

Original sponsor: Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 140 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to big game hunting and to the
7 regulation of big game and marine mammal guide-out-
8 fitting, transportation, and other commercial ser-
9 vices for big game hunters; creating the Big Game
10 Commercial Services Board; relating to presumptive
11 sentences for violation of certain big game commer-
12 cial services statutes; and providing for an effec-
13 tive date."

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

15 * Section 1. AS 08.01.010(10) is repealed and reenacted to read:

16 (10) Big Game Commercial Services Board (AS 08.54.300);

17 * Sec. 2. AS 08.03.010(c)(20) is repealed and reenacted to read:

18 (20) Big Game Commercial Services Board (AS 08.54.300) --
19 June 30, 1993.

20 * Sec. 3. AS 08.54 is amended by adding new sections to read:

21 ARTICLE 4. BIG GAME COMMERCIAL SERVICES BOARD.

22 Sec. 08.54.300. CREATION AND MEMBERSHIP OF BOARD. (a) For the
23 purposes of licensing and regulating the activities of providers of
24 commercial services to big game hunters in the interest of the state's
25 wildlife resources there is created the Big Game Commercial Services
26 Board. For administrative purposes, the board is in the Department of
27 Commerce and Economic Development.

28 (b) The board consists of nine members:

29 (1) two members who are licensed guide-outfitters;

1 (2) two members who are licensed transporters, one of whom
2 must be engaged in the business of providing air transportation ser-
3 vices;

4 (3) one member who holds a commercial use permit, but does
5 not hold any class of guide-outfitter license or a transporter
6 license;

7 (4) one member of the Board of Game who is chosen by the
8 Board of Game and who does not hold a commercial use permit;

9 (5) one member who represents Native landholders; and

10 (6) two public members.

11 Sec. 08.54.310. DUTIES AND POWERS. (a) The board shall

12 (1) prepare, grade, and administer

13 (A) a written and oral examination of an applicant for
14 a guide-outfitter license that requires demonstration that the
15 applicant is qualified generally to provide guide-outfitted hunts
16 and, in particular, to guide-outfit in each game management unit
17 the applicant has selected; if an applicant demonstrates limited
18 ability to read or write the English language, the entire examin-
19 ation shall be administered orally; and

20 (B) an oral examination of a guide-outfitter who seeks
21 an amendment of a game management unit certification; the examin-
22 ation must require demonstration that the guide-outfitter is
23 qualified to provide guide-outfitted hunts in each new game
24 management unit for which the guide-outfitter seeks to be certi-
25 fied;

26 (2) determine qualifications of applicants for class-A
27 assistant guide-outfitter, marine mammal guide-outfitter, and assis-
28 tant guide-outfitter licenses and authorize the issuance of licenses
29 to those who qualify;

1 (3) establish performance standards for providers of big
2 game commercial services and regulate the activities of these provid-
3 ers;

4 (4) compile, maintain, and publish an annual register of
5 big game commercial service providers subject to this chapter who have
6 not been convicted of a violation of a state or federal statute or
7 regulation relating to the provision of big game commercial services;
8 a big game commercial services provider listed in the register whose
9 license or permit is revoked or suspended shall be removed from the
10 register while the provider's license or permit is revoked or sus-
11 pended;

12 (5) prohibit guide-outfitting, transporting, and other big
13 game commercial services activities that are unsportsmanlike, uneth-
14 ical, unsafe, against principles of game conservation, degrading to a
15 profession subject to this chapter, or that adversely affect natural
16 resources;

17 (6) after a hearing, revoke, suspend, or deny renewal of a
18 license or permit under AS 08.54.500 - 08.54.510;

19 (7) authorize issuance of transporter licenses;

20 (8) authorize issuance of commercial use permits;

21 (9) meet at least twice annually, once in Anchorage and
22 once in another municipality;

23 (10) provide for registration of base camps and facilities
24 used by persons who are licensed or who hold a permit under this
25 chapter.

26 (b) The board may

27 (1) establish, subject to the prior approval of the commis-
28 sioner of fish and game, a resource-based management system for allo-
29 cating access to big game hunting opportunities among guide-outfitters

1 licensed under this chapter;

2 (2) establish the level of supervision that a guide-out-
3 fitter shall provide for class-A assistant guide-outfitters and assis-
4 tant guide-outfitters who are employed by the guide-outfitter.

5 Sec. 08.54.320. BOARD REGULATIONS. The board shall adopt proce-
6 dural and substantive regulations required by this chapter or reason-
7 ably necessary for its administration.

8 Sec. 08.54.330. BOARD ASSISTANCE. The Department of Fish and
9 Game, Department of Natural Resources, and Department of Public Safety
10 shall provide the board with information, data, or technical assis-
11 tance requested by the board for the purposes of licensing and reg-
12 ulating the activities of providers of commercial services to big game
13 hunters.

14 ARTICLE 5. LICENSING.

15 Sec. 08.54.350. GUIDE-OUTFITTER LICENSE. (a) A natural person
16 is entitled to a guide-outfitter license if the person

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

18 (2) has practical field experience in the handling of
19 firearms, hunting, judging trophies, field preparation of meat and
20 trophies, first aid, photography, and related guide-outfitting activi-
21 ties;

22 (3) is familiar with the terrain and transportation prob-
23 lems in the game management unit for which the license is requested;

24 (4) has passed the qualification examinations prepared and
25 administered by the board;

26 (5) has demonstrated to the board sufficient standards of
27 competence and ethical conduct and has not been convicted of a state
28 or federal hunting or guide-outfitting statute or regulation within
29 the last five years for which the person was fined more than \$500 or

1 imprisoned for more than five days;

2 (6) has legally hunted in the state for part of each of any
3 five years in a manner directly contributing to the person's experi-
4 ence and competency as a guide-outfitter;

5 (7) has been licensed as and performed the services of a
6 class-A assistant guide-outfitter or assistant guide-outfitter in the
7 state for a part of each of three years, or has guide-outfitted in the
8 state for a part of each of three years under a marine mammal guide-
9 outfitter license issued under AS 08.54.360;

10 (8) has demonstrated a current knowledge of fishing, hunt-
11 ing, and guide-outfitting regulations;

12 (9) is capable of performing the essential duties associ-
13 ated with guide-outfitting;

14 (10) has been favorably recommended in writing by six big
15 game hunters, two for each year of the person's most recent three
16 years as a class-A assistant guide-outfitter or assistant guide-out-
17 fitter, when the person has guide-outfitted or assisted in guide-out-
18 fitting as a class-A assistant guide-outfitter or assistant guide-out-
19 fitter, whose recommendations have been solicited by the board from a
20 list provided by the applicant;

21 (11) possesses a business license to provide guide-out-
22 fitting services; and

23 (12) has paid the license fee and commercial use permit
24 fee.

25 (b) A person who receives a master guide-outfitter license under
26 sec. 12 of this Act may use the title master guide-outfitter and may
27 annually renew the license unless the license has been revoked or
28 suspended or has lapsed under AS 08.54.440. A master guide-outfitter
29 license is for all purposes under this chapter a guide-outfitter

1 license.

2 (c) A guide-outfitter may contract to guide-outfit hunts for big
3 game and may provide transportation to, from, or in the field that is
4 incidental to a guide-outfitted hunt.

5 Sec. 08.54.360. MARINE MAMMAL GUIDE-OUTFITTER LICENSE. (a) The
6 board may issue a marine mammal guide-outfitter license to a natural
7 person who applies to guide-outfit a hunt for a specific species of
8 marine mammal in a specifically designated area if the person

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

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

12 (3) is able to perform the duties of a marine mammal guide-
13 outfitter;

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

16 (A) current fish and game laws and regulations;

17 (B) relevant characteristics of the specific species
18 to be hunted;

19 (C) field preparation of trophies;

20 (D) care of game meat;

21 (E) use of guide-outfitting gear;

22 (F) firearm safety;

23 (G) practical first aid; and

24 (H) booking and contracting hunts;

25 (5) has not been convicted of violating a state or federal
26 game or guide-outfitting statute or regulation during the previous
27 five years for which the person was fined more than \$500 or imprisoned
28 for more than five days;

29 (6) possesses a business license to provide guide-

1 outfitting services; and

2 (7) has paid the license fee and commercial use permit fee.

3 (b) A marine mammal guide-outfitter may contract to guide-outfit
4 hunts for species of marine mammals for which the marine mammal guide-
5 outfitter license is issued.

6 Sec. 08.54.370. RENEWAL OF GUIDE-OUTFITTER LICENSE AND MARINE
7 MAMMAL GUIDE-OUTFITTER LICENSE. (a) An applicant for renewal of a
8 guide-outfitter license or a marine mammal guide-outfitter license
9 shall submit with the application for renewal

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

12 (2) the license fee for the next licensing period; and

13 (3) the commercial use permit fee for the next licensing
14 period.

15 (b) The department may not renew a license under this section
16 unless all fees have been paid in full and the hunt record has been
17 filed.

18 Sec. 08.54.380. CLASS-A ASSISTANT GUIDE-OUTFITTER LICENSE. (a)
19 A natural person is entitled to a class-A assistant guide-outfitter
20 license if

21 (1) the person

22 (A) has been employed for at least one season as a
23 licensed assistant guide-outfitter; and

24 (B) has had at least 10 years hunting experience in
25 the game management units in which the person is to be employed;
26 military service outside the state for not more than three years
27 shall be accepted as part of the required 10 years hunting ex-
28 perience; or

29 (2) the person

1 (A) physically resides in the game management unit in
2 which the person is to be employed;

3 (B) has had at least 15 years hunting experience in
4 the game management unit in which the person is to be employed;
5 military service outside of the state for not more than three
6 years shall be accepted as part of the required 15 years hunting
7 experience; and

8 (C) has passed qualification examinations prepared and
9 administered by the board.

10 (b) A class-A assistant guide-outfitter

11 (1) may not contract to guide-outfit hunts;

12 (2) shall be under the supervision of a guide-outfitter who
13 has contracted with the client for whom the class-A assistant guide-
14 outfitter is conducting the hunt; and

15 (3) may take charge of a camp and conduct guide-outfitter
16 activities from it without the guide-outfitter being present in the
17 area if the guide-outfitter is supervising the guide-outfitting activ-
18 ities.

19 Sec. 08.54.390. ASSISTANT GUIDE-OUTFITTER LICENSE. (a) A
20 natural person is entitled to an assistant guide-outfitter license if
21 the person

22 (1) is 18 years of age or older;

23 (2) passes an examination administered by the board;

24 (3) has hunted in the state in two of the last five years;

25 (4) has demonstrated practical knowledge of first aid and
26 cardiopulmonary resuscitation;

27 (5) is in sound physical condition; and

28 (6) meets additional qualifications that the board may
29 establish.

1 (b) An assistant guide-outfitter
2 (1) may not contract to guide-outfit hunts; and
3 (2) shall be employed by a guide-outfitter and under the
4 supervision of a guide-outfitter or class-A assistant guide-outfitter
5 at all times while the assistant guide-outfitter is in the field on
6 guide-outfitted hunts.

7 Sec. 08.54.400. TRANSPORTER LICENSE. (a) A person is entitled
8 to a transporter license if the person

- 9 (1) applies on a form provided by the department;
10 (2) pays the license fee;
11 (3) pays the commercial use permit fee;
12 (4) provides proof of

13 (A) an air taxi/commercial operator certificate issued
14 by the Federal Aviation Administration under 14 C.F.R. Part 135,
15 if the person provides air transportation services to big game
16 hunters;

17 (B) licensure by the Coast Guard to carry passengers
18 for hire, if the person provides water transportation services to
19 big game hunters and if licensure is required by the Coast Guard;
20 and

21 (5) has a business license to transport big game hunters.

22 (b) A transporter may provide transportation services for com-
23 pensation to big game hunters and accommodations in the field at a
24 permanent lodge, house, or cabin owned by the transporter or on a boat
25 with permanent living quarters located on salt water. A transporter
26 may also provide, under authority of a commercial use permit, other
27 big game commercial services as defined under AS 08.54.460. A trans-
28 porter may not provide big game commercial hunting services without
29 holding the appropriate license.

1 (c) An applicant for renewal of a transporter license shall
2 submit with the application for renewal

3 (1) an activity report on a form provided by the department
4 for the period covered by the current license; an activity report
5 shall contain information required by the board by regulation;

6 (2) the license fee for the next licensing period;

7 (3) the commercial use permit fee for the next licensing
8 period; and

9 (4) proof of

10 (A) an air taxi/commercial operator certificate issued
11 by the Federal Aviation Administration under 14 C.F.R. Part 135,
12 if the applicant provides air transportation services to big game
13 hunters;

14 (B) licensure by the Coast Guard to carry passengers
15 for hire, if the applicant provides water transportation services
16 to big game hunters and if licensure is required by the Coast
17 Guard.

18 (d) The department may not renew a transporter license unless
19 all fees have been paid in full and the activity report required under
20 (c)(1) of this section and the proof required under (c)(4) of this
21 section have been filed.

22 (e) A transporter shall place a decal provided by the department
23 on each plane, boat, vehicle, or other equipment used by the trans-
24 porter to provide transportation services to big game hunters. The
25 decal must bear the transporter's license number. The decal is valid
26 only for the plane, boat, vehicle, or other equipment for which the
27 decal is issued.

28 Sec. 08.54.410. APPEAL TO COMMISSIONER FROM BOARD ON DENIAL OF
29 LICENSE. The commissioner of commerce and economic development may

1 order that an applicant for an initial license under AS 08.54.350 -
2 08.54.400 be allowed to take the license examination or be issued the
3 license if, after reviewing a petition filed by the applicant, the
4 commissioner finds that

5 (1) the board denied the applicant an opportunity to take
6 the license examination or refused to approve issuance of the license;

7 (2) the board's denial or refusal has been upheld by a
8 final administrative order and the order has not been appealed to the
9 superior court under AS 44.62.560;

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

11 (A) an error of fact by the board; or

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

14 (4) the applicant is otherwise qualified to take the exam-
15 ination or to be issued the license; and

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

18 Sec. 08.54.420. RENEWAL OF LICENSES. Notwithstanding AS 08.01.-
19 100(a), guide-outfitter, marine mammal guide-outfitter, and transport-
20 er licenses shall be renewed annually on dates set by the department
21 with the approval of the board.

22 Sec. 08.54.430. EXAMINATIONS FOR GUIDE-OUTFITTER LICENSES. (a)
23 The board shall administer the qualification examinations required
24 under this chapter at least twice a year. An examination may not be
25 given within 90 days after the previous examination. At least once
26 every other year the board shall give the examination at a location
27 other than Anchorage.

28 (b) The board shall regularly disseminate information regarding
29 examinations and other qualifications for all classes of

1 guide-outfitter licenses to residents of the rural areas of the state.

2 Sec. 08.54.440. FAILURE TO RENEW. (a) A license may not be
3 issued to a guide-outfitter, marine mammal guide-outfitter, class-A
4 assistant guide-outfitter, or assistant guide-outfitter who has failed
5 to renew a license issued under this chapter for two consecutive years
6 unless the guide-outfitter, marine mammal guide-outfitter, class-A
7 assistant guide-outfitter, or assistant guide-outfitter again meets
8 the qualifications for initial issuance of the license.

9 (b) Notwithstanding (a) of this section, a guide-outfitter who
10 fails to renew a license is not required to requalify under AS 08.54.-
11 350(a)(7), unless the license has been lapsed for three or more years.

12 Sec. 08.54.450. LICENSE AND EXAMINATION FEES. (a) The depart-
13 ment shall set license fees under AS 08.01.065 for each of the follow-
14 ing:

- 15 (1) guide-outfitter
- 16 (2) class-A assistant guide-outfitter;
- 17 (3) assistant guide-outfitter;
- 18 (4) marine mammal guide-outfitter;
- 19 (5) transporter.

20 (b) The license fee for the guide-outfitter, marine mammal
21 guide-outfitter, class-A assistant guide-outfitter, or assistant
22 guide-outfitter license is in addition to the fee required for a
23 hunting license.

24 (c) An applicant for a qualifying examination for any class of
25 guide-outfitter license shall pay a fee established by regulations
26 adopted under AS 08.01.065.

27 Sec. 08.54.460. COMMERCIAL USE PERMIT HOLDER. A person, other
28 than a guide-outfitter, marine mammal guide-outfitter, or a trans-
29 porter, who provides other big game commercial services for

1 compensation shall register with the board on a form provided by the
2 board and shall obtain a commercial use permit and pay the annual
3 commercial use permit fee set under AS 08.54.470. In this section
4 "other big game commercial services" includes provision of accommoda-
5 tions in the field at a permanent lodge, house, or cabin owned by the
6 commercial use permit holder, hunt broker services, gear rental ser-
7 vices, photographic or videographic services, and services as defined
8 by the board by regulation.

9 Sec. 08.54.470. COMMERCIAL USE PERMIT AND FEE. (a) A person
10 who is licensed under this chapter as a guide-outfitter, marine mammal
11 guide-outfitter, or transporter shall obtain an annual commercial use
12 permit and pay an annual commercial use permit fee.

13 (b) The department, in consultation with the board, shall set
14 the amount of the commercial use permit fee.

15 (c) A guide-outfitter, marine mammal guide-outfitter, and trans-
16 porter shall pay the commercial use permit fee at the time of applica-
17 tion for issuance or renewal of a guide-outfitter license, marine
18 mammal guide-outfitter license, or transporter license.

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

26 ARTICLE 6. PENALTIES.

27 Sec. 08.54.500. DISCIPLINE OF GUIDE-OUTFITTERS. (a) The board
28 may hold a hearing to determine whether disciplinary action is neces-
29 sary if a written complaint concerning the guide-outfitting activities

1 of a licensee who holds any class of guide-outfitter license is filed
2 with the board. The board shall hold a hearing to determine whether a
3 licensee should be disciplined within a reasonable time after

4 (1) complaints concerning a licensee's guide-outfitting
5 activities are filed with the board within a two-year period by three
6 or more of the licensee's clients from separate hunting parties;

7 (2) a complaint concerning a licensee's conduct during a
8 life-threatening situation is filed with the board; or

9 (3) a licensee has been convicted of a violation of a
10 federal or state statute or regulation relating to hunting or pro-
11 vision of big game commercial services.

12 (b) After a hearing, the board may revoke, suspend, or deny
13 renewal of any class of guide-outfitter license, if the board finds
14 that the licensee

15 (1) engaged in unethical activity, unsafe activity, or
16 activity that adversely affects the natural resources of the state
17 when the activity is related to the purposes of providing guide-out-
18 fitting services, however the board may not discipline a licensee
19 under this paragraph for unsafe operation of an aircraft; or

20 (2) violated a provision of a federal or state statute or
21 regulation relating to hunting or provision of big game commercial
22 services.

23 (c) After a hearing, the board shall revoke any class of guide-
24 outfitter license if the board finds that the licensee

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

27 (2) is incompetent as a guide-outfitter, marine mammal
28 guide-outfitter, class-A assistant guide-outfitter, or assistant
29 guide-outfitter; or

1 (3) during the five years immediately preceding the hearing
2 has been convicted of a violation of a federal or state statute or
3 regulation prohibiting

4 (A) waste of a wild food animal;

5 (B) hunting on the same day airborne;

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

7 (D) hunting in an area closed by state or federal

8 regulation.

9 (d) If a certified copy of a judgment of conviction of a licens-
10 ee who holds any class of guide-outfitter license for an offense
11 described under (c)(3) of this section is filed with the board, the
12 board shall immediately suspend the licensee's license. The suspen-
13 sion may be ordered even if the conviction resulted from a plea of
14 nolo contendere or if the conviction is under appeal. The suspension
15 remains in effect until after the final disposition of the disciplin-
16 ary proceeding under this section.

17 Sec. 08.54.505. DISCIPLINE OF TRANSPORTERS AND COMMERCIAL USE
18 PERMITTEES. (a) The board may hold a hearing to determine whether
19 disciplinary action is necessary if a written complaint concerning the
20 big game commercial service activities of a transporter who is
21 licensed under AS 08.54.400 or a commercial use permittee who holds a
22 permit issued under AS 08.54.460 is filed with the board. The board
23 shall hold a hearing to determine whether a licensee or permittee
24 should be disciplined within a reasonable time after

25 (1) complaints concerning a licensee's or permittee's
26 activities are filed with the board within a two-year period by three
27 or more of the licensee's or permittee's clients from separate hunting
28 parties; or

29 (2) a licensee or permittee has been convicted of a

1 violation of a federal or state statute or regulation relating to
2 hunting or provision of big game commercial services.

3 (b) After a hearing, the board may revoke, suspend, or deny
4 renewal of a transporter license or commercial use permit issued under
5 this chapter, if the board finds that the licensee or permittee

6 (1) engaged in unethical activity, unsafe activity, or
7 activity that adversely affects the natural resources of the state
8 when the activity is related to the purposes of providing big game
9 commercial services, however the board may not discipline a licensee
10 or permittee under this paragraph for unsafe operation of an aircraft;
11 or

12 (2) violated a provision of a federal or state statute or
13 regulation relating to hunting or provision of big game commercial
14 services.

15 (c) The board may not revoke, suspend, or deny renewal of a
16 transporter license or commercial use permit for a violation of a
17 federal or state statute or regulation relating to game or provision
18 of big game commercial services committed by an employee of the li-
19 censee or permittee unless the licensee or permittee participated or
20 aided in the violation.

21 (d) After a hearing, the board shall revoke a license or permit
22 if the board finds that the licensee or permittee

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

25 (2) during the five years immediately preceding the hearing
26 has been convicted of a violation of a federal or state statute or
27 regulation prohibiting

28 (A) waste of a wild food animal;

29 (B) hunting on the same day airborne;

1 (C) hunting during a closed hunting season; or
2 (D) hunting in an area closed by state or federal
3 regulation.

4 (e) If a certified copy of a judgment of conviction of a licens-
5 ee or permittee for an offense described under (d)(2) of this section
6 is filed with the board, the board shall immediately suspend the
7 licensee's or permittee's license or permit. The suspension may be
8 ordered even if the conviction resulted from a pleas of nolo con-
9 tendere or if the conviction is under appeal. The suspension remains
10 in effect until after the final disposition of the disciplinary pro-
11 ceeding under this section.

12 Sec. 08.54.510. DISCIPLINE; GENERAL PROVISIONS. (a) A person
13 who is disciplined under AS 08.54.500 or 08.54.505 may not engage in
14 the provision of big game commercial services during the period of
15 license or permit revocation or other disciplinary action. A person
16 who is licensed under this chapter, or who holds a permit issued under
17 this chapter, may not hire a person whose license or permit to provide
18 big game commercial services is suspended or revoked under AS 08.54.-
19 500 or 08.54.505. A person whose license or permit is suspended or
20 revoked may not be employed by a person who is licensed or who holds a
21 permit under this chapter.

22 (b) If the board revokes a license or permit under AS 08.54.500
23 or 08.54.505, the person whose license or permit has been revoked
24 shall surrender immediately the license or permit to the department.

25 (c) A certified copy of a judgment of conviction of a licensee
26 or permittee for an offense is conclusive evidence of the commission
27 of that offense in a disciplinary proceeding instituted against the
28 licensee or permittee under AS 08.54.500 or 08.54.505 based on that
29 conviction, regardless of whether the conviction resulted from a plea

1 of nolo contendere or the conviction is under appeal, unless the
2 conviction is overturned on appeal.

3 (d) Within 30 days after conclusion of a hearing under AS 08.-
4 54.500 or 08.54.505, the board shall notify the complainant of the
5 results of the hearing, including written reasons justifying a deci-
6 sion not to take disciplinary action.

7 Sec. 08.54.520. UNLAWFUL ACTS. (a) It is unlawful for a

8 (1) person who is licensed or who holds a commercial use
9 permit under this chapter to knowingly 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 big game commercial services statute or regulation that the person
13 reasonably believes was committed by a client or an employee of the
14 person;

15 (2) person who is licensed or who holds a commercial use
16 permit under this chapter to knowingly

17 (A) commit or aid the commission of a violation of
18 this chapter, a regulation adopted under this chapter, or a state
19 fish or game statute or regulation; or

20 (B) permit the commission of a violation of this
21 chapter, a regulation adopted under this chapter, or a state fish
22 or game statute or regulation that the person knows or reasonably
23 believes is being or will be committed without

24 (i) attempting to prevent it, short of using
25 force; and

26 (ii) reporting it;

27 (3) person without a current commercial use permit issued
28 under this chapter to knowingly provide big game commercial services;

29 (4) person who is licensed or who holds a commercial use

1 permit issued under this chapter to intentionally obstruct or hinder
2 or attempt to obstruct or hinder lawful hunting engaged in by a person
3 who is not a client of the person;

4 (5) class-A assistant guide-outfitter or an assistant
5 guide-outfitter to knowingly guide-outfit a hunt except while employed
6 and supervised by a guide-outfitter;

7 (6) person who holds any class of guide-outfitter license
8 to knowingly enter or remain unlawfully on state, federal, or private
9 land without prior authorization during the course of providing guide-
10 outfitting services;

11 (7) person to knowingly guide-outfit without having a
12 current guide-outfitter, marine mammal guide-outfitter, class-A assis-
13 tant guide-outfitter, or assistant guide-outfitter license and hunting
14 license in actual possession;

15 (8) person without a current guide-outfitter or marine
16 mammal guide-outfitter license to knowingly advertise as or represent
17 to be a guide-outfitter;

18 (9) person to knowingly provide transportation services to
19 big game hunters without holding a transporter license;

20 (10) class-A assistant guide-outfitter or an assistant
21 guide-outfitter to knowingly contract for a hunt; or

22 (11) person to knowingly engage in a big game commercial
23 services activity during the period for which the person's license to
24 conduct that activity is suspended or revoked.

25 (b) A person who commits an offense set out in (a)(1) - (6) of
26 this section is guilty of a misdemeanor and is punishable by a fine of
27 not more than \$30,000 or by imprisonment for not less than two months
28 or more than one year, or both.

29 (c) A person who commits an offense set out in (a)(7) - (10) of

1 this section is guilty,

2 (1) for a first offense, of a misdemeanor and is punishable
3 by a fine of not more than \$30,000 or by imprisonment for not less
4 than two months or more than one year, or both;

5 (2) for a second or subsequent offense, of a class C fel-
6 ony.

7 (d) A person who violates (a)(11) of this section, is guilty of
8 a class C felony.

9 (e) In addition to the penalties set out in (b), (c) and (d) of
10 this section,

11 (1) the court may revoke the person's license to provide
12 guide-outfitting or transportation services for not more than five
13 years; and

14 (2) all guns, fishing tackle, boats, aircraft, automobiles
15 or other vehicles, camping gear, and other equipment and paraphernalia
16 used in, or in aid of, a violation of (a) of this section may be
17 seized by persons authorized to enforce this chapter and may be for-
18 feited to the state as provided under AS 16.05.195.

19 (f) Upon conviction of a person for committing an offense set
20 out in (a) of this section, the execution of sentence may not be
21 suspended and probation may not be granted except on the condition
22 that the minimum term of imprisonment is served. Imposition of sen-
23 tence may not be suspended.

24 Sec. 08.54.530. INJUNCTION AGAINST UNLAWFUL ACTION. When in the
25 judgment of the board a person has engaged in an act in violation of
26 AS 08.54.380(b), 08.54.390(b), 08.54.400(b), 08.54.510(a), and 08.54.-
27 520 or the regulations adopted under them, the board may apply to the
28 appropriate court for an order enjoining the action. Upon a showing
29 by the board that the person is engaging in the act, the court shall

1 grant injunctive relief or other appropriate order without bond.

2 Sec. 08.54.540. RESPONSIBILITY OF GUIDE-OUTFITTER FOR VIOLA-
3 TIONS. A guide-outfitter who contracts to guide-outfit a hunt is
4 equally responsible under AS 08.54.500 for a violation of a federal or
5 state game or guide-outfitting statute or regulation committed by a
6 class-A assistant guide-outfitter or an assistant guide-outfitter
7 while in the course of the class-A assistant guide-outfitter's or
8 assistant guide-outfitter's employment for the guide-outfitter.

9 ARTICLE 7. GENERAL PROVISIONS.

10 Sec. 08.54.550. HUNT RECORDS; CONFIDENTIALITY OF HUNT RECORDS
11 AND ACTIVITY REPORTS. (a) The department shall collect and maintain
12 hunt records provided by guide-outfitters and marine mammal guide-out-
13 fitters. A hunt record must include a list of all big game hunters
14 who used the services of the guide-outfitter or marine mammal guide-
15 outfitter, the number of each big game species taken, and other infor-
16 mation required by the board. The department shall provide forms for
17 reporting hunt records.

18 (b) The department shall make hunt records, and activity reports
19 received under AS 08.54.400, available to state and federal agencies
20 charged with the enforcement of statutes and regulations relating to
21 guide-outfitting or game or with management of game if requested for
22 game management or law enforcement purposes. Aggregated data compiled
23 from hunt records and activity reports may be included in reports by
24 the department. For all other purposes, the hunt records and activity
25 reports are confidential and are not subject to inspection or copying
26 under AS 09.25.110 - 09.25.125.

27 Sec. 08.54.590. DEFINITIONS. In this chapter

28 (1) "base camp" means a guide-outfitter's or marine mammal
29 guide-outfitter's primary base of operations in the field; "base camp"

1 does not include a spike camp;

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

5 (3) "big game commercial hunting service" means a service
6 for which the provider of the service must obtain a guide-outfitter,
7 marine mammal guide-outfitter, class-A assistant guide-outfitter, or
8 assistant guide-outfitter license;

9 (4) "big game commercial service" means a service for which
10 the provider of the service must obtain a commercial use permit;

11 (5) "board" means the Big Game Commercial Services Board;

12 (6) "compensation" means payment for services including
13 wages or other remuneration but not including reimbursement for actual
14 expenses incurred;

15 (7) "department" means the Department of Commerce and
16 Economic Development;

17 (8) "enter or remain unlawfully" has the meaning given in
18 AS 11.46.350(a);

19 (9) "game management unit" means one of the 26 geographic
20 areas defined by the Board of Game for game management purposes;

21 (10) "guide-outfit" means to provide, for compensation or
22 with the intent or with an agreement to receive compensation, big game
23 commercial hunting services in the field; "guide-outfit" includes
24 accompanying or being present with a big game hunter in the field
25 either personally or through an assistant; "guide-outfit" does not
26 include the provision of transportation to, from, or in the field if
27 the person providing the transportation and the person being trans-
28 ported do not stalk, pursue, track, kill, or attempt to kill big game
29 during the provision of transportation;

1 (11) "field" means an area outside of established year-round
2 dwellings, businesses, or other developments usually associated with a
3 city, town, or village; "field" does not include permanent hotels or
4 roadhouses on the state road system or state or federally maintained
5 airports;

6 (12) "spike camp" means a camp in the field other than a
7 base camp and includes a fly camp or an overnight camp;

8 (13) "transportation services" means the carriage for com-
9 pensation of big game hunters, their equipment, or big game animals
10 harvested by hunters to, from, or in the field; "transportation ser-
11 vices" does not include the carriage by aircraft of big game hunters,
12 their equipment, or big game animals harvested by hunters

13 (A) on nonstop flights between state or federally
14 maintained airports; or

15 (B) by an air taxi operator or air carrier for which
16 the carriage of big game hunters, their equipment, or big game
17 animals harvested by hunters is only an incidental, as defined by
18 the board, portion of its business;

19 (14) "unethical activity" means

20 (A) deception or misrepresentation involving prospec-
21 tive or actual clients either before, during, or following the
22 provision of big game commercial services, including misrepresen-
23 tations through private or public advertising of the type, dura-
24 tion, cost, or conditions of the services;

25 (B) making a guaranty that a species or certain number
26 of species of game will be taken on a hunt;

27 (C) engaging in unsafe or unsportsmanlike activities
28 that are detrimental to the game resources of the state, as
29 defined by regulations of the board, including violations of

1 state hunting or big game commercial services statutes or regu-
2 lations; or

3 (D) accepting a deposit for big game commercial ser-
4 vices without providing before the services are rendered a signed
5 written contract to provide the services.

6 * Sec. 4. AS 12.55.125(e) is amended to read:

7 (e) A defendant convicted of a class C felony may be sentenced
8 to a definite term of imprisonment of not more than five years, and
9 shall be sentenced to the following presumptive terms, subject to
10 adjustment as provided in AS 12.55.155 - 12.55.175:

11 (1) if the offense is a second felony conviction, two
12 years;

13 (2) if the offense is a third felony conviction, three
14 years;

15 (3) if the offense is a first felony conviction, and the
16 defendant knowingly directed the conduct constituting the offense at a
17 uniformed or otherwise clearly identified peace officer, fire fighter,
18 correctional officer, emergency medical technician, paramedic, ambu-
19 lance attendant, or other emergency responder who was engaged in the
20 performance of official duties at the time of the offense, one year;

21 (4) if the offense is a first felony conviction, and the
22 defendant violated AS 08.54.520(a)(7) - (10), one year.

23 * Sec. 5. AS 16.05.407(a) is amended to read:

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

27 (1) a person who is licensed as a guide-outfitter, [MASTER
28 GUIDE, REGISTERED GUIDE,] class-A assistant guide-outfitter, [GUIDE]
29 or assistant guide-outfitter [GUIDE] by the Big Game Commercial

1 Services [GUIDE] Board; or

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

3 (A) the spouse of the nonresident; or

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

6 * Sec. 6. AS 16.05.407(d) is amended to read:

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

12 * Sec. 7. AS 16.05.408(a) is amended to read:

13 (a) It is a class A misdemeanor for a nonresident alien

14 (1) to hunt, pursue, or take marine mammals unless person-
15 ally accompanied by a licensed marine mammal guide-outfitter [GUIDE];
16 or

17 (2) to hunt, pursue, or take a big game animal as defined
18 by the Board of Game unless personally accompanied by a guide-outfit-
19 ter [LICENSED MASTER GUIDE, REGISTERED GUIDE,] or class-A assistant
20 guide-outfitter licensed [GUIDE] under AS 08.54.

21 * Sec. 8. AS 16.05 is amended by adding a new section to read:

22 Sec. 16.05.783. PROHIBITION. (a) A hunting club may not

23 (1) engage in activities in direct support of big game
24 hunting, including transportation or guide-outfitting of big game
25 hunters; or

26 (2) provide facilities or services for big game hunting.

27 (b) In this section "hunting club" means

28 (1) an organization that offers use of property or services
29 to individuals who pay a membership fee for the privilege of using the

1 property or services for hunting; or

2 (2) a partnership, limited partnership, corporation, or
3 unincorporated association through which property is jointly owned,
4 leased, or otherwise held by members of the entity and through which
5 the members are entitled to use the property for hunting.

6 * Sec. 9. AS 39.50.200(b)(48) is amended to read:

7 (48) Big Game Commercial Services [GUIDE] Board AS 08.54.-
8 300 [(AS 08.54.010)]; and

9 * Sec. 10. AS 41.23.420(d) is amended to read:

10 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the
11 authority of

12 (1) the Department of Fish and Game, the Board of Fisher-
13 ies, the Board of Game, or the Big Game Commercial Services [GUIDE
14 LICENSING AND CONTROL] Board under AS 08.54, AS 16, or AS 41.99.010;

15 (2) the Department of Environmental Conservation under AS
16 46.03; or

17 (3) state agencies and municipalities under AS 44.19.145(a)-
18 (11) and AS 46.40.100.

19 * Sec. 11. AS 44.62.330(a)(35) is amended to read:

20 (35) Big Game Commercial Services [GUIDE LICENSING AND
21 CONTROL] Board

22 * Sec. 12. TRANSITION: GUIDE-OUTFITTER LICENSES. (a) Notwithstanding
23 the repeal of AS 08.54.010 - 08.54.240, all licenses issued under AS 08.-
24 54.010 - 08.54.240 are valid for the period for which the licenses were is-
25 sued.

26 (b) For the purposes of AS 08.54.300 - 08.54.590 as enacted by sec. 3
27 of this Act, until new licenses are issued under this section, a

28 (1) master guide license issued under former AS 08.54.100 and a
29 registered guide license issued under former AS 08.54.110 shall be

1 considered a guide-outfitter license issued under AS 08.54.350;

2 (2) class-A assistant guide license issued under former AS 08.-
3 54.120 shall be considered a class-A assistant guide-outfitter license
4 issued under AS 08.54.380;

5 (3) an assistant guide license issued under former AS 08.54.140
6 shall be considered an assistant guide-outfitter license issued under
7 AS 08.54.390.

8 (c) At the time of the next license renewal following the effective
9 date of this Act, each person licensed as

10 (1) a master guide shall receive a master guide-outfitter li-
11 cense if the person

12 (A) is in good standing at the time of issuance of the
13 license; and

14 (B) has paid the guide-outfitter license fee and the com-
15 mercial use permit fee;

16 (2) a registered guide shall receive a guide-outfitter license
17 if the person

18 (A) is in good standing at the time of issuance of the
19 license; and

20 (B) has paid the guide-outfitter license fee and the com-
21 mercial use permit fee;

22 (3) a class-A assistant guide shall receive a class-A assistant
23 guide-outfitter license if the person

24 (A) is in good standing at the time of issuance of the
25 license; and

26 (B) has paid the class-A assistant guide-outfitter license
27 fee;

28 (4) an assistant guide shall receive an assistant guide-out-
29 fitter license if the person

1 (A) is in good standing at the time of issuance of the
2 license; and

3 (B) pays the assistant guide-outfitter license fee.

4 (d) Notwithstanding (c) of this section, the Department of Commerce
5 and Economic Development may issue a new license under AS 08.54.300 -
6 08.54.590, without an additional fee, to a person licensed under former
7 AS 08.54.010 - 08.54.240 before the next renewal period following the
8 effective date of this Act, if the person satisfies the requirements for
9 the license and the license is valid only for the same period for which the
10 replaced license was issued.

11 * Sec. 13. TRANSITION; OUTFITTERS. (a) Notwithstanding AS 08.54.350,
12 as enacted by sec. 3 of this Act, a natural person is entitled to receive a
13 guide-outfitter license if the person

14 (1) applies on a form provided by the Department of Commerce and
15 Economic Development;

16 (2) lawfully registered a camp, cabin, or lodge under AS 16.-
17 05.787 during 1988;

18 (3) provides evidence satisfactory to the Big Game Commercial
19 Services Board that the person has legally engaged in the business of big
20 game outfitting in 1986, 1987, and 1988;

21 (4) passes the guide-outfitter examination administered by the
22 Big Game Commercial Services Board within two years after the effective
23 date of this Act;

24 (5) has not been convicted of violating a state or federal game
25 or guide-outfitting statute or regulation during the previous five years
26 for which the person was fined more than \$500 or imprisoned for more than
27 five days;

28 (6) has legally hunted in the state for part of each of any five
29 years in a manner directly contributing to the person's experience and

1 competency as a guide-outfitter;

2 (7) has been favorably recommended in writing by six big game
3 hunters, two for each year of the person's most recent three years as a big
4 game outfitter, whose recommendations have been solicited by the Big Game
5 Commercial Services Board from a list provided by the applicant;

6 (8) pays the guide-outfitter license fee and the commercial use
7 permit fee; and

8 (9) possesses a business license to provide recreational ser-
9 vices.

10 (b) A person who is denied a guide-outfitter license under (a) of
11 this section by the Big Game Commercial Services Board may appeal to the
12 commissioner of commerce and economic development. The commissioner may
13 order that the applicant be allowed to take the license examination or be
14 issued the license if, after reviewing a petition filed by the applicant,
15 the commissioner finds that

16 (1) the board denied the applicant an opportunity to take the
17 license examination or refused to approve issuance of the license;

18 (2) the board's denial or refusal has been upheld by a final
19 administrative order and the order has not been appealed to the superior
20 court under AS 44.62.560;

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

22 (A) an error of fact by the board; or

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

25 (4) the applicant is otherwise qualified to take the examination
26 or to be issued the license; and

27 (5) sustaining the board's denial or refusal would work a sub-
28 stantial injustice on the applicant.

29 (c) A guide-outfitter license issued under (a) of this section is for

1 all purposes a license issued under AS 08.54.350, as enacted by sec. 3 of
2 this Act.

3 (d) A person who satisfies (a)(1) - (3) of this section, holds a
4 business license as a big game outfitter, and pays a license fee set by the
5 Department of Commerce and Economic Development and the commercial use
6 permit fee is entitled to receive an interim outfitter license pending a
7 final determination of a person's eligibility for a guide-outfitter license
8 under (a) of this section. The right to receive and hold an interim out-
9 fitter license terminates on the earlier of

10 (1) the date of issuance of a guide-outfitter license to the
11 person;

12 (2) a final determination under (a) of this section that the
13 person is not eligible to receive a guide-outfitter license; or

14 (3) two years from the effective date of this Act.

15 (e) A person who holds an interim outfitter license, notwithstanding
16 contrary provisions of AS 08.54, may provide transportation to, from, and
17 in the field to big game hunters and supply other services in the field to
18 big game hunters. The person may not provide guiding services.

19 (f) A person who holds an interim outfitter license shall promptly
20 report to the Department of Public Safety, division of fish and wildlife
21 protection, but not later than 30 days after the violation, a violation of
22 a state fish, game, or big game commercial services statute or regulation
23 that the person reasonably believes was committed by a client or employee
24 of the person.

25 (g) A person who holds an interim outfitter license may accompany or
26 be present with a hunter at a base camp, cabin, or permanent lodge in
27 connection with a big game hunt for compensation only if the person has
28 furnished an affidavit to the Department of Public Safety, division of fish
29 and wildlife protection, at least two weeks in advance. The person may not

1 register more than two base camps. The affidavit must be signed by the
2 person and must provide the following information:

- 3 (1) the specific location of the camp, cabin, or lodge;
4 (2) the number of big game hunters in each party that will use
5 the camp, cabin, or lodge; and
6 (3) the kinds or species of big game that will be hunted.

7 (h) A person who furnishes an affidavit under (g) of this section
8 shall notify the Department of Public Safety of the amount and kinds or
9 species of big game taken by each hunter who uses the base camp, cabin, or
10 permanent lodge to which the affidavit relates. Notice shall be given
11 within 30 days after the game is taken. The Department of Public Safety
12 shall provide the information received under this subsection to the Depart-
13 ment of Fish and Game.

14 (i) A person who

15 (1) violates (f) of this section is guilty of a misdemeanor and
16 upon conviction is punishable by a fine of not more than \$2,000 or by
17 imprisonment for not more than one year, or by both; or

18 (2) falsifies an affidavit under (g) of this section is guilty
19 of unsworn falsification under AS 11.56.210.

20 (j) In this section,

21 (1) "base camp" does not include spike camp, fly camp, or over-
22 night camp;

23 (2) "big game" and "field" have the meaning given in AS 08.54.-
24 590, as enacted by sec. 3 of this Act;

25 (3) "guiding" means accompanying or being present with a big
26 game hunter in the field, personally or through an assistant, for compen-
27 sation or with the intent or an agreement to receive compensation; "guid-
28 ing" does not include

29 (A) providing transportation to or from the field, if the

1 person providing transportation and the persons being transported do
2 not stalk, pursue, track, kill, or attempt to kill big game during the
3 transportation; or

4 (B) selling, leasing, or renting goods, if the transaction
5 does not take place in the field;

6 (4) "outfitting" means the provision of services, other than
7 guiding services, to big game hunters in the field for compensation.

8 * Sec. 14. INITIAL APPOINTMENTS TO BIG GAME COMMERCIAL SERVICES BOARD.
9 Notwithstanding AS 08.54.300(b), as enacted by sec. 3 of this Act, the
10 initial appointments to the Big Game Commercial Services Board under

11 (1) AS 08.54.300(b)(1) may also be filled by the appointment of
12 a master guide or registered guide licensed under former AS 08.54.010 -
13 08.54.240 or a person who lawfully registered a camp, cabin, or lodge under
14 AS 16.05.787 during 1988 and legally engaged in the business of big game
15 outfitting in 1986, 1987, and 1988;

16 (2) AS 08.54.300(b)(2) may also be filled by the appointment of
17 a person who engaged in the business of providing transportation to big
18 game hunters in 1986, 1987, and 1988.

19 * Sec. 15. TRANSITION. Litigation, hearings, investigations, and other
20 proceedings pending under a law amended or repealed by this Act continue in
21 effect and may be continued and completed notwithstanding an amendment or
22 repeal provided for in this Act. Licenses, orders, and regulations issued
23 or adopted under authority of a law amended or repealed by this Act remain
24 in effect for the term issued or until revoked, vacated, or otherwise
25 modified under the provisions of this Act.

26 * Sec. 16. AS 08.54.010, 08.54.030, 08.54.035, 08.54.040, 08.54.045,
27 08.54.050, 08.54.060, 08.54.070, 08.54.100, 08.54.110, 08.54.120, 08.54.-
28 130, 08.54.140, 08.54.141, 08.54.150, 08.54.160, 08.54.170, 08.54.180,
29 08.54.186, 08.54.190, 08.54.195, 08.54.200, 08.54.210, 08.54.220,

1 08.54.230, 08.54.240; AS 16.05.370(b), 16.05.370(c), 16.05.407(e), 16.05.-
2 786, and 16.05.787 are repealed.

3 * Sec. 17. Sections 4, 6, 12, and 13, ch. 160, SLA 1988 are repealed.

4 * Sec. 18. AS 08.54.310(b)(1), as enacted by sec. 3 of this Act, takes
5 effect on the earlier of

6 (1) January 15, 1990; or

7 (2) the date of submission to the legislature of a recom-
8 mendation by the Task Force on Guiding and Game for a resource-based man-
9 agement system for allocating access to big game hunting opportunities
10 among guide-outfitters licensed under AS 08.54.

11 * Sec. 19. Except for AS 08.54.310(b)(1), as enacted by sec. 3 of this
12 Act, this Act takes effect immediately under AS 01.10.070(c).