

Offered: 5/5/86
Referred: Rules

Original sponsor: Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 294 (Resources) am H
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, 1988 [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 registered, master, or class A assistant guide license. The other
22 members must [SHALL] have a general knowledge of the game resources of
23 the state and may not have a vested interest in the guiding industry.
24 A minimum of 10 years residence in the state is required for all
25 members of the board. For administrative purposes, the board is in
26 the Department 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 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
26 guiding statute or regulation; a guide listed in the register whose
27 license is revoked or suspended shall be removed from the register
28 while the guide's license is revoked or suspended;

29 (5) [COMPILE, MAINTAIN AND PUBLISH A RECORD OF REGISTERED

1 OR MASTER GUIDES WHO HAVE COMPLETED A CONTRACT HUNT IN ANY OF THREE
2 YEARS IMMEDIATELY PRECEDING THE PUBLISHING OF THE RECORD;

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

7 (6) [(7)] after a hearing, revoke, suspend or deny renewal
8 of a license in accordance with AS 08.54.200;

9 (7) [(8)] establish a quota of licensed operating guides
10 who may operate within designated geographical game units or subunits
11 of the state and provide for an equitable, [AND] reasonable, and
12 consistent procedure for limiting the number of guides to that quota;
13 preference may [SHALL] be given to qualified available and willing
14 licensed guides who reside within the designated game unit or subunit;

15 (8) meet at least twice annually, once in Anchorage and
16 once in another municipality.

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 AS 08.54.045 is repealed and reenacted to read:

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

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

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

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

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

28 (A) fish and game laws and regulations;

29 (B) relevant characteristics of the specific species

1 to be hunted;

2 (C) field preparation of trophies;

3 (D) care of game meat;

4 (E) use of guiding gear;

5 (F) firearm safety;

6 (G) practical first aid;

7 (H) booking and contracting hunts;

8 (5) has not been convicted of a game or guiding law viola-

9 tion during the previous five years;

10 (6) has not been convicted of a crime involving moral

11 turpitude.

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

13 Sec. 08.54.110. QUALIFICATIONS FOR REGISTERED GUIDE LICENSE. A

14 person is entitled to be licensed as a registered guide if the person

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

16 (2) [Repealed

17 (3)] has practical field experience in the handling of

18 firearms, hunting, judging trophies, field preparation of trophies,

19 first aid and photography;

20 (3) [(4)] is familiar with the terrain and transportation

21 problems in the district for which the license is requested;

22 (4) [(5)] has passed the qualification examination prepared

23 and administered by the board;

24 (5) [(6)] has demonstrated to the board sufficient stan-

25 dards of competence and ethical conduct and has not been convicted of

26 a crime involving moral turpitude;

27 (6) [(7)] has legally hunted in the state during any [FOR

28 ALL OR PART OF EACH OF] five years in a manner directly contributing

29 to the person's experience and competency as a guide;

1 (7) [(8)] has been licensed as and performed the services
2 of an assistant guide in the state for a part of each of three years,
3 or has guided in the state for a part of each of three years under a
4 special guide license issued under AS 08.54.045;

5 (8) [(9)] submits a written recommendation to the board
6 from a registered guide for whom the applicant has worked or from two
7 registered guides; however, the requirements of this paragraph do not
8 apply to a person who has guided under a special guide license for
9 three years;

10 (9) [(10)] is capable of performing the essential [PHYSI-
11 CAL] duties 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 08.54.110 is amended by adding a new subsection to read:

20 (b) The commissioner of commerce and economic development may
21 order that an applicant for an initial license under this section be
22 allowed to take the license examination or be issued the license if,
23 after reviewing a petition filed by the applicant, the commissioner
24 finds that

25 (1) the board denied the applicant an opportunity to take
26 the license examination, or refused to approve issuance of the li-
27 cense;

28 (2) the board's denial or refusal has been upheld by a
29 final administrative order, and the order has not been appealed to the

1 superior court under AS 44.62.560;

2 (3) the board's denial or refusal was based on

3 (A) an error of fact by the board;

4 (B) the applicant's failure of the license examination
5 due to faulty or unfair examination questions or procedures; or

6 (C) an erroneous or false statement in a recommenda-
7 tion submitted under (a)(8) of this section;

8 (4) the applicant is otherwise qualified to take the ex-
9 amination or to be issued the license; and

10 (5) sustaining the board's denial or refusal would work a
11 substantial injustice on the applicant.

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

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

15 (1) may not contract to conduct a guided hunt; and

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

19 * Sec. 11. AS 08.54.170 is amended to read:

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

23 (1) master guide;

24 (2) registered guide;

25 (3) class A assistant guide;

26 (4) assistant guide;

27 (5) special guide [TRANSPORTER].

28 (b) The license fee for a master guide, registered guide, spe-
29 cial guide, class-A assistant guide, or assistant guide license is in

1 addition to the fee required for a hunting license.

2 * Sec. 12. AS 08.54 is amended by adding a new section to read:

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

8 * Sec. 13. AS 08.54.190 is amended by adding a new subsection to read:

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

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

13 Sec. 08.54.195. RESTRICTED GUIDE AREAS. (a) Under AS 08.54.-
14 040(a)(7), the board may establish and assign restricted guide areas
15 for master guides or registered guides. The board shall adopt regula-
16 tions that establish uniform and consistent criteria, including a
17 point system, to be used by the board when it establishes and assigns
18 a restricted guide area.

19 (b) The board shall consider the following factors before it
20 assigns a restricted guide area:

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

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

26 (3) the effects, including the economic effect, on other
27 guides that would result from creation of the area;

28 (4) big game populations in the area;

29 (5) the land ownership status of the area; and

1 (6) other relevant facts or circumstances.

2 (c) The board may adopt regulations limiting the number of
3 clients with which a guide may contract for hunts in a restricted
4 guide area used by more than one guide.

5 (d) Unless the board determines after a public hearing that it
6 is not in the public interest to do so, the board may transfer a
7 restricted guide area to a person qualified for assignment who has
8 been recommended by the guide to whom the area is assigned, or by a
9 person authorized to represent the guide, if the recommendation is
10 made

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

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

16 (e) A guide may not sell or lease a restricted guide area. A
17 guide may sell or otherwise transfer a lodge, camp, or other lawful
18 improvement to property located in a restricted guide area. Sales
19 price may not exceed fair market value.

20 * Sec. 15. AS 06.54.200(a) is repealed and reenacted to read:

21 (a) The board shall hold a hearing to determine whether a li-
22 censee should be disciplined within a reasonable time after (1) com-
23 plaints concerning a licensee's guiding activities are filed with the
24 board by three or more of the licensee's clients from separate
25 parties; (2) a complaint concerning a guide's conduct during a life-
26 threatening situation is filed with the board; or (3) a licensee has
27 been convicted of a violation of a federal or state hunting or guiding
28 statute or regulation. The board may hold a hearing to determine
29 whether disciplinary action is necessary if a complaint concerning a

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

3 * Sec. 16. 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, and may withdraw a licensee's restricted guide
6 area assignment, if the board finds that the licensee

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

11 (2) violated a provision of a federal or state [SPORT
12 FISH,] game or guide statute or regulation.

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

14 (c) After a hearing, the board shall revoke a license and shall
15 withdraw a licensee's restricted guide area assignment if the board
16 finds that the licensee

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

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

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

24 (A) waste of a wild food animal;

25 (B) hunting on the same day airborne;

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

27 (D) hunting in an area closed by federal regulation;

28 or

29 (4) during the five years immediately preceding the

1 hearing, has been convicted of two violations of a state statute or
2 regulation prohibiting hunting in a restricted area not assigned to
3 the licensee and without proper written permission [SPORT FISH, GAME
4 OR GUIDE STATUTES OR REGULATIONS].

5 * Sec. 18. AS 08.54.200(d) is repealed and reenacted to read:

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

12 * Sec. 19. AS 08.54.200 is amended by adding new subsections to read:

13 (f) If a certified copy of a judgment of conviction of a guide
14 for an offense described under (c)(3) of this section, or for each of
15 two offenses under (c)(4) of this section, is filed with the board,
16 the board shall immediately suspend the guide's license. The suspen-
17 sion may be ordered even if the conviction resulted from a plea of
18 nolo contendere or if the conviction is under appeal. The order
19 remains in effect until after the final disposition of the disciplin-
20 ary proceeding under this section.

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

25 (h) Within 30 days after a hearing under this section, the board
26 shall notify the complainant of the results of the hearing, including
27 written reasons justifying a decision not to take disciplinary action.
28 If the board decides not to hold a discretionary hearing, the board
29 shall give the complainant written notice of its reasons within 30

1 days after making the decision.

2 (i) In this section "two violations of a state statute or regu-
3 lation" means two violations of a single statute or a single regu-
4 lation, or violations of two statutes or two regulations, or one
5 violation of a statute and one violation of a regulation.

6 * Sec. 20. AS 08.54.210(a) is repealed and reenacted to read:

7 (a) It is unlawful for

8 (1) a master guide, registered guide, special guide, class
9 A assistant guide, or assistant guide to fail to timely report to the
10 Department of Public Safety, division of fish and wildlife protection,
11 and in no event later than 30 days, a violation of a state fish, game,
12 or guiding statute or regulation that the guide reasonably believes
13 was committed by a client or an employee of the guide;

14 (2) a guide to commit or aid the commission of a violation
15 of this chapter or of a state game or guiding statute or regulation or
16 to permit the commission of a violation that the guide knows or rea-
17 sonably believes is being or will be committed without attempting to
18 prevent it, short of using force, and without reporting it;

19 (3) a person to guide without having a current valid guide
20 license and resident hunting license in actual possession;

21 (4) a person to advertise as or represent to be a guide
22 without holding a current valid guide license;

23 (5) a guide to intentionally obstruct or hinder or attempt
24 to obstruct or hinder lawful hunting engaged in by a person who is not
25 a client of the guide;

26 (6) a person to guide without being validly licensed as a
27 guide under this chapter and as a resident hunter under AS 16;

28 (7) an assistant guide to contract to conduct a guided
29 hunt;

1 (8) an assistant guide to be in the field on a guided hunt
2 except while employed and supervised by a registered or master guide.

3 * Sec. 21. AS 08.54.210(b) is amended to read:

4 (b) A person who violates (a)(1) - (5) [(6)] of this section is
5 guilty of a misdemeanor and upon conviction is punishable by a fine of
6 not more than \$1,000 or by imprisonment for not more than one year, or
7 by both, and the person's license may be revoked for a period up to
8 five years. However, a person who engages in guiding [OR TRANSPORT-
9 ING] activity during the period for which the person's license is
10 suspended or revoked under this chapter, or who violates (a)(6) - (8)
11 of this section, is guilty of a felony punishable, upon conviction, by
12 a fine of not more than \$5,000 and by imprisonment for not less than
13 one year nor more than three years. In addition to punishment for a
14 felony, all guns, fishing tackle, boats, aircraft, automobiles or
15 other vehicles, camping gear and other equipment and paraphernalia
16 used in, or in aid of, guiding [OR TRANSPORTING] activity engaged in
17 during the period of suspension or revocation may [SHALL] be seized
18 [CONFISCATED] by persons authorized to enforce this chapter and may be
19 forfeited to the state as provided under AS 16.05.195. [A PERSON WHO
20 VIOLATES (a)(7) OF THIS SECTION, UPON CONVICTION, IS SUBJECT TO THE
21 SAME LICENSE REVOCATION PROVISION AS FOR A VIOLATION OF (a)(1) - (6)
22 OF THIS SECTION AND, IN ADDITION, IS PUNISHABLE BY A FINE OF NOT MORE
23 THAN \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY
24 BOTH.]

25 * Sec. 22. AS 08.54 is amended by adding a new section to art. 3 to
26 read:

27 Sec. 08.54.230. RECORDS OF GUIDED HUNTS. The Department of
28 Commerce and Economic Development shall collect and maintain records
29 of hunts conducted by guides. The department shall make the records

1 available to state and federal agencies charged with the enforcement
2 of statutes and regulations relating to guiding or game if requested
3 for enforcement purposes. For all other purposes, the records are
4 confidential and are not subject to inspection or copying under
5 AS 09.25.110 - 09.25.121.

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

7 Sec. 08.54.240. DEFINITIONS. In this chapter

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

11 (2) "board" means the Guide [LICENSING AND CONTROL] Board;

12 (3) [(2)] "guide" [, "GUIDES"] or "guiding" means accom-
13 panying or directing a hunter in the field, personally or through an
14 assistant, for compensation or with the intent or an agreement to
15 receive compensation, while the hunter or the person accompanying or
16 directing the hunter spots, stalks, pursues, tracks, kills, or at-
17 tempts to kill big game; in this paragraph, "in the field" does not
18 include being present in a boat with living quarters or at a lodge or
19 base camp [ASSISTING ANOTHER PERSON TO TAKE GAME WITH THE INTENT OF
20 RECEIVING MONETARY OR MATERIAL REMUNERATION FOR THE SERVICES, BY
21 ACCOMPANYING AND DIRECTING THAT PERSON PERSONALLY OR THROUGH A LI-
22 CENSED ASSISTANT GUIDE FOR THE DURATION OF A HUNT, AND NOT SOLELY FOR
23 THE PURPOSE OF PROVIDING TRANSPORTATION SERVICES];

24 (4) [(3)] "resident" has the meaning given in AS 16.05.940
25 [MEANS A PERSON WHO

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

27 (B) REPEALED

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

1 (5) [(4)] "restricted guide area" is a geographical area of
2 the state the boundaries of which are determined by the board, and in
3 which guided hunts may be conducted only by the guides to whom the
4 area is assigned under AS 08.54.195 ["TRANSPORTING" OR THE "ACTIVITY
5 OF TRANSPORTING" MEANS CONVEYING A PERSON BY ANY LAWFUL MEANS TO AN
6 AREA FOR REMUNERATION OR MATERIAL BENEFIT IN EXCESS OF NORMAL OPERAT-
7 ING COSTS, WHEN THE PRIMARY PURPOSE OF THE PERSON BEING CONVEYED IS
8 THE TAKING OF BIG GAME AND THE ASSOCIATED REMOVING OF BIG GAME MEAT
9 AND PARTS OF BIG GAME AFTER BIG GAME HAS BEEN TAKEN; BIG GAME AS USED
10 IN THIS PARAGRAPH MEANS GAME WHICH, IF TAKEN BY A NONRESIDENT, WOULD
11 REQUIRE A BIG GAME TAG];

12 (6) [(5)] "unethical activity" means

13 (A) deception or misrepresentation [IN ANY DEGREE]
14 involving prospective or actual clients either before, during, or
15 following a contract hunt, including misrepresentation through
16 private or public advertising of the type, duration, cost or
17 conditions of the contract hunt [HUNTS];

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

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

23 (C) engaging in unsafe or unsportsmanlike activities
24 that are detrimental to the game resources of the state, as
25 defined by regulations of the board, including violations of
26 state hunting or guiding statutes or regulations; or

27 (D) accepting a deposit for guiding services without
28 providing before the hunt a signed contract to provide the ser-
29 vices.

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

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

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

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

9 (A) the spouse of the nonresident; or

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

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

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

18 * Sec. 26. AS 39.50.200(b) is amended by adding a new paragraph to
19 read:

20 (48) the Guide Board.

21 * Sec. 27. AS 08.54.040(b), 08.54.142 - 08.54.146, 08.54.185; AS 16.-
22 05.340(e) and 16.05.407(c) are repealed.

23 * Sec. 28. This Act takes effect July 1, 1986.