

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

May 17, 2021

1:21 p.m.

MEMBERS PRESENT

Representative Josiah Patkotak, Chair
Representative Grier Hopkins, Vice Chair
Representative Zack Fields
Representative Calvin Schrage
Representative Sara Hannan
Representative George Rauscher
Representative Mike Cronk
Representative Ronald Gillham
Representative Tom McKay

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 134 (RES)

"An Act relating to master guide-outfitter qualifications for licensure; and providing for an effective date."

- MOVED CSSB 134 (RES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 134

SHORT TITLE: MASTER GUIDE-OUTFITTER REQUIREMENTS

SPONSOR(S): SENATOR(S) VON IMHOF

04/28/21	(S)	READ THE FIRST TIME - REFERRALS
04/28/21	(S)	RES
05/05/21	(S)	RES AT 3:30 PM BUTROVICH 205
05/05/21	(S)	Moved CSSB 134 (RES) Out of Committee
05/05/21	(S)	MINUTE (RES)
05/07/21	(S)	RES RPT CS 1DP 4NR 1AM NEW TITLE
05/07/21	(S)	DP: REVAK
05/07/21	(S)	NR: KIEHL, MICCICHE, STEVENS, KAWASAKI
05/07/21	(S)	AM: BISHOP
05/14/21	(S)	TRANSMITTED TO (H)
05/14/21	(S)	VERSION: CSSB 134 (RES)
05/14/21	(H)	RES AT 1:00 PM BARNES 124

05/14/21 (H) Scheduled but Not Heard
05/15/21 (H) READ THE FIRST TIME - REFERRALS
05/15/21 (H) RES
05/17/21 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

SENATOR NATASHA VON IMHOF
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced CSSB 134 (RES).

JULI LUCKY, Staff
Senator Natasha von Imhof
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information and answered questions on CSSB 134 (RES) on behalf of Senator von Imhof, prime sponsor.

RENEE HOFFARD, Executive Administrator
Big Game Commercial Services Board
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on CSSB 134 (RES).

ACTION NARRATIVE

[1:21:09 PM](#)

CHAIR JOSIAH PATKOTAK called the House Resources Standing Committee meeting to order at 1:21 p.m. Representatives McKay, Fields, Cronk, Hopkins, Schrage, Gillham, Hannan, and Patkotak were present at the call to order. Representative Rauscher arrived as the meeting was in progress.

SB 134-MASTER GUIDE-OUTFITTER REQUIREMENTS

[1:21:45 PM](#)

CHAIR PATKOTAK announced that the only order of business would be CS FOR SENATE BILL NO. 134 (RES), "An Act relating to master guide-outfitter qualifications for licensure; and providing for an effective date."

[1:22:06 PM](#)

SENATOR NATASHA VON IMHOF, Alaska State Legislature, as prime sponsor, introduced CSSB 134(RES). She explained that the state extended the Big Game Commercial Services Board (BGCSB) under Senate Bill 43 in 2019, during the Thirty-First Alaska State Legislature. She said that deliberations revealed frustration that the board's disciplinary actions were taking too long, especially those pertaining to master guides. She explained that SB 43 required the board to revoke the license of a master guide who had been convicted of violating laws pertaining to that profession; however, she said, different interpretations of the wording of the legislation resulted in unintended consequences. The language in CSSB 134(RES) would clarify the intention of ensuring people convicted of "more serious violations" of professional rules cannot continue to hold a master guide license. Specifically, she said, CSSB 134(RES) would limit the requirement for automatic license revocation for only serious violations, defined as those where a master guide has been convicted and sentenced to more than one day in jail, or a fine of more than \$1,500.

SENATOR VON IMHOF stressed that the proposed legislation would speed up the process only when a person has been convicted and had a sentence imposed. She expressed that the reason for the condition is that, while a master guide license does not confer any additional hunting rights, it is an honorary designation given to registered guides who have demonstrated a long history of excellence. Should a master guide license be revoked, she clarified, the registered guide license could remain intact, allowing a guide to continue working in their profession. She said that the effective date would be retroactive to when the faulty language was put into place, thereby providing consistency while encouraging self-reporting and resolution of any small violations. She said, "As far as we know, there have not been any licenses revoked or issued since that date, so the department and our lawyers don't see any problem with the retroactivity at this time." She noted that, with the hunting season underway, it's important to address the issue soon, as it's causing tension between enforcement and guides, as well as being a disincentive for guides to come clean about small violations.

[1:25:19 PM](#)

CHAIR PATKOTAK opened public testimony on SB 134. After ascertaining that no one wished to testify, he closed public testimony.

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REPRESENTATIVE SCHRAGE referred to the text of CSSB 134 (RES), page 2, lines 4-9, which read as follows:

(4) has not been convicted of an offense under AS 08.54.720(a) or a similar law in another jurisdiction related to hunting or to the provision of big game hunting or transportation services within the five [15] years preceding the date of the application for which

(A) the person was imprisoned for more than one day; or

(B) an unsuspended fine of more than \$1,500 was imposed

REPRESENTATIVE SCHRAGE expressed his opinion that changing the requirement from 15 years to five years seems like a drastic change, and he asked why that decision was made.

JULI LUCKY, Staff, Senator Natasha von Imhof, Alaska State Legislature, on behalf of Senator von Imhof, prime sponsor, explained that BGCSB made the recommendations in the proposed legislation, and noted there is a representative from the board available to answer questions. She also pointed out that the language referenced by Representative Schrage, in addition to the language amended on page 2, lines 23-24, was not put in place until SB 43 passed, so the lookback period was part of the initial, faulty language. When the board went to conform the faulty language to existing statute, she said, it was found that the existing statute for the registered guide lookback period was five years, so the master guide lookback period was conformed to match. She noted that the 15-year lookback period has not been used because no master guide licenses have been issued since SB 43 went into effect.

MS. LUCKY then paraphrased the sectional analysis of the proposed legislation, which read as follows [original punctuation provided]:

Sec. 1: Amends AS 08.54.610(b), which outlines the requirements to obtain a master guide-outfitter license, to limit the violations that would make a person ineligible to receive a license.

Specifically, the amendment limits the look back period to five years and would only apply after conviction for an offense where the person was imprisoned for more than one day or there was a fine of more than \$1,500 imposed. It also prohibits granting a master guide-outfitter license to an individual that has had a hunting, guiding, outfitting, transporter or similar license revoked in another jurisdiction.

Sec. 2: Amends AS 08.54.710(k), which requires revocation of a master guide-outfitter license in certain circumstances, to limit the violations that would require revocation, similar to the language in section one, to an offense for which a person is imprisoned for more than one day or a fine of more than \$1,500 is imposed.

The Senate Resources Committee CS added Sections 3 & 4 to the bill:

(only change between version I and version G)

Sec. 3 & 4: Make the bill retroactively effective to September 14, 2019, which was the date that the sections above became law. The retroactive effective date would provide consistency for Master Guides and the Big Game Commercial Services Board.

Since no licenses have been revoked or denied under these statutes to date, the legislation codifies the initial intent of the legislature, and the legislation reduces the types of violations that would require a revocation, there are not ex post facto concerns with a retroactive effective date for this bill.

[1:30:19 PM](#)

RENEE HOFFARD, Executive Administrator, Big Game Commercial Services Board, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community, and Economic Development, explained that the intent of CSSB 134(RES) is to "mirror" the eligibility for licenses under AS 08.54.605, part of which says that a person is not eligible to hold any class of guide license if they've been convicted of any state or federal hunting, guiding, or transportation services statute or regulation resulting in imprisonment for more than five days within the previous five years, or had an unsuspended fine of

more than \$2,000, \$3,000, or \$5,000 imposed in the previous 12, 36, and 60 months, respectively. A master guide license applicant is required to have held a registered guide license for 15 of the last 20 years in order to be eligible, she said, so "no one would potentially be eligible to even apply for a master guide license if they've had a violation within the last 15 years. It would make it almost impossible for anyone to qualify for that master guide license."

[1:31:53 PM](#)

REPRESENTATIVE SCHRAGE noted that under HB 134, the lookback for any of the aforementioned disqualifiers is five years, while the requirement for a master guide license is having a registered guide license for 15 of the previous 20 years. He said "I can imagine a situation in which someone is a registered guide, takes a five-year break, and then applies to be a master guide and the lookback doesn't even cover any time in which this individual is a registered guide." He asked Ms. Hoffard whether she could comment on that.

MS. HOFFARD said that registered guides are allowed a license lapse period of only four years, then they have to reapply.

REPRESENTATIVE SCHRAGE responded that in that case, the lookback period could consist of only one year of registered guide activity. He noted his support of the proposed legislation, but expressed concerns about having only a five-year lookback and said that he may offer a conceptual amendment of 10 years to cover an active portion of the registered guide's license period more thoroughly.

[1:33:54 PM](#)

REPRESENTATIVE HANNAN expressed her concern over the unsuspended fine threshold of \$1,500. She said that guides frequently have multiple violations with a cash fine or less than \$1,500; however, the guide may have forfeited his boat or plane.

MS. HOFFARD responded that as part of its research into the possible corrections under SB 135, the board inspected criminal actions taken against guides starting in 2011. Between 2011 and 2020, she said, there were only six master guides with disciplinary actions resulting from criminal convictions. Of those 6, she said, "only two had anything even remotely close to the \$1,500" recommended by the board. She noted that the BGCSB worked with the Alaska Wildlife Troopers and the Department of

Law to arrive at a figure which would result from offenses egregious enough to meet that threshold. She offered to research and provide additional information.

REPRESENTATIVE HANNAN asked for further explanation on the unsuspended fines between 2011 and 2020.

MS. HOFFARD replied, "They had one that it was a \$65,000 fine, \$30,000 unsuspended. The other one was a \$35,000 fine, and none of that was suspended."

MS. LUCKY noted that the supporting document, "Big Game Commercial Services Board Minutes of the teleconference held February 20, 2020" [included in the committee packet], includes the six disciplinary actions. She clarified that the table on page 9 shows the details of the disciplinary actions.

SENATOR VON IMHOF said that she would have no objections to Representative Schrage's conceptual amendment.

MS. LUCKY directed attention to page 9 or the supporting document, which lists six line items under the heading "Master Guide - Outfitter", showing revocation of licenses in line items 1 and 4, with the large fines of \$65,000 and \$35,000, as previously mentioned. She pointed out that the other four line items showed fines of less than \$1,500, with no commensurate revocation. Ms. Lucky noted that she compiled the related statutes in a document [included in the committee packet] titled "Senate Bill 134 Related Statutes," directing attention to AS 08.54.605(1)(B), which specified the five-year lookback period. She said that the intent of CSSB 134(RES) was to conform to current statute as recommended by the board, thereby minimizing any additional unintended consequences based on how the language is interpreted.

[1:40:30 PM](#)

REPRESENTATIVE HOPKINS pointed out AS 08.54.605(a)(1)(A)(i), which read, "the person was imprisoned for more than five days within the previous five years;" and asked whether CSSB 134(RES) includes the same language.

MS. LUCKY replied that the proposed legislation would specify an imprisonment period of "more than one day." She said the intent of the proposed legislation was to hold the master guides to a higher standard than registered guides. She directed attention to CSSB 134(RES), page 2, lines 24-25, which read, "(A) the

person is imprisoned for more than one day; or (B) an unsuspended fine of more than \$1,500 is imposed." She described this language as "narrowing of the offenses for which a license can be revoked."

[1:41:46 PM](#)

REPRESENTATIVE FIELDS asked what would happen if there was a single incident resulting in two violations which, when combined, exceeded the \$1,500 threshold.

MS. LUCKY deferred to Ms. Hoffard.

MS. HOFFARD responded, "Those would be considered separate offenses, because it would be a separate criminal act for each violation."

REPRESENTATIVE FIELDS said that the way the proposed legislation is written, if one incident included multiple violations, each of which resulted in a fine under \$1,500, there would not necessarily be a license revocation.

MS. HOFFARD replied that such an occurrence would not trigger an automatic revocation; however, the board may choose to revoke the license based on multiple violations.

REPRESENTATIVE FIELDS asked Ms. Lucky whether the question of multiple violations had been previously discussed, and if so, whether discretionary revocation is the right approach.

MS. LUCKY replied, "Our intent with this bill was to fix the problem." She said that, in drafting the proposed legislation, BGCSB, as the regulator of the professionals in the field, was asked for recommendations. She specified that the intent was to not create a different set of statutes and regulations, but to keep it as close as possible to existing statutes in order to minimize conflict. She stressed that the board has the ability to revoke any license as a matter of disciplinary action, and that a single fine of \$1,500 or more would be one of the few times that the legislature felt that an immediate revocation, after a court case for a criminal violation of their professional responsibilities, was in order. The proposed legislation, she said, doesn't limit or expand the ability of BGCSB to impose disciplinary actions under existing statute.

[1:45:08 PM](#)

REPRESENTATIVE SCHRAGE asked whether the board has discretion to decide against issuing a master guide license in the case of multiple violations.

MS. LUCKY replied that this proposed legislation would not change the eligibility requirements for master guide licensure.

[1:47:03 PM](#)

REPRESENTATIVE RAUSCHER asked Ms. Lucky for a description of the board's process when considering revocation.

MS. LUCKY deferred to Ms. Hoffard.

MS. HOFFARD explained that in a criminal case, the Alaska Wildlife Troopers would notify the board that charges have been filed against a license holder. The board's investigator would notify the license holder that the license is under investigation; however, the board's investigation doesn't commence until the state's criminal proceeding is concluded. If the criminal proceeding results in a conviction, she said, a reviewing board member would work with the Department of Law and the investigator, using precedent, to offer a consent agreement or revocation.

REPRESENTATIVE RAUSCHER asked, "Is there anything that constitutes jail time, or is it all probation?"

MS. HOFFARD replied that the board doesn't have the authority to impose jail time, but the guide's license could be put on probation.

[1:49:28 PM](#)

CHAIR PATKOTAK asked Ms. Hoffard whether the board would conduct an investigation if an individual is not convicted of the crime.

MS. HOFFARD responded that the board would still investigate to determine whether a license holder committed any ethical violations.

CHAIR PATKOTAK asked whether there is any statute that mandates an investigation by the board.

MS. HOFFARD replied that the board is required to investigate any complaint, which would include a notification of investigation by the Alaska Wildlife Troopers.

[1:51:08 PM](#)

REPRESENTATIVE SCHRAGE moved to adopt Conceptual Amendment 1.

CHAIR PATKOTAK objected for purposes of discussion.

REPRESENTATIVE SCHRAGE explained that Conceptual Amendment 1 would replace the word "five" with "ten" on page 2, line 6, of CSSB 134(RES).

CHAIR PATKOTAK explained for Representative Rauscher that Conceptual Amendment 1 addresses the lookback period for master guide licenses.

REPRESENTATIVE SCHRAGE said that while five years is in line with the lookback period for a registered guide license, a master guide license is a more prestigious title recognizing "excellence over a long history." He pointed out that eligibility requirements for a master guide license state that the applicant must have been a registered guide for 15 of the past 20 years, with an allowed lapse of four years, which could potentially mean a lookback period of only one year.

CHAIR PATKOTAK noted that Senator von Imhof expressed acceptance of Conceptual Amendment 1. He then asked Ms. Hoffard how she would "see this amendment being deployed."

MS. HOFFARD replied that she has not had the opportunity to confer with the board members and, therefore, is not comfortable speaking for them on this matter.

[1:53:56 PM](#)

REPRESENTATIVE MCKAY opined that adopting Conceptual Amendment 1 would "neuter half of the bill." He expressed the understanding that Conceptual Amendment 1 would remove the lookback period provision.

CHAIR PATKOTAK explained that Conceptual Amendment 1 would not eliminate the lookback period, but would extend to ten years.

[1:54:39 PM](#)

REPRESENTATIVE FIELDS expressed his understanding that the main intent of CSSB 134(RES) was to address the circumstances for

automatic revocation of a master guide license, rather than addressing the lookback period.

MS. LUCKY stated her agreement that the primary intention of the proposed legislation is to determine the conditions for automatic revocation of a master guide license, with the sponsor remaining neutral on the matter of the length of the lookback period. She clarified that "the whole point of the bill is to remedy unintended consequences of law that we passed, as further interpreted by the board." She said that the sponsor's only concern would be that, since the board came up with the recommendation of a five-year lookback period, and Ms. Hoffard can't say whether a 10-year lookback period would be difficult to implement, Conceptual Amendment 1 could be a problem.

REPRESENTATIVE FIELDS expressed disagreement with Representative McKay's assertion that Conceptual Amendment 1 would considerably affect the proposed legislation.

[1:56:16 PM](#)

REPRESENTATIVE HANNAN pointed out that a five-year lookback period is referenced twice in the proposed legislation, on page 2, in lines 6 and 13, and expressed the need for consistency in language. She discussed the importance of understanding that the intention in giving the board the provisions for automatic revocation was that the board's authority should be invoked for those who are regularly incurring criminal violations, and that a master guide should not lose their business over minor infractions

CHAIR PATKOTAK stressed that with Conceptual Amendment 1, a conviction within the past 10 years would result in an automatic license revocation, and that it's possible to have a license revoked without actually have been convicted of anything. He expressed that there is merit to having separate time frames when considering new master guide licenses versus possibly revoking existing licenses.

[1:58:49 PM](#)

REPRESENTATIVE SCHRAGE commented that Section 1, which would be affected by Conceptual Amendment 1, considers the issuance of a master guide license, while Section 2, which would not be affected by the amendment, sets guidelines for revocation. He clarified that his intention in moving to adopt Conceptual

Amendment 1 was to amend the language in both sections, page 2, lines 6 and 13.

CHAIR PATKOTAK recommended withdrawal of Conceptual Amendment 1 and moving an amendment that addresses both areas.

[1:59:43 PM](#)

REPRESENTATIVE CRONK expressed that he would like to hear testimony from master guides on the matter of the lookback period.

[2:00:07 PM](#)

REPRESENTATIVE RAUSCHER stated his agreement with Representative Cronk. He also expressed that he would need more information in order to form an educated opinion.

CHAIR PATKOTAK asked Ms. Hoffard whether it would be possible to confer with the board.

[2:01:04 PM](#)

MS. HOFFARD said that she could reach out to the two registered guides currently sitting on the board; however, as it is spring bear season, they may not be reachable.

[2:01:27 PM](#)

REPRESENTATIVE SCHRAGE withdrew Conceptual Amendment 1 and moved to adopt Conceptual Amendment 2.

[2:01:30 PM](#)

CHAIR PATKOTAK objected for purposes of discussion.

[2:01:33 PM](#)

REPRESENTATIVE SCHRAGE explained that Conceptual Amendment 2 would replace the word "five" with "ten" on page 2, lines 6 and on page 2, line 13. He expressed that this amendment would help ensure that master guides uphold the highest standards of their profession, and he noted that the previous standard under statute was 15 years.

[2:02:30 PM](#)

REPRESENTATIVE HOPKINS asked Ms. Lucky whether she believes Senator von Imhof, as prime sponsor of CSSB 134(RES), would have any issue with Conceptual Amendment 2.

MS. LUCKY replied that she doesn't believe there would be a policy concern. She expressed concern in how a ten-year lookback period would work with the board's existing statute and process, and that the BGCSB, after discussion, recommended a five-year lookback period. She said that she doesn't see a statutory conflict with having a ten-year lookback period within the eligibility section under AS 08.54.610(b)(4) of the proposed legislation, but that Conceptual Amendment 2, altering the aforementioned paragraph as well as the language in AS 08.54.610(b)(5) could pose a conflict. She said that, without having any assurances from the board that there would be no conflict, the concern remains.

[2:06:03 PM](#)

REPRESENTATIVE SCHRAGE noted that AS 08.54.610(b)(5), as amended in the proposed legislation, seems to be in conflict with the language in AS 08.54.610(a)(2), which doesn't include a lookback period. He said, "It seems to me that that conflict already exists, and [if] we're going to pass this bill and have that conflict, it wouldn't make much of a difference whether it's five or ten years."

[2:06:53 PM](#)

REPRESENTATIVE FIELDS expressed that he's comfortable with Conceptual Amendment 2 and recommended taking action on the amendment today.

[2:07:18 PM](#)

REPRESENTATIVE RAUSCHER stated his intention to object and said that the House Finance Committee could vet the amendment.

CHAIR PATKOTAK said that SB 134 doesn't have a referral to the House Finance Committee.

[2:07:55 PM](#)

The committee took a brief at-ease.

[2:08:10 PM](#)

REPRESENTATIVE RAUSCHER suggesting vetting the amendment before going to the floor.

[2:08:22 PM](#)

REPRESENTATIVE CRONK expressed that the language in CSSB 134(RES) reflects what was intended by the board, which should be adhered to.

[2:08:46 PM](#)

The committee took an at-ease from 2:08 p.m. to 2:10 p.m.

[2:10:54 PM](#)

CHAIR PATKOTAK removed his objection.

[2:11:08 PM](#)

REPRESENTATIVE CRONK objected and stated that he won't support Conceptual Amendment 2 without any public input from those invested in the issue.

[2:11:32 PM](#)

REPRESENTATIVE RAUSCHER objected.

[2:11:42 PM](#)

A roll call vote was taken. Representatives Fields, Hopkins, Schrage, and Hannan voted in favor of *. Representatives McKay, Cronk, Gillham, Rauscher, and Patkotak voted against it. Therefore, Conceptual Amendment 2 failed by a vote of 5-4.

[2:12:36 PM](#)

REPRESENTATIVE HOPKINS moved to report CSSB 134(RES) out of committee with individual recommendations and the accompanying zero fiscal note.

[2:12:52 PM](#)

CHAIR PATKOTAK objected for purposes of discussion. There being no discussion, he withdrew his objection. There being no further objection, CSSB 134(RES) was reported out of the House Resources Standing Committee.

2:16:12 PM

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:16 p.m.