

Offered: 3/19/86
Referred: Finance

Original sponsor: Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 294 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND 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(14) is amended to read:

10 (14) 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 the state's wildlife resources there [THERE] is created
19 the Guide [LICENSING AND CONTROL] Board consisting of seven members.
20 No more than three members of the board shall hold or have held a
21 guide license. The other members must [SHALL] have a general know-
22 ledge of the game resources of the state and may not have a vested
23 interest in the guiding industry. A minimum of 10 years residence in
24 the state is required for all members of the board. For administra-
25 tive purposes, the board is in the Department of Commerce and Economic
26 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 at the pleasure of the governor.

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

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

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

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

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

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

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

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

29 (5) collect and maintain records of hunts conducted by

1 guides and shall make the records available to appropriate state
2 agencies [COMPILE, MAINTAIN AND PUBLISH A RECORD OF REGISTERED OR
3 MASTER GUIDES WHO HAVE COMPLETED A CONTRACT HUNT IN ANY OF THREE YEARS
4 IMMEDIATELY PRECEDING THE PUBLISHING OF THE RECORD];

5 (6) prohibit guiding activities which are unsportsmanlike,
6 unethical, unsafe, against principles of conservation, degrading to
7 the guiding profession, or which adversely affect the natural re-
8 sources;

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

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

17 (9) meet at least twice annually, once in Anchorage and
18 once in another municipality.

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

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

24 (1) is 21 years of age or older;

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

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

29 (4) has demonstrated knowledge of the following areas to an

1 extent and degree satisfactory to the board:

2 (A) fish and game laws and regulations;

3 (B) relevant characteristics of the specific species
4 to be hunted;

5 (C) field preparation of trophies;

6 (D) care of game meat;

7 (E) use of guiding gear;

8 (F) firearm safety;

9 (G) practical first aid;

10 (H) booking and contracting hunts;

11 (5) has not been convicted of a game or guiding law viola-
12 tion during the previous five years.

13 * Sec. 8. AS 08.54.110 is amended to read:

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

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

17 (2) [Repealed

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

21 (3) [(4)] is familiar with the terrain and transportation
22 problems in the district for which the license is requested;

23 (4) [(5)] has passed the qualification examination prepared
24 and administered by the board;

25 (5) [(6)] has demonstrated to the board sufficient stan-
26 dards of competence and ethical conduct and has not been convicted of
27 a crime involving moral turpitude;

28 (6) [(7)] has legally hunted in the state for all or part
29 of each of five years in a manner directly contributing to the

1 person's experience and competency as a guide;

2 (7) [(8)] has been licensed as and performed the services
3 of an assistant guide in the state for a part of each of three years,
4 or has guided in the state for a part of each of three years under a
5 special guide license issued under AS 08.54.045;

6 (8) [(9)] submits a written recommendation to the board
7 from a registered guide for whom the applicant has worked; however,
8 the requirements of this paragraph do not apply to a person who has
9 guided under a special guide license for three years;

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

12 (10) [(11)] has been favorably recommended in writing by two
13 hunters that the person has guided or assisted in guiding during each
14 year of the person's three years as an assistant guide, whose recom-
15 mendations have been solicited by the board from a list provided by
16 the applicant [;

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

19 * Sec. 9. AS 08.54 is amended by adding a new section to read:

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

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

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

26 * Sec. 10. AS 08.54.170 is amended to read:

27 Sec. 08.54.170. LICENSE FEES. (a) The Department of Commerce
28 and Economic Development shall set license fees under AS 08.01.065 for
29 each of the following:

- 1 (1) master guide;
- 2 (2) registered guide;
- 3 (3) class A assistant guide;
- 4 (4) assistant guide;
- 5 (5) special guide [TRANSPORTER].

6 (b) The license fee for a master guide, registered guide, spe-
7 cial guide, class-A assistant guide, or assistant guide license is in
8 addition to the fee required for a hunting or fishing license.

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

10 Sec. 08.54.186. REGISTERED GUIDE EXAMINATION. The board shall
11 administer the qualification examination required under AS 08.54.110
12 at least twice a year. An examination may not be given within 90 days
13 after the previous exam. At least once every other year the board
14 shall give the examination at a location other than Anchorage.

15 * Sec. 12. AS 08.54.190 is amended by adding a new subsection to read:

16 (d) A master guide, registered guide, special guide, class-A
17 assistant guide, or assistant guide license expires biennially, on a
18 date set by the Department of Commerce and Economic Development.

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 may establish and assign guide areas for master guides or regis-
22 tered guides. The board shall adopt regulations under the Administra-
23 tive Procedure Act (AS 44.62) that establish uniform and consistent
24 criteria, including a point system, to be used by the board when it
25 creates and assigns a restrictive guide area.

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

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

- 1 (2) the extent to which the guide occupied and invested in
2 the area;
- 3 (3) the effect on other guides that would result from
4 creation of the area;
- 5 (4) big game populations in the area;
- 6 (5) the land ownership status of the area; and
- 7 (6) other relevant facts or circumstances.

8 (c) The board may adopt regulations establishing a schedule of
9 fees to be charged to persons to whom the board transfers restrictive
10 guide areas.

11 (d) Unless the board determines after a public hearing that it
12 is not in the public interest to do so, the board shall transfer a
13 restrictive guide area to a person qualified for assignment who has
14 been recommended by the guide to whom the area was assigned, or by a
15 person on behalf of the guide, if the recommendation is made

16 (1) after five years have elapsed from the date of the
17 assignment of the guide area; or

18 (2) during the first five years after the date of assign-
19 ment and the guide has died or suffered a major disability, as defined
20 by the board.

21 * Sec. 14. AS 08.54.200(a) is repealed and reenacted to read:

22 (a) The board shall hold a hearing to determine whether disci-
23 plinary action is necessary if (1) complaints concerning a licensee's
24 guiding activities are filed with the board by three or more of the
25 licensee's clients from separate parties; (2) a complaint concerning a
26 guide's conduct during a life-threatening situation is filed with the
27 board; or (3) a licensee has been convicted of a violation of a state
28 hunting or guiding statute or regulation. The board may hold a hear-
29 ing to determine whether disciplinary action is necessary if a

1 complaint concerning a licensee's guiding activities is filed with the
2 board by a client of the licensee.

3 * Sec. 15. AS 08.54.200(b) is amended to read:

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

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

10 (2) violated a provision of a federal or state sport fish,
11 game, or guide statute or regulation.

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

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

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

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

19 (3) during the five years immediately preceding the hearing
20 has been convicted of a violation [TWO VIOLATIONS] of a federal or
21 state statute or regulation prohibiting

22 (A) waste of a wild food animal;

23 (B) hunting on the same day airborne; or

24 (C) hunting during a closed hunting season; or

25 (4) during the five years immediately preceding the hear-
26 ing, has been convicted of two violations of a state statute or regu-
27 lation prohibiting hunting in

28 (A) a restricted area not assigned to the licensee and
29 without proper written permission; or

1 (B) an area closed by the board [SPORT FISH, GAME OR
2 GUIDE STATUTES OR REGULATIONS].

3 * Sec. 17. AS 08.54.200(d) is repealed and reenacted to read:

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

11 * Sec. 18. AS 08.54.200 is amended by adding new subsections to read:

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

19 (g) A certified copy of a judgment of conviction of a guide for
20 an offense is conclusive evidence of the commission of that offense in
21 a disciplinary proceeding instituted against the guide or outfitter
22 under this section based on that conviction.

23 (h) In this section "two violations of a state statute or regu-
24 lation" means two violations of a single statute or a single regu-
25 lation, or violations of two statutes or two regulations, or one
26 violation of a statute and one violation of a regulation.

27 * Sec. 19. AS 08.54.210 is amended to read:

28 Sec. 08.54.210. UNLAWFUL ACTS. (a) It is unlawful for
29 (1) a master guide, registered guide, special guide.

1 class-A assistant guide, or assistant guide [OR TRANSPORTER] to fail
2 to timely report to the Department of Public Safety, division of fish
3 and wildlife protection, and in no event later than 30 days, a viola-
4 tion [VIOLATIONS BY A CLIENT] of a state fish, game, or guiding stat-
5 ute or regulation that the guide reasonably believes was committed by
6 a client or an employee of the guide;

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

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

20 (4) a person to imply by advertisement, representation, or
21 conduct, or to provide services as [ADVERTISE AS OR REPRESENT TO BE] a
22 licensed master guide, registered guide, special guide, class-A assis-
23 tant guide, or assistant guide [OR TRANSPORTER] without being current-
24 ly licensed [, OR TO FALSELY ADVERTISE SERVICES];

25 (5) a person to act as a registered or master guide as
26 defined in this chapter without having a current valid resident hunt-
27 ing [AND FISHING] license [IN THE PERSON'S POSSESSION.

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

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

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

23 * Sec. 20. AS 08.54.240 is amended to read:

24 Sec. 08.54.240. DEFINITIONS. In this chapter

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

26 (2) "guide" [, "GUIDES"] or "guiding" means (A) being
27 physically present in the field to provide a service related to a hunt
28 for compensation or with the intent or an agreement to receive compen-
29 sation for the service; or (B) assisting another person directly or

1 through an assistant, to locate or take, or attempt to locate or take,
2 big game for compensation or with the intent or an agreement to re-
3 ceive compensation for the assistance; "guide" or "guiding" does not
4 include the services of persons who limit their services solely to
5 transportation and who do not remain in the field; in this paragraph,
6 "present in the field" does not include being present at a lodge or
7 camp or being present in the field for the purpose of providing meat-
8 packing services for a big game animal only after the animal has been
9 killed [ASSISTING ANOTHER PERSON TO TAKE GAME WITH THE INTENT OF
10 RECEIVING MONETARY OR MATERIAL REMUNERATION FOR THE SERVICES, BY
11 ACCOMPANYING AND DIRECTING THAT PERSON PERSONALLY OR THROUGH A LI-
12 CENSED ASSISTANT GUIDE FOR THE DURATION OF A HUNT, AND NOT SOLELY FOR
13 THE PURPOSE OF PROVIDING TRANSPORTATION SERVICES];

14 (3) "resident" has the meaning given in AS 16.05.940 [MEANS
15 A PERSON WHO

16 (A) MAINTAINS A PLACE OF RESIDENCE WITHIN THE STATE;

17 (B) REPEALED

18 (C) SHOWS BY ALL ATTENDING CIRCUMSTANCES THE INTENTION
19 TO PERMANENTLY RESIDE IN THIS STATE];

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

27 (5)] "unethical activity" means

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

1 following a contract hunt, including misrepresentation through
2 private or public advertising of the type, duration, cost or
3 conditions of the contract hunt [HUNTS];

4 (B) [MISREPRESENTATION EITHER THROUGH PRIVATE COMMU-
5 NICATION OR PUBLIC ADVERTISING OF THE NATURE, TYPE, DURATION,
6 COST, OR OTHER CONDITIONS OF CONTRACT HUNTS;

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

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

13 (D) accepting a deposit for guiding services before
14 signing a contract to provide the services;

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

18 * Sec. 21. AS 16.05.407(a) is amended to read:

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

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

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

26 (A) the spouse of the nonresident; or

27 (B) is related to the nonresident, within and includ-
28 ing the second degree of kindred, by marriage or blood.

29 * Sec. 22. AS 16.05.407(b) is amended to read:

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

8 * Sec. 23. AS 16.05.407(d) is amended to read:

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

14 * Sec. 24. AS 39.50.200(b) is amended by adding a new paragraph to
15 read:

16 (48) the Guide Board.

17 * Sec. 25. AS 08.54.040(b), 08.54.142 - 08.54.146, 08.54.185; AS 16.-
18 05.340(e) and 16.05.407(c) are repealed.

19 * Sec. 26. This Act takes effect July 1, 1986.