

HCS CS SB 294
(Res) Am H

Introduced: 4/22/85
Referred: Resources
and Finance

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 SENATE BILL NO. 294

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH 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 (AS 08.54.010);

11 * Sec. 2. AS 08.03.010(c)(20) is amended to read:

12 (20) Guide [LICENSING AND CONTROL] Board (AS 08.54.010 -
13 June 30, 1990 [1986].

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

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

16 Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. For the
17 purposes of licensing and regulating the activities of guides in the
18 interest of managing the state's wildlife resources there [THERE] is
19 created the Guide [LICENSING AND CONTROL] Board consisting of seven
20 members. At least [NO MORE THAN] three members of the board must be
21 licensed registered or master guides who are actively involved in the
22 guiding profession [SHALL HAVE A GUIDE LICENSE]. The other members
23 shall have a general knowledge of the game resources of the state. A
24 minimum of 10 years residence in the state is required for all members
25 of the board. For administrative purposes, the board is in the De-
26 partment of Commerce and Economic Development.

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

28 Sec. 08.54.020. APPOINTMENT AND TERM OF OFFICE. The members of
29 the board shall be appointed by the governor and confirmed by the

1 legislature for staggered terms of three years or until their succes-
2 sors are appointed. [INITIAL TERMS ARE AS FOLLOWS: THREE MEMBERS FOR
3 ONE YEAR, TWO MEMBERS FOR TWO YEARS, AND TWO MEMBERS FOR THREE YEARS.]
4 A member may be removed by [AT THE PLEASURE OF] the governor for
5 cause.

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

7 Sec. 08.54.035. QUORUM; VOTING REQUIREMENT. Four members of the
8 board constitute a quorum for the transaction of business, for the
9 performance of a duty, and for the exercise of any power under this
10 chapter. The board may not adopt a regulation, revoke, suspend or
11 deny renewal of a license, or assign, modify or revoke a restricted
12 guide area unless the action is approved by a vote of a majority of
13 the full membership of the board.

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

15 (a) Except as provided in AS 08.54.045, the board shall

16 (1) prepare, grade and administer examinations, that may
17 include oral examinations of applicants who demonstrate limited abil-
18 ity to read or write the English language;

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

22 (3) establish guide performance standards and regulate
23 activity;

24 (4) compile, maintain and publish an annual [A GUIDE]
25 register of master and registered guides who have not been convicted
26 of a violation of a federal or state [SPORT FISH,] game [,] or guiding
27 statute or regulation; a guide listed in the register whose license is
28 revoked or suspended shall be removed from the register while the
29 guide's license is revoked or suspended;

(5) collect and maintain records of hunts conducted by guides [COMPILE, MAINTAIN AND PUBLISH A RECORD OF REGISTERED OR MASTER GUIDES WHO HAVE COMPLETED A CONTRACT HUNT IN ANY OF THREE YEARS IMMEDIATELY PRECEDING THE PUBLISHING OF THE RECORD];

(6) prohibit guiding activities which are unsportsmanlike, unethical, unsafe, against principles of conservation, degrading to the guiding profession, or which adversely affect the natural resources;

(7) after a hearing, revoke, suspend or deny renewal of a license in accordance with AS 08.54.200;

(8) establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable, [AND] reasonable, and consistent procedure for limiting the number of guides to that quota; preference shall be given to qualified available and willing licensed guides who reside within the designated game unit or subunit.

* Sec. 7. AS 08.54.045 is repealed and reenacted to read:

Sec. 08.54.045. SPECIAL GUIDE LICENSE. The board may issue a special guide license to a person who applies to conduct a guided hunt for a specific species of marine mammal in a specifically designated area if the applicant

(1) is 21 years of age or older;

(2) has, for at least 10 years, resided and hunted in the area of the state in which the applicant is to guide;

(3) is physically able to perform the duties of a special guide;

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

(A) fish and game laws and regulations;

- (B) relevant characteristics of the specific species to be hunted;
- (C) field preparation of trophies;
- (D) care of game meat;
- (E) use of guiding gear;
- (F) firearm safety;
- (G) practical first aid;
- (H) booking and contracting hunts;

(5) has not been convicted of a game or guiding law violation during the previous five years.

* Sec. 8. AS 08.54 is amended by adding a new section to article 2 to read:

Sec. 08.54.090. OUTFITTER'S LICENSE. A person is entitled to be licensed as an outfitter if

- (1) the person is a licensed master or registered guide;
- (2) the board has assigned to the person at least one restricted guide area under AS 08.54.195; and
- (3) the person has filed with the board a bond with a corporate surety qualified to do business in the state running to the State of Alaska in the amount of \$5,000.

* Sec. 9. AS 08.54.110 is amended to read:

Sec. 08.54.110. QUALIFICATIONS FOR REGISTERED GUIDE LICENSE. A person is entitled to be licensed as a registered guide if the person

- (1) is 21 years of age or older [MORE];

(2) [Repealed

(3) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of trophies, first aid and photography;

(3) [(4)] is familiar with the terrain and transportation problems in the district for which the license is requested;

(4) [(5)] has passed the qualification examination prepared and administered by the board;

(5) [(6)] has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a crime involving moral turpitude;

(6) [(7)] has legally hunted in the state for all or part of each of five years in a manner directly contributing to the person's experience and competency as a guide;

(7) [(8)] has been licensed as and performed the services of an assistant guide in the state for a part of each of three years, or has guided in the state for a part of each of three years under a special guide license issued under AS 08.54.045;

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

(9) [(10)] is capable of performing the physical duties associated with guiding activities;

(10) [(11)] has been favorably recommended in writing by two hunters that the person has guided or assisted in guiding during each year of the person's three years as an assistant guide, whose recommendations have been solicited by the board from a list provided by the applicant [;

(12) MEETS ADDITIONAL QUALIFICATIONS WHICH THE BOARD MAY REQUIRE].

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

Sec. 08.54.115. LIMITATION ON MASTER AND REGISTERED GUIDES. A master or registered guide may not contract for more than one client at a time unless also licensed as an outfitter.

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

Sec. 08.54.141. PRIVILEGES AND LIMITATIONS OF ASSISTANT GUIDE LICENSE. An assistant guide

(1) may not contract for guided hunts; and

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

* Sec. 12. AS 08.54.170 is amended to read:

Sec. 08.54.170. LICENSE FEES. (a) License fees for engaging in the profession of guiding or outfitting are:

(1) master guide license, biennial\$150

(2) registered guide license, biennial ..150

(3) class-A assistant guide, biennial30

(4) assistant guide license, biennial20

(5) special guide license, biennial50

(6) outfitter license, biennial100

(b) The license fee for a master guide, registered guide, special guide, class-A assistant guide, [OR] assistant guide, or outfitter's license is in addition to the fee required for a hunting or fishing

license.

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

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

Sec. 08.54.186. REGISTERED GUIDE EXAMINATION.

The board shall administer the qualification examination required under AS 08.54.110 at least twice a year. An examination may not be given within 90 days after the previous exam. At least once every other year the board shall give the examination at a location other than Anchorage.

* Sec. 14. AS 08.54.190 is amended by adding a new subsection to read:

(d) A master guide, registered guide, special guide, class-A assistant guide, assistant guide, or outfitter license expires two years after the date it was issued.

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

Sec. 08.54.195. GUIDE AREAS. (a) Under AS 08.54.040(a)(8), the board may establish and assign guide areas for master guides or registered guides. The board shall adopt regulations under the Administrative Procedure Act (AS 44.62) that establish uniform and consistent criteria to be used by the board when it creates a restrictive guide area.

(b) The board shall recognize all restrictive guide areas assigned before the effective date of this section. If requested by a guide, the board shall hold a hearing to determine if an assignment of a restrictive area made before the effective date of this section creates a substantial injustice as determined by criteria set out in (c) of this section. If the board determines that a substantial injustice was created, the board shall modify, terminate or reassign the area, or take other reasonable steps to correct the injustice.

(c) The board may find that a substantial injustice was caused by the assignment of a restrictive area if

(1) a person was unfairly discriminated against by the assignment;

(2) a person who applied for the guide area was denied a hearing; or

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

(d) The board shall consider the following factors before it assigns a restrictive guide area:

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

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

(3) the effect on other guides that would result from creation of the area;

(4) big game populations in the area; and

(5) the land ownership status of the area.

(e) The board may consider relevant facts or circumstances before assigning a restrictive guide area.

(f) The board may charge a person to whom it reassigns a restrictive guide area a fee for the reassignment based on the number of acres in the guide area.

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

(a) The board shall hold a hearing to determine if disciplinary action is necessary if, during the five years immediately preceding the hearing,

(1) complaints concerning a licensee's

guiding or outfitting activities [THE LICENSEE] have been filed with the board from three or more clients of separate parties; or

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

(3)] a licensee has been convicted of a violation of a [FEDERAL OR] state hunting or guiding [SPORT FISH, GAME OR GUIDE] statute or regulation.

* Sec. 17. AS 08.54.200(b) is amended to read:

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

(1) engaged in unethical activity, unsafe activity, or activity that [WHICH] adversely affects the natural resources of the state when the [SUCH] activity is related [UNRELATED] to the [LEGAL AND LEGITIMATE] purposes of the contract hunt; [OR]

(2) violated a provision of a [FEDERAL OR] state hunting or guiding [SPORT FISH, GAME OR GUIDE] statute or regulation; or

(3) during the five years immediately preceding the hearing, has been convicted of two violations of a state statute or regulation prohibiting hunting in a restricted area not assigned to the licensee and without proper written permission.

* Sec. 18. AS 08.54.200(c) is amended to read:

(c) After a hearing, the board shall revoke a license if the board finds that the licensee

(1) does not meet the qualifications specified by statute or regulation for the class of license held;

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

[OR] assistant guide, or outfitter;

(3) during the five years immediately preceding the hearing has been convicted of two violations of a [FEDERAL OR] state statute or regulation prohibiting

(A) waste of a wild food animal;

(B) hunting on the same day airborne;

(C) hunting in an area closed to

hunting by the Board of Game; or

(D) hunting during a closed hunting season [SPORT FISH, GAME OR GUIDE STATUTES OR REGULATIONS].

* Sec. 19. AS 08.54.200(d) is repealed and reenacted to read:

(d) A person who is disciplined under this section may not engage in a guiding or outfitting activity during the period of license revocation or disciplinary action. A person licensed under this chapter may not knowingly hire as a guide a person whose guide license is suspended or revoked under this section. A guide whose license is suspended or revoked may not guide in the employ of a person licensed under this chapter.

* Sec. 20. AS 08.54.200 is amended by adding new subsections to read:

(f) If certified copies of two judgments of conviction of a guide or outfitter for offenses described under (c)(3) of this section are filed with the board, the board shall immediately suspend the guide's or outfitter's license. The suspension may be ordered even if the conviction resulted from a plea of nolo contendere or if the conviction is under appeal. The order remains in effect until after the final disposition of the disciplinary proceeding under this section.

(g) A certified copy of a judgment of conviction of a guide or outfitter for an offense is conclusive evidence of the commission of that offense in a

disciplinary proceeding instituted against the guide or outfitter under this section based on that conviction.

(h) In this section "two violations of a state statute or regulation" means two violations of a single statute or a single regulation, or violations of two statutes or two regulations, or one violation of a statute and one violation of a regulation.

* Sec. 21. AS 08.54.210 is amended to read:

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

(1) a master guide, registered guide, special guide, class-A assistant guide, assistant guide, or outfitter [TRANSPORTER] to fail to timely report to the Department of Public Safety, division of fish and wildlife protection, and in no event later than 30 days, a violation [VIOLATIONS BY A CLIENT] of a state hunting [FISH, GAME] or guiding statute or regulation known by the guide or outfitter to have been committed by a client or an employee of the guide or outfitter;

(2) a master guide, registered guide, special guide, class-A assistant guide, assistant guide, or outfitter [TRANSPORTER] to aid the commission of a violation of this chapter or of AS 16.05 or a regulation adopted [PROMULGATED] under either chapter, or permit the commission of a violation in the guide's or outfitter's [TRANSPORTER'S] sight without attempting to prevent it, short of using force, and without reporting it;

(3) a person to guide or outfit [TRANSPORT] as defined in this chapter without being licensed under this chapter and without having the license in actual possession; [HOWEVER, FOR PURPOSES OF TRANSPORTING BY AIR, IN THE CASE OF A CORPORATION, COMPANY, PARTNERSHIP OR OTHER BUSINESS ENTITY, THE LICENSE MAY REMAIN AT THE PRINCIPAL PLACE OF BUSINESS OF THE BUSINESS ENTITY;]

(4) a person to imply by advertisement, representation, or conduct, or to provide services as [ADVERTISE AS OR REPRESENT TO BE] a licensed master guide, registered guide, special guide, class-A assistant guide,

assistant guide, or outfitter [TRANSPORTER] without being currently licensed [, OR TO FALSELY ADVERTISE SERVICES];

(5) a person to act as a registered or master guide as defined in this chapter without having a current valid resident hunting [AND FISHING] license in the person's possession.

[(6) A MASTER OR REGISTERED GUIDE TO EMPLOY OR SUPERVISE MORE THAN THREE ASSISTANT GUIDES AT THE SAME TIME.

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

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

* Sec. 22. AS 08.54.240 is amended to read:

Sec. 08.54.240. DEFINITIONS. In this chapter

(1) "board" means the Guide [LICENSING

AND CONTROL] Board;

(2) "guide" [, "GUIDES"] or "guiding" means assisting another person to take or attempt to take big game with the intent of receiving monetary or material remuneration for the service [SERVICES], by accompanying and directing that person personally or through an [A LICENSED] assistant guide for the duration of a hunt, and not solely for the purpose of providing transportation services;

(3) "outfit" or "outfitting" means providing services, transportation, property, or equipment such as aircraft, boats, or other vehicles, or camping or hunting equipment, in connection with providing assistance in locating or taking game;

(4) [(3)] "resident" means a person who

(A) maintains a place of residence

within the state;

(B) [Repealed

(C)] shows by all attending circumstances the intention to permanently reside in this state;

[(4) "TRANSPORTING" OR THE "ACTIVITY OF TRANSPORTING" MEANS CONVEYING A PERSON BY ANY LAWFUL MEANS TO AN AREA FOR REMUNERATION OR MATERIAL BENEFIT IN EXCESS OF NORMAL OPERATING COSTS, WHEN THE PRIMARY PURPOSE OF THE PERSON BEING CONVEYED IS THE TAKING OF BIG GAME AND THE ASSOCIATED REMOVING OF BIG GAME MEAT AND PARTS OF BIG GAME AFTER BIG GAME HAS BEEN TAKEN; BIG GAME AS USED IN THIS PARAGRAPH MEANS GAME WHICH, IF TAKEN BY A NONRESIDENT, WOULD REQUIRE A BIG GAME TAG;]

(5) "unethical activity" means

(A) deception or misrepresentation
[IN ANY DEGREE] involving prospective or actual clients

either before, during, or following a contract hunt including, misrepresentation through private or public advertising of the type, duration, cost or conditions of the contract hunt [HUNTS];

(B) [MISREPRESENTATION EITHER THROUGH PRIVATE COMMUNICATION OR PUBLIC ADVERTISING OF THE NATURE, TYPE, DURATION, COST, OR OTHER CONDITIONS OF CONTRACT HUNTS;

(C)] making a guaranty that a species or certain number of species of game will be taken on a contract hunt; or

(C) unsafe or unsportsmanlike activities that are detrimental to the game resources of the state, as defined by regulations of the board, including violations of state or federal hunting or guiding laws or regulations;

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

* Sec. 23. AS 16.05.255(a) is amended to read:

(a) The Board of Game may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for

(1) setting apart game reserve areas, refuges and sanctuaries in the water or on the land of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of game;

(3) establishing the means and methods employed in the pursuit, capture and transport of game;

(4) setting quotas, bag limits, harvest levels, and sex, age, and size limitations on the taking of game;

(5) classifying game as game birds, song birds, big game animals, fur bearing animals, predators or other categories;

(6) methods, means, and harvest levels necessary to control predation and competition among game in the state;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation and stocking of game;

(8) prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs;

(9) establishing the times and dates during which the issuance of game licenses, permits and registrations and the transfer of permits and registrations between registration areas and game management units or subunits is allowed;

(10) designating the areas of the state to which AS 16.05.407(a) applies.

* Sec. 24. AS 16.05.407(a) is amended to read:

(a) It is unlawful for a nonresident to hunt, pursue or take brown bear, grizzly bear, polar bear, or sheep in this state, unless personally accompanied by

(1) a person who is licensed as a master guide, registered guide, class-A assistant guide or assistant guide by the Guide [LICENSING AND CONTROL] Board; or

(2) a resident over 19 years of age who is

(A) the spouse of the nonresident; or

(B) is related to the nonresident, within and including the second degree of kindred, by marriage or blood.

* Sec. 25. AS 16.05.407(b) is amended to read:

(b) An applicant for a nonresident big game tag for the taking of an animal specified in (a) of this section or in regulations adopted under this section shall first furnish to the state, on a form provided by the state, an affidavit showing that the applicant will be personally accompanied while hunting by a person who is qualified under the terms of (a) of this section. A person who falsifies the required affidavit is guilty of perjury under AS 11.56.200.

* Sec. 26. AS 16.05.407(d) is amended to read:

(d) A nonresident who violates (a) [OR (c)] of this section, or who fails to furnish an affidavit under (b) of this section, is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$5,000, or by both.

* Sec. 27. AS 39.50.200(b) is amended by adding a new paragraph to read:

(48) the Guide Board.

* Sec. 28. AS 08.03.010(b)(7); AS 08.54.040(b), 08.54.142 - 08.54.146, 08.54.185, 08.54.240(5); AS 16.05.340(e), and 16.05.407(c) are repealed.

* Sec. 29. This Act takes effect July 1, 1985.