

Introduced: 2/19/81
Referred: Resources

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 199

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Guide Board; and providing for
7 an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 08.01.010(20) is amended to read:

10 (20) Guide [LICENSING AND CONTROL] Board;

11 * Sec. 2. AS 08.03.010(c) is amended by adding a new paragraph to read:

12 (19) Guide Board (AS 08.54.010) -- June 30, 1984.

13 * Sec. 3. AS 08.54.010 is amended to read:

14 ARTICLE 1. GUIDE [LICENSING AND CONTROL] BOARD.

15 Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. For the pur-
16 poses of licensing and regulating the activities of guides in the best
17 interests of the state's wildlife resources, there [THERE] is created
18 in the Department of Commerce and Economic Development, the Guide [LI-
19 CENSING AND CONTROL] Board consisting of seven members. Not more than
20 three members of the board may be licensed registered or master guides
21 who are actively involved in the guiding profession. The other members
22 of the board shall be knowledgeable and experienced with the fish and
23 game resources of the state. All members shall be residents of the
24 state for at least 10 years [NO MORE THAN THREE MEMBERS OF THE BOARD
25 SHALL HAVE A GUIDE LICENSE. THE OTHER MEMBERS SHALL HAVE A GENERAL
26 KNOWLEDGE OF THE GAME RESOURCES OF THE STATE. A MINIMUM OF 10 YEARS
27 RESIDENCE IN THE STATE IS REQUIRED FOR ALL MEMBERS OF THE BOARD].

28 * Sec. 4. AS 08.54 is amended by adding a new section to read:

29 Sec. 08.54.035. QUORUM. Four members of the board constitute a

1 quorum for the transaction of business, for the performance of any du-
2 ty, and for the exercise of any power under this chapter. However, a
3 majority of the members of the board must vote for the adoption of a
4 regulation or to revoke, suspend, or deny renewal of a license.

5 * Sec. 5. AS 08.54.040(a)(1) is amended to read:

6 (1) prepare, grade and administer examinations and may sub-
7 stitute special oral examinations for an applicant who is unable to
8 read or speak the English language;

9 * Sec. 6. AS 08.54.040(a)(2) is amended to read:

10 (2) determine [AND PASS ON] qualifications of applicants for
11 licenses and authorize the issuance of licenses to those who qualify;

12 * Sec. 7. AS 08.54.040(a)(4) is amended to read:

13 (4) compile, maintain and publish a guide register of guides
14 who have not been convicted of a violation of a federal or state hunt-
15 ing, sport fishing, trapping, [FISH, GAME,] or guiding law [STATUTE] or
16 regulation within the five years immediately preceding publication; [A
17 GUIDE LISTED IN THE REGISTER WHOSE LICENSE IS REVOKED OR SUSPENDED
18 SHALL BE REMOVED FROM THE REGISTER WHILE HIS LICENSE IS REVOKED OR SUS-
19 PENDED;]

20 * Sec. 8. AS 08.54.040(a)(5) is repealed and reenacted to read:

21 (5) collect and maintain records of hunts conducted by
22 guides;

23 * Sec. 9. AS 08.54.040(a)(8) is amended to read:

24 (8) establish guide areas for registered and master guides,
25 limit the number of [A QUOTA OF LICENSED OPERATING] guides who may op-
26 erate within these designated geographical areas [GAME UNITS OR SUB-
27 UNITS OF THE STATE] and establish [PROVIDE FOR] an equitable and rea-
28 sonable procedure for limiting the number of guides in an area giving
29 [TO THAT QUOTA;] preference [SHALL BE GIVEN] to [QUALIFIED AVAILABLE

1 AND WILLING LICENSED] guides who permanently reside within the desig-
2 nated area if all other qualifications of the guides who apply for an
3 area are equal [GAME UNIT OR SUBUNIT].

4 * Sec. 10. AS 08.54 is amended by adding a new section to read:

5 Sec. 08.54.141. PRIVILEGES AND LIMITATIONS OF ASSISTANT GUIDES.

6 An assistant guide

7 (1) may not contract for guided hunts; and

8 (2) shall be supervised by a registered or master guide at
9 all times while the assistant guide is in the field on guided hunts.

10 * Sec. 11. AS 08.54 is amended by adding a new section to read:

11 Sec. 08.54.186. REGISTERED GUIDE EXAMINATION. The board shall
12 administer the qualification examination required under AS 08.54.110 at
13 least twice a year. At least once every other year the board shall
14 give the examination at a location other than Anchorage.

15 * Sec. 12. AS 08.54.190(a) is amended to read:

16 (a) A master guide, registered guide, class-A assistant guide, or
17 assistant guide [OR TRANSPORTER] license expires on December 31, fol-
18 lowing issuance.

19 * Sec. 13. AS 08.54 is amended by adding a new section to read:

20 Sec. 08.54.195. GUIDE AREAS. (a) Under AS 08.54.040(a)(8), the
21 board shall establish and assign exclusive or joint use guide areas for
22 big game guides. The board shall adopt regulations under the Adminis-
23 trative Procedure Act (AS 44.62) which establish criteria that will be
24 used by the board when it creates an exclusive guide area.

25 (b) The board shall continue in effect all exclusive or joint use
26 guide areas assigned before the effective date of this section. Howev-
27 er, the board shall by regulation establish a deadline for guides to
28 request a hearing before the board to review the assignment of an area.
29 If requested by a guide, the board shall hold a hearing to determine if

1 an assignment of an exclusive or joint use area made before the effec-
2 tive date of this section creates a substantial injustice as determined
3 by criteria set out in (c) of this section. If the board determines
4 that an injustice was created, the board shall modify, terminate or re-
5 assign the area, or take other reasonable steps to correct the injus-
6 tice.

7 (c) The board may find that an injustice was caused by the assign-
8 ment of an exclusive or joint use guide area if:

9 (1) an individual was unfairly discriminated against; or

10 (2) a person who applied for the exclusive or joint use
11 guide area was denied a hearing; or

12 (3) a qualified person was not given a preference at the
13 time the area was assigned in accordance with AS 08.54.040(a)(8).

14 (d) The board shall consider the following before it assigns an
15 exclusive or joint use guide area: (1) use of the game management unit
16 in which the area is located by a guide who has applied for the area;
17 (2) occupancy of and investment of money by the guide in the area; (3)
18 the effect on other guides which would result from creation of the
19 area; and (4) big game populations in the area.

20 (e) A guide who permanently resides in an exclusive or joint-use
21 guide area is entitled to a preference in accordance with AS 08.54.-
22 040(a)(8) for the assignment of the area. A guide may not be assigned
23 an exclusive or joint use area in a guide district in which he is not
24 licensed.

25 (f) If, after July 1, 1981, a guide has failed to use an exclusive
26 or joint use guide area assigned to him for two consecutive years, the
27 board shall, after a hearing, revoke the area and reassign the area
28 permit. However, for good cause shown, including circumstances beyond
29 the guide's control, a guide may be excused for not using an area if he

1 is capable of, and intends to, use the area in the next calendar year.
2 Use of a guide area does not include use of the area by a subcontractor
3 of a guide or the loan of the use of the area to another master or
4 registered guide.

5 (g) A guide may not be assigned more than three exclusive or
6 joint use guide areas which are in effect during the same year.

7 * Sec. 14. AS 08.54.200(a) is amended to read:

8 (a) The board shall hold a hearing to determine if disciplinary
9 action is necessary if within the five years immediately preceding the
10 hearing

11 (1) complaints concerning the guide's guiding activities
12 [LICENSEE] have been filed with the board or other state agency from
13 three or more clients of separate parties and the division of fish and
14 wildlife protection, Department of Public Safety, finds after investi-
15 gation that the complaints appear to be valid; or

16 (2) a licensee has been charged with a violation of federal
17 or state hunting, sport fishing, trapping, or guiding laws [FISH, GAME
18 OR GUIDE STATUTES] or regulations; or

19 (3) a licensee has been convicted of a violation of a federal
20 or state hunting, sport fishing, trapping, or guiding law [FISH, GAME
21 OR GUIDE STATUTE] or regulation.

22 * Sec. 15. AS 08.54.200(c)(3) is repealed and reenacted to read:

23 (3) has been convicted of the following violations within
24 the five years immediately preceding the hearing:

25 (A) waste of a wild food animal;

26 (B) hunting on the same day that the guide and his
27 clients are airborne;

28 (C) hunting in an area closed by a state game law or
29 regulation;

1 (D) hunting during a closed hunting season; or

2 (E) hunting in an exclusive or joint use guide area

3 which is not assigned to the guide.

4 * Sec. 16. AS 08.54.200(d) is amended to read:

5 (d) No person who is disciplined under this section may engage in
6 any guiding [OR TRANSPORTING] activity during the period of license re-
7 vocation or disciplinary action. No person licensed under this chapter
8 may hire or work for a guide whose license is suspended or revoked un-
9 der this section.

10 * Sec. 17. AS 08.54.200 is amended by adding new subsections to read:

11 (f) If a certified copy of a judgment of a conviction of a guide
12 for a crime described in (c)(3) of this section is filed with the
13 board, the board may immediately suspend the guide's license. The
14 suspension may be ordered even if the conviction resulted from a plea
15 of nolo contendere or the conviction is under appeal to a higher court.
16 The order remains in effect until after the final disposition of the
17 disciplinary proceeding under this section.

18 (g) A certified copy of a judgment of conviction of a guide for
19 any crime is conclusive evidence of the commission of that crime in any
20 disciplinary proceeding instituted against him under this section based
21 upon the conviction.

22 * Sec. 18. AS 08.54.210 is amended to read:

23 Sec. 08.54.210. UNLAWFUL ACTS. (a) It is unlawful for

24 (1) a master guide, registered guide, class-A assistant
25 guide, or assistant guide [OR TRANSPORTER] to fail to timely report to
26 the Department of Public Safety, division of fish and wildlife protec-
27 tion, and in no event later than 30 days, violations [BY A CLIENT] of a
28 state fish, game or guiding statute or regulation;

29 (2) a master guide, registered guide, class-A assistant

1 guide, or assistant guide [OR TRANSPORTER] to aid the commission of a
2 violation of this chapter or of AS 16.05 or a regulation promulgated
3 under either chapter, or permit the commission of a violation in his
4 sight without attempting to prevent it, short of using force, and with-
5 out reporting it;

6 (3) a person to guide [OR TRANSPORT] as defined in this
7 chapter without being licensed under this chapter and without having
8 the license in his actual possession; [HOWEVER, FOR PURPOSES OF TRANS-
9 PORTING BY AIR, IN THE CASE OF A CORPORATION, COMPANY, PARTNERSHIP OR
10 OTHER BUSINESS ENTITY, THE LICENSE MAY REMAIN AT THE PRINCIPAL PLACE OF
11 BUSINESS OF THE BUSINESS ENTITY;]

12 (4) a person to advertise as or represent himself to be a
13 licensed master guide, registered guide, class-A assistant guide, or
14 assistant guide [OR TRANSPORTER] without being currently licensed, or
15 to falsely advertise services;

16 (5) a person to guide as defined in this chapter without
17 having a current valid hunting and fishing license in his possession;
18 [.]

19 (6) a master or registered guide to employ or have under his
20 supervision more than three assistant guides at the same time; [.]

21 (7) a person to guide as defined in this chapter without
22 paying a fee as prescribed in AS 16.05.340(e).

23 (b) A person who violates (a)(1) - (6) of this section is guilty
24 of a misdemeanor and upon conviction is punishable by a fine of not
25 more than \$1,000 or by imprisonment for not more than one year, or by
26 both, and may have his license revoked for a period up to five years.
27 However, a person who engages in guiding [OR TRANSPORTING] activity
28 during the period his license is suspended or revoked under this chap-
29 ter is guilty of a felony punishable, upon conviction, by a fine of not

1 more than \$5,000 and by imprisonment for not less than one year nor
2 more than three years. In addition to punishment for a felony, all
3 guns, fishing tackle, boats, aircraft, automobiles or other vehicles,
4 camping gear and other equipment and paraphernalia used in, or in aid
5 of, guiding [OR TRANSPORTING] activity engaged in during the period of
6 suspension or revocation shall be confiscated by persons authorized to
7 enforce this chapter. A person who violates (a)(7) of this section,
8 upon conviction, is subject to the same license revocation provision as
9 for a violation of (a)(1) - (6) of this section and, in addition, is
10 punishable by a fine of not more than \$5,000, or by imprisonment for
11 not more than one year, or by both.

12 * Sec. 19. AS 08.54.240(1) is amended to read:

13 (1) "board" means the Guide [LICENSING AND CONTROL] Board;

14 * Sec. 20. AS 08.54.240(2) is amended to read:

15 (2) "guide" [, "GUIDES"] or "guiding"

16 (A) means assisting another person to take or attempt
17 to take big game with the intent of receiving monetary or material
18 remuneration for the service [SERVICES], by accompanying or [AND]
19 directing that person personally or through an employee or [A LI-
20 CENSED] assistant guide; and

21 (B) includes a person who transports another person to
22 a hunting area and supplies meat packers, camps, hunting equipment
23 or other services for monetary or material remuneration [FOR THE
24 DURATION OF A HUNT, AND NOT SOLELY FOR THE PURPOSE OF PROVIDING
25 TRANSPORTATION SERVICES];

26 * Sec. 21. AS 08.54.240(4) is amended to read:

27 (4) "unethical activity" means

28 (A) deception or misrepresentation [IN ANY DEGREE] in-
29 volving prospective or actual clients either before, during, or

1 following a contract hunt including, but not limited to, misrepre-
2 sentation through private or public advertising of the type, dura-
3 tion, cost, or conditions of the contract hunt [HUNTS];

4 (B) [MISREPRESENTATION EITHER THROUGH PRIVATE COMMUNI-
5 CATION OR PUBLIC ADVERTISING OF THE NATURE, TYPE, DURATION, COST,
6 OR OTHER CONDITIONS OF CONTRACT HUNTS.]

7 (C) making a guaranty or money-back promise that a
8 species or certain number of species of game will be taken on a
9 contract hunt;

10 (D) unsafe or unsportsmanlike activities that are detri-
11 mental to the game resources of the state or to the guiding pro-
12 fession, as defined by regulations of the board, including viola-
13 tions of state or federal hunting, sport fishing, trapping, or
14 guiding laws or regulations; [.]

15 * Sec. 22. AS 39.50.200(b) is amended by adding a new paragraph to read:

16 (44) the Guide Board (AS 08.54).

17 * Sec. 23. AS 08.03.010(b)(7); AS 08.54.040(b), 08.54.045, 08.54.142 --
18 08.54.146, 08.54.170(c), and 08.54.240(5) are repealed.

19 * Sec. 24. This Act takes effect July 1, 1981.
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