for George Pollard. In 1969, he moved to Alaska. In 1970 Mr. Pollard contacted him to say that based on his abilities he was qualified to be issued an assistant guide license. So, he became a licensed guide based on Mr. Pollard's written recommendation. Fast forwarding to 2005 when the Big Game Commercial Services Board was reinstated, Mr. Rohrer said he was one of the two guides appointed to that board. The board passed regulations to raise the standard and professionalism of guides. Included was a regulation defining the practical experience requirement for someone who wanted to be licensed as assistant guide; this practical experience had to be acquired prior to licensure. The statute for assistant guides requires two years of experience. He said the board provided further definition by a regulation requiring that it be "at least 30 days in each of two years and at least 30 of those 60 days experience, this is prior to licensure, the applicant had to, and I will quote from our regulations, 'has knowledge in trophy judging, capping, skinning, butchering, meat and trophy care, and has directly participated in the spotting, stalking, and subsequent harvest of at least three big game animals during a guided hunt in this state.'" Once meeting those requirements, a person could then apply for an assistant license, he explained. That was the practice of the industry from the time he came to Alaska until about two years ago when the troopers, with concurrence from the Department of Law, determined that because of the statutory definition of guiding, only a licensed person could provide those services. Therefore, anyone being paid by a licensed guide as an apprentice in camp was in violation of the law. This bill is the result of that determination, he stated.

2:04:02 PM

MR. ROHRER addressed Representative Seaton's questions, pointing out that the items/terms listed on page 1, line 14, of the bill come from the statutory definition of guiding. Regarding Representative Kawasaki's concern about someone remaining unlicensed indefinitely, he assured members that that will not happen because, when a contracting guide is training someone who is unlicensed, the contracting guide must pay the trainee as well as the licensed guide that is assisting the client. Since the unlicensed person cannot assist the client without a licensed guide being physically present, there is no financial incentive for a contracting guide to attempt to continue to hire unlicensed people once they are fully qualified to be licensed.

2:05:57 PM

SAM ROHRER, President, Alaska Professional Hunters Association, stressed CSSB 190(L&C) is extremely important to the guiding industry.

He said he was 14 years old when he began working in his father's hunting camp as a packer, skinner, spotter, boat wrangler, and doing whatever needed done. His first year working, his father paid him by buying him his first set of binoculars that he still uses and that his kids use. His 10-year-old daughter, Anna, spends time out at camp with him, and he is trying to teach her a work ethic. But, without this legislation, he cannot compensate Anna for helping him at camp. He cannot pay her for helping him skin or fir sitting on a hill with him looking through binoculars to teach her what a guide does. He cannot even compensate her by giving her a set of binoculars like his father did for him because it would be breaking the law. This is ridiculous and needs to be fixed. This good, common-sense legislation needs to be passed, he opined.

[2:08:04 PM](#)

ROD ARNO, Executive Director, Alaska Outdoor Council (AOC), supported CSSB 190(L&C), noting that AOC is made up of 48 outdoor clubs throughout the state and about 2,500 individual members. He said AOC normally tries to stay out of issues dealing with the guide industry, but this is important because AOC has members who are guides, members who hunt with guides, and members who consider guides as competition for game. The bill's importance is that there will be knowledgeable guides coming up into the industry. Camping and photography can be practiced, but killing cannot be practiced without being on the scene. It is very important for young guides to have that apprentice opportunity and to be compensated for it. The bill is well structured and AOC believes the bill is clear that the apprentice "may assist in providing the guide services", which AOC sees as an opportunity for individuals to gain the experience needed to be good quality guides in the future. He qualified that AOC's only concern is Sec. 3, page 5, line 1, regarding equal responsibility. It needs to be ensured that this coincides with AS 08.54.710(b) where it is the licensees that are potentially in a position where they can be disciplined as guides and transporters, and AOC wants to ensure that the unlicensed packer is treated fairly in that situation. The legislation creating the Big Game Commercial Services Board was extremely important and AOC wants to see this board work. He offered AOC's appreciation for the legislature continually watching and participating in the Big Game Commercial Services Board activities. Responding to Co-Chair Saddler, Mr. Arno said the language of concern is in the bill version labelled [28-LS1466\C, page 5, line 1, regarding equal responsibility under AS 08.54.710(b) for the licensees. He pointed out that these packers will not be licensed, so AOC wants to ensure that that equal responsibility is clear.

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CO-CHAIR SADDLER closed public testimony on CSSB 190(L&C) after ascertaining no one else wished to testify.

[2:12:58 PM](#)

REPRESENTATIVE KAWASAKI said the bill does not state how many licensed guides there would be per unlicensed person. He asked whether it would be one licensed guide per apprentice or could there be times of many unlicensed persons with only one registered guide.

MR. ZEPP believed the intention is not to have a legion of unlicensed folks running around with one guide-outfitter, one class-A assistant guide, or an assistant guide. He deferred to Mr. Vrem for a response.

MR. VREM allowed that, theoretically, there could be half a dozen apprentices with one licensed guide but said that practically speaking it would be one at a time. It takes a certain amount of stealth to accomplish the mission, he pointed out. Trying to kill a moose in Alaska is vastly different than a procession of porters in the savannas of Africa. Practically speaking, it would be one apprentice with one licensed guide in a camp. A registered guide might employ two or three apprentices, but they would be scattered throughout the camps and some would be back in the main camp.

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REPRESENTATIVE SEATON recalled testimony stating the unlicensed person would be under voice command or communication, but noted that that is not specifically in the bill. He inquired whether under the language on page 2, line 4, the licensed guide being "physically present" is the assumption of what voice communication means.

MR. VREM said that is the assumption; it is while engaged in the spotting, stalking, or attempting to kill the animal. The regulation will specify that, he said, as the board does not want someone two miles away because then the apprentice is not learning anything. The apprentice must be right there and will have to be within whispering distance at the appropriate time. It is a close supervision scenario and the board intends to enact regulations to specify that.

CO-CHAIR SADDLER understood the test for physically present is whether the apprentice is within vocal distance to hear somebody, whether it is yelling or whispering as the circumstances might dictate.

[2:16:44 PM](#)

REPRESENTATIVE KAWASAKI remarked there are lots of circumstances under which a licensed guide could lose his/her license. He inquired about what would happen when an unlicensed person does something wrong.

MR. ZEPP deferred to Mr. Vrem or Captain Waldron for an answer.

CAPTAIN WALDRON replied the kind of misbehaving by the packer would dictate what kind of action could follow. When an apprentice packer

applies for a license in the future, that history would be exposed to the board and the board could take it into consideration when choosing whether to issue a license to that person. The kind of misbehavior would dictate what kind of potential criminal action the Alaska Wildlife Troopers could take on the packer.

[2:18:28 PM](#)

CO-CHAIR FEIGE voiced his support for CSSB 190(L&C), saying it is a continuation of the sequential improvement of these statutes over the past few years. These small changes better clarify and further define what is expected of folks within the guiding industry. It has been done in conjunction with the Big Game Commercial Services Board, which has been very active in advocating for these changes. It will promote the overall health of Alaska's guiding industry and raise the level of professionalism. Concerns raised during consideration of the bill are a level of specificity that should be addressed when the board writes the regulations and he has confidence that the board will do an outstanding job.

[2:20:05 PM](#)

CO-CHAIR FEIGE moved to report CSSB 190(L&C) out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSSB 190(L&C) was reported from the House Resources Standing Committee.

[2:20:25 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:20 p.m.