

Original sponsor: Rules/Governor

Offered: 4/23/81

Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 199 (Resources)

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 guiding; and providing for an
7 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, 1983.

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. Three members
20 of the board must be licensed registered or master guides who are ac-
21 tively involved in the guiding profession. The other members of the
22 board shall be knowledgeable and experienced with the fish and game
23 resources of the state. Each member shall be a resident of the state
24 for at least 10 years [NO MORE THAN THREE MEMBERS OF THE BOARD SHALL
25 HAVE A GUIDE LICENSE. THE OTHER MEMBERS SHALL HAVE A GENERAL KNOWLEDGE
26 OF THE GAME RESOURCES OF THE STATE. A MINIMUM OF 10 YEARS RESIDENCE IN
27 THE STATE IS REQUIRED FOR ALL MEMBERS OF THE BOARD].

28 * Sec. 4. AS 08.54.020 is amended to read:

29 Sec. 08.54.020. APPOINTMENT AND TERM OF OFFICE. The members of

1 the board shall be appointed by the governor and confirmed by the
2 legislature for staggered terms of three years or until their successors
3 are appointed. [INITIAL TERMS ARE AS FOLLOWS: THREE MEMBERS FOR ONE
4 YEAR, TWO MEMBERS FOR TWO YEARS, AND TWO MEMBERS FOR THREE YEARS.] A
5 member may be removed at the pleasure of the governor.

6 * Sec. 5. AS 08.54 is amended by adding a new section to read:

7 Sec. 08.54.035. QUORUM: REQUIRED MAJORITY VOTE. Four members of
8 the board constitute a quorum for the transaction of business, for the
9 performance of any duty, and for the exercise of any power under this
10 chapter. However, the board may not adopt a regulation, revoke, sus-
11 pend, or deny renewal of a license, or assign, modify, or revoke an
12 exclusive guide area, unless the action is approved by a vote of a
13 majority of the full membership of the board.

14 * Sec. 6. AS 08.54.040(a)(1) is amended to read:

15 (1) prepare, grade and administer examinations and may sub-
16 stitute special oral examinations for an applicant with limited English
17 language reading or writing ability;

18 * Sec. 7. AS 08.54.040(a)(2) is amended to read:

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

21 * Sec. 8. AS 08.54.040(a)(4) is amended to read:

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

29 * Sec. 9. AS 08.54.040(a)(5) is repealed and reenacted to read:

1 (5) collect and maintain records of hunts conducted by
2 guides;

3 * Sec. 10. AS 08.54.040(a)(8) is amended to read:

4 (8) establish exclusive or joint-use guide areas for regis-
5 tered and master guides, determine the number of [A QUOTA OF LICENSED
6 OPERATING] guides who may operate within these designated geographical
7 areas. [GAME UNITS OR SUBUNITS OF THE STATE] and establish [PROVIDE
8 FOR] an equitable and reasonable procedure for determining [LIMITING]
9 the number of guides in an area giving [TO THAT QUOTA,] preference
10 [SHALL BE GIVEN] to [QUALIFIED AVAILABLE AND WILLING LICENSED] guides
11 who permanently reside within the designated area if all other quali-
12 fications of the guides who apply for an area are equal [GAME UNIT OR
13 SUBUNIT].

14 * Sec. 11. AS 08.54.045 is repealed and reenacted to read:

15 Sec. 08.54.045. SPECIAL GUIDE LICENSE. The board shall issue a
16 special guide license to a person who applies to conduct a guided hunt
17 for musk-ox or for a specific species of marine mammal in a specifically
18 designated area, if he

19 (1) is 21 years of age or more;

20 (2) is a resident of the state;

21 (3) has resided and hunted in the area of the state in which
22 he is to guide for at least 10 years;

23 (4) is physically able to perform the duties of a special
24 guide;

25 (5) has demonstrated knowledge of the following areas to an
26 extent and degree satisfactory to the board:

27 (A) fish and game laws and regulations;

28 (B) relevant characteristics of the specific species to
29 be hunted;

- 1 (C) field preparation of trophies;
- 2 (D) care of game meat;
- 3 (E) use of guiding gear;
- 4 (F) firearm safety;
- 5 (G) practical first aid; and
- 6 (H) booking and contracting.

7 * Sec. 12. AS 08.54.110(8) is amended to read:

8 (8) has been licensed as and performed the services of an
 9 assistant guide or guided under a special guide license in the state
 10 for a part of each of three years;

11 * Sec. 13. AS 08.54.110(9) is amended to read:

12 (9) submits a written recommendation to the board from a
 13 registered guide for whom the applicant has worked; however, the
 14 requirements of this paragraph do not apply to a person who has guided
 15 under a special guide license for three years;

16 * Sec. 14. AS 08.54 is amended by adding a new section to read:

17 Sec. 08.54.141. PRIVILEGES AND LIMITATIONS OF ASSISTANT GUIDES.
 18 An assistant guide

- 19 (1) may not contract for guided hunts; and
- 20 (2) shall be supervised by a registered or master guide at
- 21 all times while the assistant guide is in the field on guided hunts.

22 * Sec. 15. AS 08.54.170 is amended to read:

23 Sec. 08.54.170. ANNUAL [LICENSE] FEES. (a) Annual [LICENSE]
 24 fees for engaging in the profession of guiding are:

- 25 (1) master guide license [, ANNUAL]\$75
- 26 (2) registered guide license [, ANNUAL] 75
- 27 (3) class-A assistant guide license [, ANNUAL] 15
- 28 (4) assistant guide license [, ANNUAL] 10
- 29 (5) special guide license 25

1 (b) The annual [LICENSE] fee for a master guide, registered
2 guide, special guide, class-A assistant guide, or assistant guide
3 license is in addition to the fee required for a hunting or fishing
4 license.

5 [(c) THE LICENSE FEE FOR A TRANSPORTER IS \$10.]

6 * Sec. 16. AS 08.54 is amended by adding a new section to read:

7 Sec. 08.54.186. REGISTERED GUIDE EXAMINATION. The board shall
8 administer the qualification examination required under AS 08.54.110 at
9 least twice a year. At least once every other year the board shall
10 give the examination at a location other than Anchorage.

11 * Sec. 17. AS 08.54.190(a) is amended to read:

12 (a) A master guide, registered guide, special guide, class-A
13 assistant guide, or assistant guide [OR TRANSPORTER] license expires on
14 December 31, following issuance.

15 * Sec. 18. AS 08.54 is amended by adding a new section to read:

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

22 (b) The board shall continue in effect all exclusive or joint-use
23 guide areas assigned before the effective date of this section. How-
24 ever, the board shall by regulation establish a deadline for guides to
25 request a hearing before the board to review the assignment of an area.
26 If requested by a guide, the board shall hold a hearing to determine if
27 an assignment of an exclusive or joint-use area made before the effec-
28 tive date of this section creates a substantial injustice as determined
29 by criteria set out in (c) of this section. If the board determines

1 that an injustice was created, the board shall modify, terminate or re-
2 assign the area, or take other reasonable steps to correct the injus-
3 tice.

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

6 (1) a person was unfairly discriminated against;

7 (2) a person who applied for the exclusive or joint-use
8 guide area was denied a hearing; or

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

11 (d) The board shall consider the following before it assigns an
12 exclusive or joint-use guide area:

13 (1) the extent to which the guide who has applied for the
14 area has used the game management unit in which the area is located;

15 (2) the extent to which the guide occupied and invested in
16 the area;

17 (3) the effect on other guides which would result from
18 creation of the area;

19 (4) big game populations in the area; and

20 (5) the land ownership status of the area.

21 (e) The board may consider any relevant facts or circumstance
22 before assigning an exclusive or joint-use guide area.

23 (f) A guide who permanently resides in an exclusive or joint-use
24 guide area is entitled to a preference in accordance with AS 08.54.-
25 040(a)(8) for the assignment of the area. A guide may not be assigned
26 an exclusive or joint-use area in a guide district in which he is not
27 licensed.

28 (g) If after July 1, 1981, a guide has failed to use an exclusive
29 or joint-use guide area assigned to him for two consecutive years, the

1 board shall, after a hearing, revoke the area and reassign the area
2 permit. However, for good cause shown, including circumstances beyond
3 the guide's control, a guide may be excused for not using an area if he
4 is capable of, and intends to, use the area in the next calendar year.
5 Use of a guide area does not include use of the area by a subcontractor
6 of a guide or the loan of the use of the area to another master or
7 registered guide.

8 (h) A guide may not be assigned more than three exclusive or
9 joint-use guide areas which are in effect during the same year.

10 * Sec. 19. AS 08.54.200(a) is amended to read:

11 (a) The board shall hold a hearing to determine if disciplinary
12 action is necessary if within the five years immediately preceding the
13 hearing

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

19 (2) A LICENSEE HAS BEEN CHARGED WITH A VIOLATION OF FEDERAL
20 OR STATE SPORT FISH, GAME OR GUIDE STATUTES OR REGULATIONS; OR]

21 (3) a licensee has been convicted of a violation of a feder-
22 al or state hunting, sport fishing, trapping, or guiding law [FISH,
23 GAME OR GUIDE STATUTE] or regulation; or

24 (4) a licensee has been convicted of criminal trespass in
25 the first or second degree (AS 11.46.320 - 11.46.330) during the con-
26 duct of guiding activities.

27 * Sec. 20. AS 08.54.200(b) is amended to read:

28 (b) After a hearing, the board may revoke, suspend, or deny
29 renewal of a license if the board finds that the licensee

1 (1) engaged in unethical activity, unsafe activity, or
2 activity which adversely affects the natural resources of the state
3 when such activity is unrelated to the legal and legitimate purposes of
4 the contract hunt; [OR]

5 (2) violated a provision of a federal or state sport fish,
6 game or guide statute or regulation; or

7 (3) has been convicted of criminal trespass in the first
8 or second degree (AS 11.46.320 - 11.46.330) during the conduct of
9 guiding activities.

10 * Sec. 21. AS 08.54.200(c)(2) is amended to read:

11 (2) is incompetent as a master guide, registered guide,
12 special guide, class-A assistant guide, or assistant guide;

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

14 (3) has been convicted of one or more of the following
15 violations within the five years immediately preceding the hearing:

16 (A) waste of a wild food animal;

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

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

21 (D) hunting during a closed hunting season.

22 * Sec. 23. AS 08.54.200(d) is amended to read:

23 (d) No person who is disciplined under this section may engage in
24 any guiding [OR TRANSPORTING] activity during the period of license re-
25 vocation or disciplinary action. A person licensed under this chapter
26 may not hire a person whose license is suspended or revoked to guide,
27 and a guide whose license is suspended or revoked may not guide in the
28 employ of a person licensed under this chapter [NO PERSON LICENSED
29 UNDER THIS CHAPTER MAY HIRE OR WORK FOR A GUIDE WHOSE LICENSE IS SUS-

1 PENDEd OR REVOKED UNDER THIS SECTION].

2 * Sec. 24. AS 08.54.200 is amended by adding new subsections to read:

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

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

14 (h) The board may hold a hearing to determine if disciplinary
15 action is necessary if within the five years immediately preceding the
16 hearing

17 (1) a licensee has been charged with a violation of federal
18 or state hunting, sport fishing, trapping, or guiding laws or regula-
19 tions; or

20 (2) a complaint that the guide has trespassed on private
21 property during the conduct of guiding activities has been filed with
22 the board by a landowner.

23 * Sec. 25. AS 08.54.210 is amended to read:

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

25 (1) a master guide, registered guide, special guide, class-A
26 assistant guide, or assistant guide [OR TRANSPORTER] to fail to timely
27 report to the Department of Public Safety, division of fish and wildlife
28 protection, and in no event later than 30 days, violations known to
29 have been committed by a client or an employee other than a guide of a

1 state hunting, sport fishing, trapping, [FISH, GAME] or guiding law
2 [STATUTE] or regulation;

3 (2) a master guide, registered guide, special guide, class-A
4 assistant guide, or assistant guide [OR TRANSPORTER] to aid the commis-
5 sion of a violation of this chapter or of AS 16.05 or a regulation
6 adopted [PROMULGATED] under either chapter, or permit the commission of
7 a violation in his sight without attempting to prevent it, short of
8 using force, and without reporting it;

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

15 (4) a person to advertise as or represent himself to be a
16 licensed master guide, registered guide, special guide, class-A assis-
17 tant guide, or assistant guide [OR TRANSPORTER] without being currently
18 licensed, or to falsely advertise services;

19 (5) a person to guide as defined in this chapter without
20 having a current valid hunting [AND FISHING] license in his possession;
21 [.]

22 (6) a master or registered guide to employ or have under his
23 supervision more than three [ASSISTANT] guides guiding at the same
24 time.

25 [(7) A PERSON TO GUIDE AS DEFINED IN THIS CHAPTER WITHOUT
26 PAYING A FEE AS PRESCRIBED IN AS 16.05.340(e).]

27 (b) A person who violates (a)(1) - (6) of this section is guilty
28 of a misdemeanor and upon conviction is punishable by a fine of not
29 more than \$1,000 or by imprisonment for not more than one year, or by

1 both, and may have his license revoked for a period up to five years.
2 However, a person who engages in guiding [OR TRANSPORTING] activity
3 during the period his license is suspended or revoked under this chap-
4 ter is guilty of a felony punishable, upon conviction, by a fine of not
5 more than \$5,000 and by imprisonment for not less than one year nor
6 more than three years. In addition to punishment for a felony, all
7 guns, fishing tackle, boats, aircraft, automobiles or other vehicles,
8 camping gear and other equipment and paraphernalia used in, or in aid
9 of, guiding [OR TRANSPORTING] activity engaged in during the period of
10 suspension or revocation shall be confiscated by persons authorized to
11 enforce this chapter. [A PERSON WHO VIOLATES (a)(7) OF THIS SECTION,
12 UPON CONVICTION, IS SUBJECT TO THE SAME LICENSE REVOCATION PROVISION AS
13 FOR A VIOLATION OF (a)(1) - (6) OF THIS SECTION AND, IN ADDITION, IS
14 PUNISHABLE BY A FINE OF NOT MORE THAN \$5,000, OR BY IMPRISONMENT FOR
15 NOT MORE THAN ONE YEAR, OR BY BOTH.]

16 * Sec. 26. AS 08.54.240(1) is amended to read:

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

18 * Sec. 27. AS 08.54.240(2) is amended to read:

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

20 (A) means assisting another person to take or attempt
21 to take big game with the intent of receiving monetary or material
22 remuneration for the service [SERVICES], by accompanying and
23 directing that person personally or through an employee or [A
24 LICENSED] assistant guide; and

25 (B) includes a person who transports another person to
26 a hunting area and supplies meat packers or other personal
27 services in a hunting area for monetary or material remuneration
28 [FOR THE DURATION OF A HUNT, AND NOT SOLELY FOR THE PURPOSE OF
29 PROVIDING TRANSPORTATION SERVICES];

1 * Sec. 28. AS 08.54.240(4) is amended to read:

2 (4) "unethical activity" means

3 (A) deception or misrepresentation [IN ANY DEGREE] in-
4 volving prospective or actual clients either before, during, or
5 following a contract hunt including, but not limited to, misrepre-
6 sentation through private or public advertising of the type, dura-
7 tion, cost, or conditions of the contract hunt [HUNTS];

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

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

14 (D) unsafe or unsportsmanlike activities that are
15 detrimental to the game resources of the state, as defined by
16 regulations of the board, including violations of state or fed-
17 eral hunting, sport fishing, trapping, or guiding laws or regula-
18 tions; [.]

19 * Sec. 29. AS 08.54.240 is amended by adding a new paragraph to read:

20 (6) "big game" means brown bear, grizzly bear, polar bear,
21 caribou, moose, black bear, bison, Sitka blacktail deer, elk, mountain
22 goat, musk-ox, wolf, wolverine, mountain or Dall sheep, and marine
23 mammals.

24 * Sec. 30. AS 16.05.255(a) is amended by adding new paragraphs to read:

25 (11) designating the areas of the state to which AS 16.05.-
26 407(a) applies;

27 (12) designating additional species of big game to which
28 AS 16.05.407 applies.

29 * Sec. 31. AS 16.05.407(a) is amended to read:

1 (a) It is a class A misdemeanor [UNLAWFUL] for a nonresident,
2 except a nonresident subject to (d) of this section, to hunt, pursue or
3 take brown bear, grizzly bear, polar bear or sheep or other species of
4 big game designated in regulations adopted by the Board of Game in
5 areas of this state designated in regulations adopted by the Board of
6 Game, unless personally accompanied by a person who is licensed as a
7 master guide, registered guide or assistant guide under AS 08.54 [BY
8 THE DEPARTMENT] or [WHO IS PERSONALLY ACCOMPANIED] by a resident Alaskan
9 over 19 years of age who is the spouse of or is related by blood within
10 and including the second degree of kindred to the nonresident. A
11 nonresident [PERSON] who applies for a [NONRESIDENT] big game tag for
12 the taking of an animal specified in this section or in regulations
13 adopted under this section shall first furnish to the state, on a form
14 provided by the state, an affidavit showing that he will be accompanied
15 in his hunt by a person who is qualified under the terms of this sec-
16 tion. A person who falsifies the required affidavit is guilty of
17 perjury under AS 11.56.200.

18 * Sec. 32. AS 16.05.407 is amended by adding new subsections to read:

19 (d) It is a class A misdemeanor for a nonresident alien to hunt,
20 pursue or take brown bear, grizzly bear, polar bear, sheep, caribou, or
21 moose in this state unless personally accompanied by a person who is
22 licensed as a master guide, registered guide, or assistant guide under
23 AS 08.54 or by a resident Alaskan over 19 years of age who is the
24 spouse of or is related by blood within and including the second degree
25 of kindred to the alien. The board may by regulation designate addi-
26 tional species of big game which may not be hunted by a nonresident
27 alien unless the nonresident alien is personally accompanied by a
28 person licensed as a master guide, registered guide, or assistant guide
29 under AS 08.54 or by a resident Alaskan over 19 years of age who is the

1 spouse of or is related by blood within and including the second degree
2 of kindred to the alien. A nonresident alien who applies for a big
3 game tag for the taking of an animal specified in this section shall
4 first furnish to the state, on a form provided by the state, an affi-
5 davit showing that he will be accompanied in his hunt by a person who
6 is qualified under the terms of this section. A person who falsifies
7 the required affidavit is guilty of perjury under AS 11.56.200.

8 (e) In this section,

9 (1) "big game" includes brown bear, grizzly bear, polar
10 bear, caribou, moose, black bear, bison, Sitka blacktail deer, elk,
11 mountain goat, musk-oxen, wolf, wolverine, mountain or Dall sheep and
12 marine mammals;

13 (2) "nonresident alien" means a person who is not a citizen
14 of the United States and whose permanent place of abode is not in the
15 United States.

16 * Sec. 33. AS 39.50.200(b) is amended by adding a new paragraph to read:

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

18 * Sec. 34. AS 08.03.010(b)(7); AS 08.54.040(b), 08.54.142 - 08.54.146,
19 08.54.185, 08.54.240(5); AS 16.05.340(e), and 16.05.407(c) are repealed.

20 * Sec. 35. The terms of the members of the Guide Licensing and Control
21 Board are terminated as of the effective date of this Act. The members of
22 the Guide Board shall be appointed by the governor in accordance with the
23 provisions of AS 08.54 within 30 days of the effective date of this Act.
24 Three of the members initially appointed to serve on the Guide Board shall
25 be appointed to serve a one-year term, two members shall be appointed to
26 serve a two-year term, and two members shall be appointed to serve a three-
27 year term.

28 * Sec. 36. This Act takes effect July 1, 1981.

29