

BY THE RULES COMMITTEE BY REQUEST

1 IN THE HOUSE

2

HOUSE BILL NO. 448

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to guide-outfitter use area permits,

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the Big Game Commercial Services Board, and guide-

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outfitters, transporters, and providers of other big

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game commercial services."

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

11 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

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(1) unregulated access to game management units by guide-out-

13 fitters

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(A) can potentially harm the state's valuable big game

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resources by allowing overharvest of big game species or populations

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that have a low recovery capacity or that exist in low abundance; and

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(B) has hindered management of hunters guide-outfitted by

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guide-outfitters, led to conflicts among guide-outfitters, and de-

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creased the quality of the hunting experience for clients of guide-

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outfitters and other hunters;

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(2) an economically viable guide-outfitter industry can offer a

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quality hunting experience to hunters from throughout the world who seek a

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unique opportunity to pursue and take trophy big game animals in the state

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and can contribute significantly to the state's economy by increasing

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tourism and supporting a variety of businesses associated with the guide-

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outfitter industry;

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(3) the guide-outfitter industry provides an opportunity for

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enhancing the state's economy, particularly the underdeveloped economies of

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the rural regions of the state;

1 (4) intense competition exists for big game in many parts of the
2 state and the allocation of access to big game hunting opportunities among
3 guide-outfitters will prevent overharvest of big game in those areas and
4 will provide continued open access to the big game resource by all users;

5 (5) a resource-based management system for allocating access to
6 big game hunting opportunities among guide-outfitters will alleviate con-
7 flicts among guide-outfitters, will provide an effective basis for regulat-
8 ing guide-outfitters, and will enhance conservation and management of big
9 game;

10 (6) a long-term interest in the conservation of wildlife encour-
11 ages sound management practices among users of wildlife and fosters a
12 mutually beneficial relationship between wildlife and the users of wildlife
13 because the user understands that the user's own future well-being is
14 dependent upon wise use of the resource in the present.

15 (b) The purpose of this Act is to

16 (1) establish a resource-based system of allocating access to
17 big game hunting opportunities among guide-outfitters that is fully con-
18 sistent with common use principles of the Constitution of the State of
19 Alaska; and

20 (2) support the conservation and management of the state's
21 wildlife, provide economic and noneconomic benefits to the state and to the
22 citizens of the state, and generate revenue for the state from the wise use
23 of wildlife for commercial purposes.

24 (c) This Act does not affect the existing rights and privileges of
25 subsistence and resident sport hunters to take game in the state.

26 * Sec. 2. AS 08.54 is amended by adding new sections to read:

27 ARTICLE 5. GUIDE-OUTFITTER USE AREAS.

28 Sec. 08.54.610. GUIDE-OUTFITTER USE AREAS. (a) The board shall
29 establish guide-outfitter use areas throughout the state. The board

1 shall consider the recommendations of the Department of Fish and Game
2 in identifying the boundaries of the use areas. The board shall adopt
3 the recommendations of the Department of Fish and Game for each use
4 area unless the board obtains a finding from the Department of Fish
5 and Game that an amended use area boundary as proposed by the board
6 will not adversely affect wildlife conservation and management.

7 (b) The board may amend the boundaries of use areas adopted
8 under (a) of this section if

9 (1) the Department of Fish and Game finds that the proposed
10 amendment will not adversely affect wildlife conservation and manage-
11 ment; and

12 (2) the board notifies all guide-outfitters who hold use
13 area permits for the affected use areas of the proposed amendment and
14 provides those guide-outfitters with an opportunity to comment on the
15 proposed amendment.

16 Sec. 08.54.620. OFFERINGS OF GUIDE-OUTFITTER USE AREAS. (a)
17 The board shall annually offer available use areas to qualified guide-
18 outfitters. The board shall stagger the offering of use areas.

19 (b) The board may request recommendations from the public for
20 use areas to be offered at the next offering of use areas.

21 (c) The board shall decide whether a use area will be offered
22 for sole or joint use before offering the use area. In making its
23 decision, the board shall consider for each use area

24 (1) information provided by the Department of Fish and Game
25 on the status of big game populations, historical harvests of big
26 game, and uses of wildlife in the use area;

27 (2) information gathered from previous use by guide-outfit-
28 ters that would facilitate big game management and planning;

29 (3) requirements for economically viable guide-outfitter

1 operations;

2 (4) the number of economically viable guide-outfitter
3 operations that the use area could support;

4 (5) the effect of guide-outfitting activities on resident
5 hunters; and

6 (6) other relevant factors, including land ownership
7 concerns, land management concerns, and law enforcement concerns.

8 (d) Use areas for which use area permits have expired or been
9 relinquished by the permittee or revoked by the board may be offered
10 at the next offering of use areas.

11 (e) The notice of the offering of use areas must include for
12 each use area

13 (1) the location and a brief description of the use area;

14 (2) whether the use area is available for sole or joint
15 use.

16 Sec. 08.54.630. GUIDE-OUTFITTER USE AREA PERMIT; REGISTRATION
17 PERMIT. (a) A guide-outfitter use area permit or registration permit
18 authorizes a guide-outfitter to guide-outfit hunts in the use area for
19 those big game species specified by the permit and may limit the
20 number of clients that may be guide-outfitted in the use area each
21 year.

22 (b) A sole use area permit grants to the permittee the sole
23 privilege to guide-outfit hunts for all big game species that occur
24 within the use area. A joint use area permit grants to the permittee
25 the privilege to guide-outfit hunts in the use area for the big game
26 species specified in the permit; however, all joint use area permits
27 for a use area, when considered together, must grant privileges to
28 guide-outfit hunts for all big game species that occur within the use
29 area.

1 (c) A use area that is not awarded to a guide-outfitter under
2 AS 08.54.650 is open to use by guide-outfitters who are certified to
3 guide-outfit hunts in the game management unit in which the use area
4 is located and who obtain a registration permit for the use area. The
5 board may establish the number of registration permits that will be
6 issued for each use area. Registration permits are valid for the
7 calendar year in which they are issued. A registration permit must
8 specify the big game species for which hunts may be guide-outfitted
9 under the authority of the permit.

10 (d) A guide-outfitter may not guide-outfit a hunt for a big game
11 species in a use area, unless the guide-outfitter has a use area
12 permit or registration permit that entitles the guide-outfitter to
13 guide-outfit hunts for that species in that use area.

14 (e) A guide-outfitter shall physically participate in field
15 operations while guide-outfitted hunts are conducted under the author-
16 ity of a use area permit or registration permit held by the guide-
17 outfitter.

18 Sec. 08.54.640. APPLICATION FOR A GUIDE-OUTFITTER USE AREA
19 PERMIT. (a) A guide-outfitter who is licensed under AS 08.54.350 and
20 is certified by the board to guide-outfit hunts in the game management
21 unit in which the use area is located may apply for a guide-outfitter
22 use area permit.

23 (b) A guide-outfitter shall submit a separate application for
24 each use area permit sought. The application shall be made on a form
25 provided by the board and shall be accompanied by the application fee
26 and a proposed operations plan for the conduct of guide-outfitted
27 hunts under the use area permit, including locations of base camps,
28 the number of clients, and the big game species to be hunted.

29 (c) The department shall set the application fee for a guide-

1 outfitter use area permit under AS 08.01.065.

2 Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA
3 PERMIT. (a) The board shall adopt procedures for evaluating the
4 qualifications of applicants for guide-outfitter use area permits.
5 The procedures must appropriately balance the criteria included under
6 (b) of this section to ensure that new guide-outfitter licensees under
7 this chapter are not unfairly disadvantaged or denied an opportunity
8 to obtain a use area permit in those game management units for which
9 the licensee is certified by the board.

10 (b) The board shall evaluate each application and determine
11 whether the applicant is qualified for a guide-outfitter use area per-
12 mit under criteria adopted by the board, including

13 (1) the applicant's ability and means to provide the type
14 and quality of guide-outfitting services proposed by the applicant, as
15 demonstrated by the applicant's proposed operations plan;

16 (2) whether the applicant has proposed a guide-outfitting
17 operation in the use area that is economically feasible given the
18 economic resources of the applicant;

19 (3) the applicant's history of safety in guide-outfitting
20 hunts or demonstrated ability to guide-outfit hunts safely;

21 (4) the applicant's history of compliance with state and
22 federal fish and game and guide-outfitting statutes and regulations;

23 (5) the applicant's experience in or knowledge of the use
24 area;

25 (6) the applicant's history of compliance with AS 08.54.-
26 520(a) in regard to prior authorization to enter or remain on state,
27 federal, or private land;

28 (7) whether the applicant has obtained those prior autho-
29 rizations to guide-outfit hunts on state, federal, or private land in

1 the use area from the significant or major landowners in the use area
2 or has demonstrated the ability to acquire those authorizations;

3 (8) whether the applicant holds all permits and licenses
4 necessary to guide-outfit hunts in the use area or has demonstrated
5 the ability to obtain the necessary permits and licenses.

6 (c) If the board determines that more applicants are qualified
7 to receive a use area permit for a use area than there are use area
8 permits available, then the board shall reevaluate the applications of
9 the qualified applicants and, with or without requesting additional
10 documentation, shall select the best qualified applicants to receive
11 the available permits. The board may request the qualified applicants
12 to appear before the board to discuss the applicant's application in
13 regard to the criteria in (b) of this section.

14 (d) The board shall award a use area permit only to a qualified
15 applicant.

16 (e) If a successful applicant does not provide, at the time the
17 board awards the use area permit, proof of the permits and licenses
18 necessary to guide-outfit hunts in the use area or the authorizations
19 to guide-outfit hunts on state, federal, or private land in the use
20 area from the significant or major landowners in the use area, the
21 board shall issue a conditional use area permit that is valid for 120
22 days. A conditional use area permit does not entitle the permittee to
23 guide-outfit hunts within the use area. If the successful applicant
24 provides proof satisfactory to the board within 120 days after issu-
25 ance of the conditional use area permit that the applicant has re-
26 ceived the necessary permits and licenses and land use authorizations,
27 the applicant shall be awarded a use area permit. If the successful
28 applicant does not provide the required proof within 120 days after
29 issuance of the conditional use area permit, the conditional use area

1 permit is void. If a conditional use area permit is voided under this
2 subsection, the board shall offer the use area permit to the next best
3 qualified applicant for the use area.

4 Sec. 08.54.660. TERM AND SUSPENSION OR REVOCATION OF GUIDE-
5 OUTFITTER USE AREA PERMIT; OPERATIONS PLAN. (a) The board shall
6 grant guide-outfitter use area permits for a term not to exceed 10
7 years, unless the board determines, after consultation with the De-
8 partment of Fish and Game, that a longer term will further promote the
9 wildlife conservation and management objectives of the use areas. The
10 term of a use area permit may not in any instance exceed 15 years.

11 (b) The board may after a hearing suspend or revoke a use area
12 permit for

13 (1) violation of the conditions of the use area permit;

14 (2) failure to exercise the privileges conferred by the use
15 area permit for one year;

16 (3) a significant unauthorized deviation, as defined by the
17 board, from an operations plan;

18 (4) fraud in applying for a use area permit or assignment
19 of a use area permit; or

20 (5) other good cause, as defined by the board.

21 (c) The board may suspend or revoke a use area permit upon
22 conviction of the permittee of an unlawful act under AS 08.54.520.

23 (d) A use area permit is suspended automatically if the permit-
24 tee fails to pay the wildlife conservation fee when due. The suspen-
25 sion remains in effect until the wildlife conservation fee is paid.

26 (e) A use area permit is revoked automatically upon revocation
27 of the permittee's guide-outfitter license. A use area permit is
28 suspended automatically upon suspension of the permittee's guide-
29 outfitter license.

1 (f) If the license of a guide-outfitter is summarily suspended
2 under AS 08.01.075(c), the use area permits held by the guide-out-
3 fitter are suspended automatically until after the final disposition
4 of the disciplinary proceeding by the board.

5 (g) A hearing to suspend or revoke a use area permit may be
6 combined with a disciplinary proceeding under AS 08.01.075 or AS 08.-
7 54.500 involving the use area permittee.

8 (h) A use area permit may be revoked or the terms of the use
9 area permit or an operations plan may be altered by the board for
10 wildlife conservation and management considerations.

11 (i) A use area permittee shall submit an amended operations plan
12 if the permittee intends to vary the permittee's guide-outfitting
13 operation from that stated in the plan. An amended operations plan is
14 not effective until approved by the board. A permittee may not con-
15 duct a guide-outfitting operation outside of the terms of an approved
16 operations plan.

17 Sec. 08.54.670. ASSIGNMENT OF GUIDE-OUTFITTER USE AREA PERMIT.

18 (a) A use area permit may be assigned by the board under regulations
19 of the board if the assignment is

20 (1) consistent with the purposes of AS 08.54.610 - 08.-
21 54.690;

22 (2) not for consideration to the former permittee;

23 (3) to a guide-outfitter qualified to receive the use area
24 permit; and

25 (4) due to the death or disability of the former permittee
26 or for other good cause, as defined by the board.

27 (b) The sale of guide-outfitter facilities and equipment between
28 the former permittee and the assignee of a use area permit may not be
29 for an amount that exceeds the replacement value of the property. The

1 sale of property between the former permittee and the assignee of a
2 use area permit for an amount in excess of the replacement value of
3 the property voids the assignment of the use area permit.

4 (c) An assigned use area permit is valid only for the period for
5 which the use area permit was originally issued.

6 (d) If proceedings in which a guide-outfitter license may be
7 revoked or suspended under this chapter are pending against a guide-
8 outfitter, the guide-outfitter's use area permits may not be assigned
9 unless allowed for good cause by the board. During the period for
10 which a guide-outfitter's license is suspended under this chapter, use
11 area permits held by the guide-outfitter may not be assigned.

12 (e) If proceedings in which a guide-outfitter use area permit
13 may be revoked or suspended under AS 08.54.660 are pending against a
14 guide-outfitter, the use area permits that are the subject of the
15 pending proceedings may not be assigned. During the period for which
16 a use area permit is suspended under AS 08.54.660, the use area permit
17 may not be assigned.

18 Sec. 08.54.680. INFORMATION ON GUIDE-OUTFITTER USE AREAS. (a)
19 The board shall maintain and publish on a regular basis a comprehen-
20 sive list of all unawarded guide-outfitter use areas that are open to
21 application for use by qualified guide-outfitters.

22 (b) The board shall maintain a centralized information center
23 where information on guide-outfitter use areas and all commercial use
24 permittees can be readily obtained by guide-outfitters, government
25 agencies, and the public.

26 Sec. 08.54.690. DEFINITIONS. In AS 08.54.610 - 08.54.690

27 (1) "joint use" means the utilization of a guide-outfitter
28 use area by more than one use area permittee;

29 (2) "sole use" means the utilization of a guide-outfitter

1 use area by one use area permittee.

2 * Sec. 3. AS 08.54.310(a) is amended by adding new paragraphs to read:

3 (11) certify guide-outfitters to conduct guide-outfitting
4 activities within a game management unit;

5 (12) establish by regulation a system of guide-outfitter use
6 areas for allocating access to big game hunting opportunities among
7 guide-outfitters.

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

9 Sec. 08.54.355. GAME MANAGEMENT UNIT CERTIFICATION. (a) The
10 board shall certify guide-outfitters licensed under AS 08.54.350 to
11 guide-outfit hunts within a game management unit.

12 (b) A guide-outfitter may not guide-outfit hunts in a game
13 management unit unless the guide-outfitter is certified by the board
14 to guide-outfit hunts in the game management unit.

15 (c) The board shall allow a guide-outfitter to prequalify for
16 certification for each game management unit in which the guide-out-
17 fitter is competent to guide-outfit hunts. The board shall allow a
18 guide-outfitter to transfer a certification between game management
19 units.

20 * Sec. 5. AS 08.54.370(a) is amended to read:

21 (a) An applicant for renewal of a guide-outfitter license or a
22 marine mammal guide-outfitter license shall submit with the applica-
23 tion for renewal

24 (1) the hunt record required under AS 08.54.550 for the
25 period covered by the current license;

26 (2) the license fee for the next licensing period; [AND]

27 (3) the commercial use permit fee for the next licensing
28 period;

29 (4) an amended guide-outfitter use area permit operations

1 plans, if appropriate; and

2 (5) the wildlife conservation fee for the period covered by
3 the current license.

4 * Sec. 6. AS 08.54 is amended by adding a new section to article 2 to
5 read:

6 Sec. 08.54.480. WILDLIFE CONSERVATION FEE. (a) Each guide-
7 outfitter licensed under AS 08.54.350 and transporter shall pay annu-
8 ally a wildlife conservation fee.

9 (b) The wildlife conservation fee paid by a guide-outfitter is
10 the sum of \$25 for each big game animal other than deer and \$5 for
11 each deer taken by a client during the year. A guide-outfitter shall
12 pay the fee at the time for renewal of guide-outfitters' licenses.
13 Failure to renew a guide-outfitter's license does not excuse payment
14 of the fee.

15 (c) The wildlife conservation fee paid by a transporter is the
16 sum of \$25 for each big game animal other than deer and \$5 for each
17 deer that is (1) taken on a non-guide-outfitted hunt by a customer of
18 the transporter, and (2) transported by the transporter. Transporters
19 shall pay the fee at the time set by the department.

20 (d) The commissioner of administration shall separately account
21 for wildlife conservation fees deposited in the general fund by the
22 department. The annual estimated balance in the account may be used
23 by the legislature to make appropriations to the Department of Fish
24 and Game and the Department of Public Safety to carry out their re-
25 spective responsibilities for management of game resources and en-
26 forcement of game laws.

27 * Sec. 7. AS 08.54.590(13) is amended to read:

28 (13) "transportation services" means the carriage for
29 compensation of big game hunters, their equipment, or big game animals

1 harvested by hunters to, from, or in the field; "transportation ser-
2 vices" does not include the carriage by aircraft of big game hunters,
3 their equipment, or big game animals harvested by hunters

4 (A) on nonstop flights between state or federally
5 maintained airports; or

6 (B) by an air taxi operator or air carrier for which
7 the carriage of big game hunters, their equipment, or big game
8 animals harvested by hunters is only an incidental, as defined by
9 the board, portion of its business unless the air taxi operator
10 or air carrier advertises hunting services to the public;

11 * Sec. 8. IDENTIFICATION OF PROPOSED GUIDE-OUTFITTER USE AREAS. (a)
12 The Department of Fish and Game shall propose guide-outfitter use areas for
13 use by the Big Game Commercial Services Board in establishing a resource-
14 based management system for allocating access to big game hunting oppor-
15 tunities among guide-outfitters. The department shall identify proposed
16 guide-outfitter use areas for appropriate regions and areas of the state.
17 The department may set priorities for identifying use areas and may deter-
18 mine the extent and number of use areas to be identified at one time. The
19 department shall complete the identification of proposed use areas within
20 two years after the close of the first public comment period prescribed
21 under (e) of this section. The department shall complete the identifica-
22 tion of proposed use areas for a significant portion of the state within
23 nine months after the close of the first public comment period prescribed
24 under (e) of this section.

25 (b) The Big Game Commercial Services Board may recommend to the
26 department those areas of the state that should receive priority in identi-
27 fying use areas.

28 (c) The department shall publish a public notice that it is accepting
29 public comment for identification of areas as proposed guide-outfitter use

1 areas. The department shall accept public comment for 60 days after the
2 notice is first published.

3 (d) The department shall propose use areas in light of the following
4 considerations:

5 (1) wildlife management concerns, including abundance and diver-
6 sity of wildlife, historical harvest of wildlife from the area, and exist-
7 ing administrative boundaries established for wildlife management purposes;

8 (2) wildlife law enforcement concerns;

9 (3) public comment received under (c) of this section;

10 (4) land ownership in the area;

11 (5) administrative restrictions;

12 (6) existence of boundaries that can be readily identified in
13 the field;

14 (7) accessibility of the area and other transportation consid-
15 erations;

16 (8) existence of complementary and noncomplementary land uses
17 within the area;

18 (9) existing facilities within the area; and

19 (10) other considerations relevant to the purposes of this sec-
20 tion.

21 (e) The department shall provide maps or descriptions to the public
22 of the use areas proposed under (d) of this section and shall solicit
23 public comment on the proposed use areas. The public shall have 45 days
24 after the maps or descriptions are distributed to comment on the use areas
25 proposed by the department. At the close of the comment period, the de-
26 partment shall review the proposed use areas in light of the public comment
27 received and shall then recommend boundaries for the proposed use areas.
28 The department shall transmit its boundary recommendations to the Big Game
29 Commercial Services Board as the recommendations are made final.

1 (f) The actions of the department under this section are exempt from
2 the Administrative Procedure Act (AS 44.62).

3 (g) In this section

4 (1) "department" means the Department of Fish and Game;

5 (2) "public" includes a natural person, corporation, associa-
6 tion, organization, society, company, partnership, or state, federal, or
7 local government agency.

8 * Sec. 9. PRELIMINARY DETERMINATION OF ELIGIBILITY FOR GUIDE-OUTFITTER
9 USE AREA PERMIT. (a) In order to facilitate and expedite the process for
10 issuing guide-outfitter use area permits during the first five years that
11 offerings of guide-outfitter use areas are made under AS 08.54.610 - 08.-
12 54.690, enacted by sec. 2 of this Act, the Big Game Commercial Services
13 Board shall make preliminary determinations of the eligibility of a guide-
14 outfitter to receive use area permits.

15 (b) A guide-outfitter may apply, at times set by the board, for a
16 preliminary determination of eligibility for a use area permit for each
17 game management unit in which the guide-outfitter is certified or prequal-
18 ified for certification to guide-outfit hunts under AS 08.54.355, enacted
19 by sec. 4 of this Act.

20 (c) A guide-outfitter is qualified for a preliminary determination of
21 eligibility to receive a use area permit if the board finds that the guide-
22 outfitter satisfies the criteria of AS 08.54.650(b), enacted by sec. 2 of
23 this Act, that can be satisfied without reference to the characteristics of
24 a specific use area.

25 (d) A preliminary determination of eligibility to receive a use area
26 permit does not vest a right in the guide-outfitter to receive a use area
27 permit when use areas are offered under AS 08.54.650, enacted by sec. 2 of
28 this Act.

29 * Sec. 10. During the first five years that offerings of use areas are

1 made under AS 08.54.610 - 08.54.690, enacted by sec. 2 of this Act, the Big
2 Game Commercial Services Board shall offer all guide-outfitter use areas.

3 * Sec. 11. SEVERABILITY. If a provision of this Act or the application
4 of this Act to a person or circumstance is held invalid, the remainder of
5 this Act and the application of this Act to other persons or circumstances
6 are not affected by the invalidity.

7 * Sec. 12. AS 08.54.310(b)(1) is repealed.