

SB

1911

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
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May, 1988

opies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Rules:*

*May 8, 1988*



Official Business

COMMITTEE:

HS. RULES

DATE: 5-8-88

# SIGN-IN

Subject of meeting:

SB191

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
MAY GILCO		556-7345	AK ENVIRONMENTAL LBBBY	
Joe Klutsch	Box 313 King Salmon AK	246-3030	Guide	
Bon Somerville	JUNO AK	789-3450	AK Outdoor Council	
ED HEIN		465-2450	LEG. AFFS	
RANDALL BURNS		465-2535	DEPT OF COMMERCE	
Pete Buist	Box 1561 Fbks 94707	457-7185	Guide + Outfitter	
Mal Lilla	PO Box 270247 ANCHORAGE AK 99522	344-8589	Registered Guide	
Dennis Burns		4967	Rep JUNO	NO
NICK PIERSKALLA	PO Box 27-451 Anchorage AK 99522	344-8589	Registered Guide	
Ed White Coyne	Box 7655 SRC Palmer 99645	—	Reg guide Against S.P.I.	

Roland Shanks  
Keed Steeps

ADF&G

465-4100

ADF&G

if Requested

Sectional  
5/8/88 Work Draft HCSSB191(Rules)

\* Sec. 1: Extends Guide Board until June 30, 1989

\* Sec. 2: Assures that the board will use both oral and written examinations of applicants, and will provide an oral exam for applicants with a limited ability in the English language.

\* Sec.'s 3 & 4 - Unlawful acts sections:

\* Sec. 3: Adds language that prohibits anyone who is not a registered guide to advertise as a guide or as an "outfitter offering big game hunting services".

\* Sec. 4:

(3) defines guiding as "accompanying or being present with a big game hunter in the field". Makes it clear that "in the field" does not include a lawfully established base camp, cabin, or permanent lodge that is registered with the department of public safety, division of fish and wildlife protection. — or on a boat w/perm.

(3)(A) exempts from "guiding" the transportation of hunters to and from the field, as long as the transporter and the person(s) being transported do not stalk, pursue, track, kill, or attempt to kill big game during the transportation.

living quarters  
(my error)

(3)(B) exempts from "guiding" the selling, leasing, or renting of goods, as long as it does not take place in the field. —

NOTE: The above section has an immediate effective date.

\* Sec. 5: Identical to section 4, except that "base camps" are removed, so that when this section takes effect, "base camps" will be considered "in the field", and no one other than a guide may accompany or be present with a hunter in a base camp.

NOTE: The above section has an effective date of June 30, 1990, and will replace bill Sec. 4 at that time.

\* Sec. 6: Adds some definition language to "base camp".

\* Sec. 7: Requires the person selling big game tags to furnish the buyer with a form, provided by the department, to be completed and returned by the hunter after the big game is taken. The department shall pay the cost return postage. The form must specify the location, amount, and kinds or species of game taken.

\* Sec. 8: Makes failure to comply with bill Sec. 9 a misdemeanor.

\* Sec. 9: Requires a non-resident applicant for a moose or caribou tag to furnish an affidavit to the state showing where the applicant will be hunting & what type of services they will be employing. If an applicant files a false affidavit, they are guilty perjury.

\* Sec. 10: Adds two new sections to 16.05:

AS 16.05.786: Requires big game transporters to report violations. Failure to do so can result in a fine of up to \$2000 and up to one year in jail.

AS 16.05.787: Allows "outfitters" to be present with the hunter at a registered base camp, cabin or permanent lodge. To establish a registered base camp, cabin, or permanent lodge, the operator must file an affidavit, at least two weeks in advance, with the Department of Public Safety, division of fish & wildlife protection, containing the following information:

1. The specific location of the camp, cabin or lodge,
2. The number of hunters in each party that will use the camp, cabin, or permanent lodge,
3. the kinds of big game that will be hunted.

The Department of Public Safety must share this information with the Department of Fish and Game. Falsifying the affidavit is perjury.

NOTE: The above section has an immediate effective date.

\* Sec. 11: Identical to AS 16.05.787, except that language referring to "base camps" is deleted. With this section, there will no longer be such a thing as a registered "base camp". Accompanying or being present with a hunter in the field at any place other than a lawfully established registered cabin or permanent lodge will be considered "guiding".

NOTE: The above section has an effective date of June 30, 1990, and at that time will replace AS 16.05.787 in Sec. 9 of the bill.

\* Sec. 12: Establishes, under the jurisdiction of the legislative council, an interim task force on guiding and game. The thirteen member task force consists of the following members:

The commissioners of Public Safety, Fish and Game, and Commerce & Economic Development, or their designees,

Two senators and two representatives, none of whom have a financial interest in the commercial taking of game,

Six members appointed by the Governor as follows:

- 1 member of the guide board
- 1 registered guide who is not a member of the guide board
- 2 persons who are involved in the commercial taking of game, who are not guides
- 2 members of the public, at least one of whom has no financial interest in the commercial taking of game.

The members of the task force shall elect a chair. The task force is charged with studying the problems and issues concerning the commercial taking of game in Alaska, and the businesses or professions that provide goods and services to big game hunters. The task force must report its findings and proposed legislation to address these findings no later than January 15, 1989.

The chair of the task force has the power to subpoena witness and put them under oath, if authorized to do so by a majority of the members. The provisions of subpoena power in AS 24.25.020 - 24.25.080 (relating to legislative committees) applies to the task force. The task force terminates on Jan. 15, 1989.

\* Sec. 13: repeals section 6 of this bill (definition of base camp) effective June 30, 1990.

\* Sec. 14 & 15 are the effective date clauses.

# HOUSE COMMITTEE REPORT

(7)

Date referred: 5/8/88

FURTHER REFERRALS:

DATE: 5-8-88

The Rules Committee has considered CSSB 191(Fin)am

"An Act relating to the Guide Board and big game guiding, transporting, outfitting, and hunting and establishing an interim task force on guiding and the commercial taking of big game; and providing for an effective date."

**RECOMMENDS:**

- replace with HCS CSSB 191 (Rules)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact
- zero fiscal note
- zero with analysis
- same as previous fiscal note published 3/31/88 See
- same as previous zero fiscal note published 3/31/88

**SIGNING DO PASS:**

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**SIGNING OTHER RECOMMENDATIONS:**

no rec  
no rec  
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Mike Favara  
 Chairman's signature

5-0848U

Hein  
5/8/88

Original sponsors: Coghill and Faiks

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IN THE SENATE

BY THE RULES COMMITTEE

HOUSE CS FOR CS FOR SENATE PILL NO. 191 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Guide Board and big game guiding, transporting, outfitting, and hunting and establishing an interim task force on guiding and the commercial taking of big game; and providing for an effective date."

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

\* Section 1. AS 08.03.010(c)(20) is amended to read:

(20) Guide Board (AS 08.54.010) -- June 30, 1989 [1988].

\* Sec. 2. AS 08.54.040(a) is amended to read:

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

(1) prepare, grade, and administer

(A) a written and oral examination of an applicant for a registered guide license that requires demonstration that the applicant is qualified generally to provide guided hunts and, in particular, to guide in each game management unit the applicant has selected; if an applicant demonstrates limited ability to read or write the English language, the entire examination shall be administered orally; and

(B) an oral examination of a registered or master guide who seeks an amendment of a game management unit certification; the examination must require demonstration that the guide is qualified to provide guided hunts in each new game management unit for which the guide seeks to be certified [EXAMINATIONS, WHICH MAY INCLUDE ORAL EXAMINATIONS OF APPLICANTS WHO DEMONSTRATE

1 LIMITED ABILITY TO READ OR WRITE THE ENGLISH LANGUAGE];

2 (2) determine qualifications of applicants for licenses and  
3 authorize the issuance of licenses to those who qualify;

4 (3) establish guide performance standards and regulate  
5 activity;

6 (4) compile, maintain, and publish an annual register of  
7 master and registered guides who have not been convicted of a vio-  
8 lation of a state game or guiding statute or regulation; a guide  
9 listed in the register whose license is revoked or suspended shall be  
10 removed from the register while the guide's license is revoked or  
11 suspended;

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

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

18 (7) establish a quota of licensed operating guides who may  
19 operate within designated geographical game units or subunits of the  
20 state and provide for an equitable, reasonable, and consistent pro-  
21 cedure for limiting the number of guides to that quota; preference may  
22 be given to qualified available and willing licensed guides who reside  
23 within the designated game unit or subunit;

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

26 \* Sec. 3. AS 08.54.210 is amended to read:

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

28 (1) a master guide, registered guide, special guide, class  
29 A assistant guide, or assistant guide to fail to timely report to the

1 Department of Public Safety, division of fish and wildlife protection,  
2 and in no event later than 30 days, a violation of a state fish, game,  
3 or guiding statute or regulation that the guide reasonably believes  
4 was committed by a client or an employee of the guide;

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

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

12 (4) a person without a current valid registered or master  
13 guide license to advertise as or represent to be

14 (A) a guide; or

15 (B) an outfitter offering big game hunting services

16 [WITHOUT HOLDING A CURRENT VALID GUIDE LICENSE];

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

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

22 (7) an assistant guide to contract to conduct a guided  
23 hunt;

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

26 (b) A person who violates (a)(1) - (5) of this section is guilty  
27 of a misdemeanor and upon conviction is punishable by a fine of not  
28 more than \$2,000 [\$1,000] or by imprisonment for not more than one  
29 year, or by both, and the person's license may be revoked for a period

1 up to five years. However, a person who engages in guiding activity  
2 during the period for which the person's license is suspended or  
3 revoked under this chapter, or who violates (a)(6) - (8) of this  
4 section, is guilty of a felony punishable, upon conviction, by a fine  
5 of not more than \$5,000 and by imprisonment for not less than one year  
6 nor more than three years. In addition to punishment for a felony,  
7 all guns, fishing tackle, boats, aircraft, automobiles or other vehi-  
8 cles, camping gear and other equipment and paraphernalia used in, or  
9 in aid of, guiding activity engaged in during the period of suspension  
10 or revocation may be seized by persons authorized to enforce this  
11 chapter and may be forfeited to the state as provided under AS 16.05.-  
12 195.

13 \* Sec. 4. AS 08.54.240(3) is repealed and reenacted to read:

14 (3) "guide" or "guiding" means accompanying or being pre-  
15 sent with a big game hunter in the field, personally or through an  
16 assistant, for compensation or with the intent or an agreement to  
17 receive compensation; "in the field" does not include a lawfully  
18 established base camp, cabin, or permanent lodge registered with the  
19 division of fish and wildlife protection under AS 16.05.787 or a boat  
20 with permanent living quarters; "guide" or "guiding" does not include

21 (A) providing transportation to or from the field, if  
22 the persons providing transportation and the persons being trans-  
23 ported do not stalk, pursue, track, kill, or attempt to kill big  
24 game during the transportation; or

25 (B) selling, leasing, or renting goods, if the trans-  
26 action does not take place in the field;

27 \* Sec. 5. AS 08.54.240(3) is amended to read:

28 (3) "guide" or "guiding" means accompanying or being pre-  
29 sent with a big game hunter in the field, personally or through an

1 assistant, for compensation or with the intent or an agreement to  
2 receive compensation; "in the field" does not include a lawfully  
3 established [BASE CAMP,] cabin [,] or permanent lodge registered with  
4 the division of fish and wildlife protection under AS 16.05.787 or a  
5 boat with permanent living quarters; "guide" or "guiding" does not  
6 include

7 (A) providing transportation to or from the field, if  
8 the persons providing transportation and the persons being trans-  
9 ported do not stalk, pursue, track, kill, or attempt to kill big  
10 game during the transportation; or

11 (B) selling, leasing, or renting goods, if the trans-  
12 action does not take place in the field;

13 \* Sec. 6. AS 08.54.240 is amended by adding a new paragraph to read:

14 (7) "base camp" does not include a spike camp, fly camp, or  
15 overnight camp.

16 \* Sec. 7. AS 16.05.370 is amended by adding a new subsection to read:

17 (b) A person who sells big game tags shall give to each buyer a  
18 game report form provided by the department, to be completed and  
19 returned by the hunter after big game is taken. The department shall  
20 pay the cost of return postage for the report. The report must  
21 specify the location, amount, and kinds or species of game taken.

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

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

28 \* Sec. 9. AS 16.05.407 is amended by adding a new subsection to read:

29 (e) An applicant for a nonresident big game tag for the taking

1 of moose or caribou shall first furnish to the state, on a form pro-  
2 vided by the state, an affidavit showing where the applicant will be  
3 hunting and what guiding, transportation, or other big game hunting  
4 services the applicant will be employing. A person who falsifies an  
5 affidavit under this subsection is guilty of perjury under AS 11.56.-  
6 200.

7 \* Sec. 10. AS 16.05 is amended by adding new sections to read:

8 Sec. 16.05.786. DUTY OF BIG GAME TRANSPORTERS TO REPORT VIO-  
9 LATIONS. (a) A person who transports a big game hunter to or from  
10 the field for compensation, or with the intent or an agreement to  
11 receive compensation, shall promptly report to the Department of  
12 Public Safety, division of fish and wildlife protection, and in no  
13 event later than 30 days, a violation of a state fish, game, or guid-  
14 ing statute or regulation that the person reasonably believes was  
15 committed by a client or employee of the person.

16 (b) A person who violates this section is guilty of a misde-  
17 meanor and upon conviction is punishable by a fine of not more than  
18 \$2,000 or by imprisonment for not more than one year, or by both.

19 Sec. 16.05.787. REGISTRATION OF BIG GAME HUNTING BASE CAMPS,  
20 CABINS, AND LODGES. (a) A person who is not licensed as a guide  
21 under AS 08.54 may accompany or be present with a hunter at a base  
22 camp, cabin, or permanent lodge in connection with a big game hunt and  
23 for compensation only if the person has furnished an affidavit to the  
24 Department of Public Safety, division of fish and wildlife protection,  
25 at least two weeks in advance. The affidavit must be signed by the  
26 person and must provide the following information:

- 27 (1) the specific location of the camp, cabin, or lodge;  
28 (2) the number of big game hunters in each party that will  
29 use the camp, cabin, or lodge; and

1 (3) the kinds or species of big game that will be hunted.

2 (b) The Department of Public Safety shall send a copy of each  
3 affidavit under this section to the Department of Fish and Game.

4 (c) A person who falsifies an affidavit under this section is  
5 guilty of perjury under AS 11.56.200.

6 \* Sec. 11. AS 16.05.787(a) is amended to read:

7 (a) A person who is not licensed as a guide under AS 08.54 may  
8 accompany or be present with a hunter at a [BASE CAMP,] cabin [,] or  
9 permanent lodge in connection with a big game hunt and for compensa-  
10 tion only if the person has furnished an affidavit to the Department  
11 of Public Safety, division of fish and wildlife protection, at least  
12 two weeks in advance. The affidavit must be signed by the person and  
13 must provide the following information:

14 (1) the specific location of the [camp,] cabin [,] or  
15 lodge;

16 (2) the number of big game hunters in each party that will  
17 use the [CAMP,] cabin [,] or lodge; and

18 (3) the kinds or species of big game that will be hunted.

19 \* Sec. 12. TASK FORCE ON GUIDING AND GAME. (a) The interim task force  
20 on the Guide Board and the commercial taking of big game is established  
21 under the jurisdiction of the legislative council. The task force consists  
22 of the commissioners of fish and game, commerce and economic development,  
23 and public safety, or their designees; two members of the senate appointed  
24 by the president of the senate and two members of the house of representa-  
25 tives appointed by the speaker of the house, none of whom has a financial  
26 interest in any business involving or related to the commercial taking of  
27 game; and six members appointed by the governor as follows: one member of  
28 the Guide Board; one big game guide licensed under AS 08.54 who is not a  
29 member of the Guide Board; and two persons engaged in a business, other

MAY NOT BE A GUIDE

only 1 whose AD  
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1 than guiding, that includes transporting big game hunters to and from the  
2 field; and two public members, <sup>--NONE</sup> at least one of whom has no financial inter-  
3 est in any business involving or related to the commercial taking of game.  
4 The governor shall appoint at least one member from each judicial district  
5 in the state. The members shall elect a person to chair the task force.

6 (b) The task force shall review the operations of the Guide Board and  
7 shall study problems and issues concerning the commercial taking of big  
8 game in the state and the businesses or professions that provide goods and  
9 services to big game hunters in the state. The task force shall submit to  
10 the legislative council, not later than January 15, 1989, a report on its  
11 findings and proposed legislation to address the problems and issues cover-  
12 ed in the report.

13 (c) A subpoena requiring the attendance of a witness before the task  
14 force may be issued by the person chairing the task force if authorized to  
15 do so by a majority of the membership of the task force. The provisions of  
16 AS 24.25.020 - 24.25.080 apply to subpoenas issued under this subsection  
17 and to witnesses called by the task force.

18 (d) The task force terminates January 15, 1989.

19 \* Sec. 13. AS 08.54.240(7) is repealed.

20 \* Sec. 14. Sections 1 - 4, 6 - 10, and 12 of this Act take effect imme-  
21 diately under AS 01.10.070(c).

22 \* Sec. 15. Sections 5, 11, and 13 of this Act take effect June 30,

23 ~~1990.~~ 1989.



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

## House Resources Letter of Intent For HCS CSSB 191(Res)

It is the intent of the Legislature that the task force established under the provisions of SB 191 shall have full investigative powers to research and make recommendations.

Under the Alaska Constitution all fish and game resources are the common property of the people, managed by the state in trust for their use. The task force shall examine how the taking of Alaskan big game by nonresidents and aliens conforms with the needs of Alaskan hunters, and what would be the effects of adding additional species to the guide-required list.

Other states and Canadian provinces have experienced similar commercial hunting pressures and problems. The task force should obtain as much information about the problems these other jurisdictions have experienced, examine how they solved the problems, and recommend accordingly for Alaska.

The task force shall examine who can provide commercial hunting services in the field, and what role transporters, air taxi operators and gear providers should play in the provision of commercial hunting services.

The Alaska Supreme Court will soon decide Owsichuk vs. the State of Alaska dealing with the constitutionality of restricted guide areas. The task force shall analyze this decision and recommend methods of accommodating the court's decision.

The task force shall work closely with the Department of Fish and Game to create a linkage between the commercial take of big game and game management.

The task force should examine all aspects of a head tax, the problems it had when it was in use in the past, and what would be the ramifications to game management if it was reinstated.

The task force should examine the licensing of transporters, and make recommendations as to whether such a system ought to be renewed, and, if so, under what conditions.

The Legislative Budget and Audit Committee completed audits of the Guide Board in 1985 and 1987. The task force shall review the audits and recommend what provisions shall be implemented. Specifically, the task force shall analyze if the guide board is functioning at a level that ensures that the present allocation system is fair and is following the Administrative Procedures Act. The task force shall also analyze the joint use concept and supporting agreements

between guides in joint use areas as to whether these agreements are in the best interest of the state and commercial users. The task force shall also investigate whether there shall be one consistent policy for determining guide areas so that all areas are treated equally.

The guide system in Alaska is highly dependent on the restricted guide area concept for its success. The task force should examine all aspects of this system, and make recommendations pertaining to whether it is an open and accessible system, whether guides ought to be able to sell their areas, whether the state ought to lease areas or in some other manner establish a concessionaire approach to area management.

The task force should also work to define the definitions of "camp" and "in the field." The task force should describe what commercial providers should be allowed in "camps" and "in the field." "Compensation", and "monetary consideration" should also be further defined and explained by the task force.

The task force should also provide further explanation of what constitutes a "boat with permanent living quarters."

The task force should address the issue of whether fish and wildlife protection officers and other state employees whose whose responsibilities include managing game resources, or enforcing the state's guiding laws or game management laws, should be able to hold guide licenses or participate in the industry.

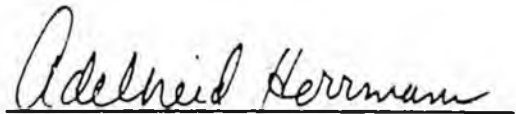
The role of federal agencies in managing and permitting commercial uses of federal parks, reserves, and other federal lands has a direct impact in how the state's guide laws are monitored and enforced. The task force is directed to look at the role of federal agencies in monitoring and permitting these activities.

The legislature recognizes that hunting, flying and other travel in Alaska involves certain risks. The task force should review the issue of differing requirements for air transportation liability insurance and make a recommendation on the establishment of minimum insurance requirements for guides, lodge owners, and others who are not now required to carry liability insurance.

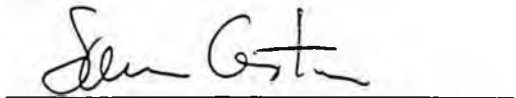
House Resources Letter of Intent  
For HCS CS SB 191 (Resources)  
Page 3

The task force should examine the possibility of bonding requirements for providers of big game hunting services.

The task force should also look at the role of sield dog hunts, and when dogs should be allowed in camps.

  
\_\_\_\_\_

Rep. Adelheid Herrmann  
Co-Chairman, H. Resources  
5/2/88

  
\_\_\_\_\_

Rep. Sam Cotten  
Co-Chairman, H. Resources  
5/2/88

Sectional  
5/8/88 Work Draft HCSSB191(Rules)

\* Sec. 1: Extends Guide Board until June 30, 1989

\* Sec. 2: Assures that the board will use both oral and written examinations of applicants, and will provide an oral exam for applicants with a limited ability in the English language.

\* Sec.'s 3 & 4 - Unlawful acts sections:

\* Sec. 3: Adds language that prohibits anyone who is not a registered guide to advertise as a guide or as an "outfitter offering big game hunting services".

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(3)(A) exempts from "guiding" the transportation of hunters to and from the field, as long as the transporter and the person(s) being transported do not stalk, pursue, track, kill, or attempt to kill big game during the transportation.

(3)(B) exempts from "guiding" the selling, leasing, or renting of goods, as long as it does not take place in the field.

NOTE: The above section has an immediate effective date.

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NOTE: The above section has an effective date of June 30, 1990, and will replace bill Sec. 4 at that time.

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\* Sec. 7: Requires the person selling big game tags to furnish the buyer with a form, provided by the department, to be completed and returned by the hunter after the big game is taken. The department shall pay the cost return postage. The form must specify the location, amount, and kinds or species of game taken.

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\* Sec. 10: Adds two new sections to 16.05:

AS 16.05.786: Requires big game transporters to report violations. Failure to do so can result in a fine of up to \$2000 and up to one year in jail.

AS 16.05.787: Allows "outfitters" to be present with the hunter at a registered base camp, cabin or permanent lodge. To establish a registered base camp, cabin, or permanent lodge, the operator must file an affidavit, at least two weeks in advance, with the Department of Public Safety, division of fish & wildlife protection, containing the following information:

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2. The number of hunters in each party that will use the camp, cabin, or permanent lodge,
3. the kinds of big game that will be hunted.

The Department of Public Safety must share this information with the Department of Fish and Game. Falsifying the affidavit is perjury.

NOTE: The above section has an immediate effective date.

\* Sec. 11: Identical to AS 16.05.787, except that language referring to "base camps" is deleted. With this section, there will no longer be such a thing as a registered "base camp". Accompanying or being present with a hunter in the field at any place other than a lawfully established registered cabin or permanent lodge will be considered "guiding".

NOTE: The above section has an effective date of June 30, 1990, and at that time will replace AS 16.05.787 in Sec. 9 of the bill.

\* Sec. 12: Establishes, under the jurisdiction of the legislative council, an interim task force on guiding and game. The thirteen member task force consists of the following members:

The commissioners of Public Safety, Fish and Game, and Commerce & Economic Development, or their designees,

Two senators and two representatives, none of whom have a financial interest in the commercial taking of game,

Six members appointed by the Governor as follows:

1 member of the guide board

1 registered guide who is not a member of the guide board

2 persons who are involved in the commercial taking of game, who are not guides

2 members of the public, at least one of whom has no financial interest in the commercial taking of game.

The members of the task force shall elect a chair. The task force is charged with studying the problems and issues concerning the commercial taking of game in Alaska, and the businesses or professions that provide goods and services to big game hunters. The task force must report its findings and proposed legislation to address these findings no later than January 15, 1989.

The chair of the task force has the power to subpoena witness and put them under oath, if authorized to do so by a majority of the members. The provisions of subpoena power in AS 24.25.020 - 24.25.080 (relating to legislative committees) applies to the task force. The task force terminates on Jan. 15, 1989.

\* Sec. 13: repeals section 6 of this bill (definition of base camp) effective June 30, 1990.

\* Sec. 14 & 15 are the effective date clauses.

# Game guides are under fire

## Critics say guide board runs a state-sanctioned monopoly

By **CRAIG MEDRED**  
Daily News outdoors editor

First of two parts

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Behind Alaska's \$20 million-per-year, big-game hunting industry operates a good-old-boy network that wraps the guides, the board that regulates them and some officials of the Alaska Division of Fish and Wildlife Protection in a cocoon of political and economic cooperation, an Anchorage Daily News investigation has found.

This cartel operates in an effort to protect the profits of a few hundred people involved in the multi-million-dollar business of killing Alaska's big game. It pressures guides to bend to a subjective licensing system that can stack the odds against newcomers to the profession.

"(The) ... regulations and practices (of the Alaska Guide Board) suggest the board may be more interested in the protection and development of the proprietary interests of established guides rather than promoting equitable access to the profession for all qualified individuals," the state Division of Legislative Audit warned earlier this year.

Dick Long, the retired chief investigator for the Alaska Division of Occupational Licensing, calls the guiding business "a state-sanctioned monopoly."

One of Long's responsibilities at the occupational licensing division was to seek out corruption in state-regulated professions, including guiding. He said he was discouraged from investigating guides by then-Director of Occupational Licensing Kathy Marshall.

"I was flat told, 'Don't bother them,'" Long said. "Nobody gets in (the profession) unless they (the guides) say so."

Marshall denies giving Long such orders. She said she told investigators that



■ Do Alaska big-game guides have too much control over the industry, as critics charge, or are they just trying to preserve their livelihoods?

checking on doctors, dentists and other-state-licensed professionals should have a higher priority than checking on guides.

Long said such value judgments are made because guides are politically well-connected in Alaska. Former Gov. Jay Hammond, a revered Alaska politician, is a guide. So are state Sens. Rick Halford of Chugiak and Ken Fanning of Fairbanks. Several guides claim to be close friends of former Gov. Bill Sheffield.

Whether these connections are of any political value is impossible to say, but this much is certain: In 1986, guides had enough political clout to convince the Alaska Legislature to make it a felony to guide without a license.

Practicing medicine, law, engineering, nursing or more than two dozen other professions without a license remains a misdemeanor. Guiding is the only profession for which failure to obtain a license can lead to a mandatory prison sentence and the loss of civil rights that go with a felony conviction.

The state Division of Fish and Wildlife Protection has used the law to seek felony convictions against outfitters and assistant guides working without the approval of the registered guides who run the

See Page A-9, **BIG GAME**

guides who grill over other people," said district registered guide Rick Herrler. "You either get along, or you go out of business."

Lording over the profession is a state-sanctioned board with the power to issue and revoke guide licenses and determine who gets valuable exclusive guiding areas.

Three members of the seven-member board are guides. The other four members are supposed to represent the public, but some of the public members have close ties to the industry. And over the years the board has developed an intimate working relationship with the guides it regulates. A special committee composed solely of guides offers the board advice and helps write regulations dictating how the guiding business is regulated by the state.

"They (board members) get a tremendous amount of pressure from the industry," said Marshall, the former occupational licensing director. "It was incredible to me."

Questions about the board's decisions have triggered an avalanche of appeals. In the past 2 1/2 years, 54 guide board decisions have been appealed, according to state auditor.

More guide board decisions are appealed than all of the decisions of the state's other two dozen licensing boards combined, state Director of Occupational Licensing Randall Burns said.

Yet, despite the controversy, Burns defends the board. "I think, at the very least, they ought to be given the benefit of the doubt," he said. "They're slowly trying to figure out a way to correct things. I think you ought to give them some credit for trying to change."

Guides say they're simply fighting for their economic lives against a wave of low-budget hunters lured into once remote hunting areas by unlicensed outfitters and air taxis.

The quality of hunting has deteriorated because of that population boom, Phil Driver, president of the Alaska Professional Hunters Association, said, and that's bad for business.

"Sure people should have a chance to take a reasonable priced hunt," he said. "(But) this is my living. We've got a hell of a problem (with outfitters), and nobody wants to address it."

Guides have been busy in Juneau all year trying to get the regulations to restrict outfitters, or require that all non-residents coming to Alaska hire licensed guides to hunt big game. The state Guide Board has backed the guides in those efforts. Guide Board Vice Chairman Chuck Ward said, the board always tries to work closely with the guides in developing laws and regulations.

"The best way to start is to get the consensus of the industry," he said. "As the industry's representatives change in the regulations, they get a consensus before they bring it to the board."

The board, in particular, needs such a consensus, Ward said; otherwise it will waste

time "hearing every Tom, Dick and Harry's opinion."

But critics say the board should become more democratic and less like a private club.

"It's a disgrace," said Doug Pope, a Juneau attorney and former member of the board. "It's almost an unworkable system as it is. I don't think you can have guides managing guides."

When Fanning got less than he wanted in 1975, he expanded his base of operations by obtaining adjacent areas from other guides. In at least one case, he admits, money changed hands. Fanning said he bought some property in another guide's area.

That guide then recommended the board transfer the area to Fanning. This is a regular practice in the state of Alaska. The guide board never questions how much money is exchanged and rarely questions the transfers themselves.

"Essentially, (the guide board) has been automatically approving transfers regardless of game management considerations, demonstration of experience in the area by the transferees, and over the objections of affected joint users. ... This lack of scrutiny encourages the practice of guides selling their areas to other guides in violation of regulations," auditors said in a 1985 report to the board.

It told the board to clean up its act. Nothing happened.

Improvements range from elaborate lodges to landing strips and trails to tent frames, but not the areas themselves. It is legal to sell these improvements at fair-market value, and board members say they cannot regulate them.

Once a guide has made an investment by buying another guide's improvements, board members add, he deserves the area, too.

"The areas are being bought and sold illegally ... The guide board knows about it, and it doesn't do anything," guide Edd White-cougar said. "That's conspiracy. But who prosecutes the guide board when the attorney general's office represents them?"

White-cougar is a guide unable to obtain an area. Other guides have more than one. By regulation, each guide is allowed a maximum of three — providing, in theory, an area for hunting brown bear, an area for Dall sheep and an area for moose and caribou.

The restriction on the number of areas has, however, been bent for certain guides. State auditors have several times warned the board that such actions smack of favoritism.

When guide and now-state Sen. Ken Fanning, R-Fairbanks, reached the limit of three areas last spring, the board allowed him to com-

board has issued 158 new licenses for registered guides and 1,454 for assistant guides. Because outfitters are unlicensed, there is no record of how many of them work in the state.

State wildlife biologist Dick Sellers said moose kills by sport hunters have tripled in the last six years on the Alaska Peninsula.

Fifty percent of the harvest is by non-residents, who hire the services of either guides or outfitters, he said. The growth in the lower-priced outfitting business makes some guides furious, but many outfitters say they were forced into the business because they couldn't afford to become guides.

Big bucks are needed to finance the purchase of a good area to become a guide, these outfitters say. Investigations by state auditors tend to support that contention.

The guide board's creation of restricted hunting areas for guides has created a lively black market in which rights to areas are bought and sold.

Such sales are illegal. But guides have managed to circumvent that prohibition by disguising their transactions, and the board has made no effort to stop this practice.

Guides simply say they are buying and selling improvements on the land. These im-

business is probably the prices paid for the exclusive guiding areas the state established in 1974.

The areas were set up and awarded free to guides in an effort to minimize competition among them, ensure quality hunting for their clients and help protect wildlife. The areas have since changed hands for prices reportedly ranging from \$50,000 to \$250,000.

One intent of the restricted-area program was to create enclaves in Alaska where guides would have a vested interest in keeping wildlife populations high. Whether guides effectively farm these areas is sharply debated.

And guides aren't the only ones hunting the areas; outfitters are into the more accessible areas in force.

Unlicensed and largely unregulated, these outfitters are able to dodge the state's guide law — and thus the restriction on hunting areas — by offering services that stop just short of guiding.

Outfitters drop hunters in the field, maintain camps and sometimes even provide packers for dead animals, but they are legally prohibited from directing a hunter in the field.

The growing number of guides, outfitters and their clients are worrying some wildlife management specialists. Since 1980, the guide

What is at stake in all of this is money, and lots of it. Non-resident and foreign hunters will pay anywhere from \$2,500 to kill a caribou to \$10,000 to kill a brown bear in Alaska.

According to a 1985 state audit, guides help these hunters kill as much as 40 percent of the more than 33,000 big-game animals taken by sport hunters in Alaska in an average year.

Some of the busiest guides may gross as much as \$500,000 annually, said retired state Fish and Wildlife Protection trooper Capt. James Nutgrass.

Driver pegs the value of the guiding industry at \$15 million to \$20 million a year. That translates to an average gross of \$37,000 to \$50,000 a registered guide, not counting tips often left by rich clients.

But a better indicator of the money to be made in this

# BIG GAME, BIG BUSINESS: Critics claim guide board runs state-sanctioned monopoly

Continued from Page A-8

"The board continues to automatically approve almost all transfers of area assignments . . ." state officials reported in a new audit released early this year.

□ In 42 percent of the 19 guide-area transfers in 1986 and 1987, the new owner had no experience guiding in the area he obtained, auditors said. Such sales to inexperienced guides undermine one reason for the guide law — to ensure that non-resident hunters coming to Alaska are taken afield by experienced guides knowledgeable in the area they hunt.

A state law backed by guides requires non-residents to hire guides if they wish to hunt the two most popular big-game species in Alaska: Dall sheep and brown bears. There is, however, no law requiring guides to be Alaska residents. Nor is there a law requiring that low-paid assistant guides be residents.

In fact, a guide who lives in California could obtain an area in the Brooks Range and hire a bunch of college kids from New Jersey to take afield non-resident hunters required to hire guides to hunt sheep and brown bears.

It would all be legal.

And buying a guide area is not that difficult once a guide is licensed.

State audits and interviews with guides depict a system in which some hunting areas — along with the animals there — are essentially sold to the highest bidder. Offers on areas are sometimes solicited in the magazine of the professional hunters association, a lobbying organization and club for big-game guides.

Guide Board Chairman Ray McNutt and other members of the guide board said they know that guiding areas get sold but claim they are powerless to stop the practice.

"What the hell are you going to do?" asked Stan Frost, a member of the board and a registered guide. "As far as the board is concerned, they're transferring the assets."

Guide board member Ben Ballenger said some guides may have made as much as \$200,000 on such sales. Both Frost and McNutt, who is also a guide, said some of this is legitimate.

If the board issues areas to guides based solely on their guiding qualifications, "maybe he (the guide) can't even peddle his investment," McNutt said. "Why should a guide be denied getting some-

thing out of a lifetime of investment?"

The state Department of Law has some qualms about the legality of all of this.

"... To the extent that entry to guide in a district is wholly dependent on the cooperation of other guides, rather than criteria controlled by the state, such a scheme of limited entry may be unconstitutional," Assistant Attorney General Sarah Elizabeth McCracken wrote in a 1981 opinion prepared for the board.

Little has changed since that opinion was written. The guide licensing system remains similar to commercial fishing's limited-entry program, which restricts the number of people allowed to fish. The critical difference is that limited entry was legalized by an amendment to the state Constitution in 1972.

There has never been a constitutional amendment permitting limited entry to the guiding business, although many guides say they would welcome it.

A lawsuit questioning the legality of the state guide law is pending before the state Supreme Court. Filed by registered guide Ken Owsichuk in 1979, the suit attacks the roots of the system, contending that the original distribu-

tion of exclusive areas was arbitrary and unfair.

The areas were determined by the guides drawing lines on maps in 1974. The records are still kept that way. The maps are such a mess, Burns said, that guides are in regular arguments over who controls what.

Veteran guides said those arguments date all the way back to those first meetings to divide up the state. Guides were supposed to outline the areas in which they had traditionally hunted.

Some guides penciled in areas covering hundreds of square miles and got them. Other guides drew areas of tens of square miles and were refused. Owsichuk was one of those denied.

"I think the guide board just didn't like me," he said. "I guess I'm just not one of those ass-kissin', good-old-boy kind of guys. All they want to do is give guides something to sell when they're done guiding."

Auditors raise similar accusations about the system as it exists today, almost a decade later.

"The criteria on which any given area assignment decision is made varies from decision to decision," auditors said this year. "During the past four years, hearing offi-

cers have repeatedly found board decisions to be arbitrary and capricious with little or no support. . . . Essentially, (the guide board) has not fully met its statutory responsibility to adopt an equitable and reasonable procedure for the assignment of guide areas."

Guide board members interviewed for this story could not explain precisely how they decide who gets the valuable hunting areas, or how the size of areas is determined.

Lawmaker and guide Fanning advised: "Quit talking to so many people. You're dealing with a situation that's not black and white."

Fanning is a key player in the struggle in the legislature over how to control outfitters and whether to keep the guide board from disappearing under state sunset rules. A former regulation-hating Libertarian, Fanning argues that the complicated system of guide laws and regulations is needed to control commercial hunting in Alaska.

White-cougar labels the same system a "Mafia franchise" that should be junked because it's unfair. He admits he has been prejudiced against the board since waging a 3-year-old battle to secure his guide license. State

officials eventually forced the guide board to give White-cougar his guide test.

The board then flunked him. A protest was filed. State officials examined the test and decided several correct answers had been graded wrong.

White-cougar was finally given his registered guide license. He is still trying to obtain a small guiding area around his wilderness cabin near Glennallen.

"It's a bad system," said Ron Zobel, White-cougar's attorney. "The people who have the vested interest, they don't have any reason to make it fair."

The only way White-cougar can use his license today is to work at minimal wages for established guides who either were given or bought guiding areas now worth tens or, sometimes, hundreds of thousands of dollars.

This, according to critics of the system, is exactly how the guides want it.

"That's just such an incestuous bunch," said Pope, the former guide board member. "Those guys take care of each other."

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■ **MONDAY:** When guides go astray it is often using an airplane in pursuit of a big payday.

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# A glossary of terms common in guiding business

## LICENSED GUIDE

■ **WHO:** Someone who accompanies hunters in the field, cares for them, and helps find, stalk and kill game.

■ **QUALIFICATIONS:** Must serve a three-year apprenticeship in Alaska under a licensed, registered guide. Experience is documented by copies of at least three statements of financial remuneration for each year. Guides must be 21 or older, have first aid certification, and pass oral and written tests administered by the Guide Board.

■ **LIMITATIONS, RESTRICTIONS:** Guides can only hunt in their own restricted guide area or an open area. There are few open areas with enough animals for productive big game hunting. Guides cannot hunt in another guide's area without permission. Guides are required to accompany their clients in the field, or supervise an assistant guide accompanying clients in the field. The Guide Board has interpreted the supervisory requirement to mean that guides should be somewhere in the state when an assistant is with a client in the field.

## ASSISTANT GUIDE

■ **WHO:** Someone trying to break into the guiding business. They do most of the grunt work afield.

■ **QUALIFICATIONS:** Must be 19 years old, in sound physical condition, have served three years under a registered guide, and be "favorably recommended to the board, in writing, by a registered guide."

■ **LIMITATIONS, RESTRICTIONS:** Cannot contract hunts. Can work only in the employment and under the supervision of a licensed guide.



Anchorage Daily News illustrations/Dee Boyles

## OUTFITTER

■ **WHO:** Someone hired by hunters to provide services that range from providing the gear to transporting hunters to the hunting area to taking care of pack horses or river rafts.

■ **QUALIFICATIONS:** None

■ **LIMITATIONS, RESTRICTIONS:** The key distinction between a guide and an outfitter is that an outfitter cannot legally accompany or direct a hunter in the field while the hunter spots, stalks, pursues, tracks, kills or attempts to kill big game.

## MASTER GUIDE

An honorary designation for accomplished veteran guides who have hunted in Alaska at least 10 years and guided for five. Cannot have violated any hunting or fishing regulations within the previous five years. The guide board gives applicants an oral test.

## RESTRICTED GUIDING AREAS

■ **BACKGROUND:** In 1974, the Alaska Guide Board carved the state into hundreds of areas and awarded them to the several hundred guides in the state at the time. The action was taken to curtail disagreements among guides and in the expectation of better game management on the theory that no guide would put himself out of business by wiping out all the game in his area. Guides were to be given areas that encompassed their traditional hunting grounds. Guides could be awarded up to three restricted areas, theoretically giving them an area for bear hunting, another for moose hunting and a third for sheep hunting. Not all guides who applied received three areas; some were shut out. The guide board's judgment held sway. The state Supreme Court is now considering a case challenging whether the areas are legal. Since the first partition, some new areas have been added and some other areas combined. There are now 553 areas divided between the state's 309 master and registered guides. Some guides still don't have areas; others have more than three.

■ **LIMITATIONS, RESTRICTIONS:** Guides cannot guide in another guide's area, but non-guided hunters are permitted to use the areas. Some guides have tried to harass non-clients out of their areas, but most guides tolerate independent hunters. They are less tolerant of outfitters, who are not licensed by the state and can bring hunting clients into exclusive guiding areas. Outfitters cannot, however, bring non-residents into a guide's area for hunting Dall sheep or brown bears; a state law mandates that all non-residents pursuing those two most valuable of Alaska's big game must hire guides.

■ **TRANSFERS, TRADES:** Exclusive areas may be transferred from one guide to another with the board's approval. The board usually concedes to the wishes of the guide transferring the area. It has, however, blocked some transfers proposed by guides about to lose their licenses for illegal hunting. This has deprived those guides of the sometimes sizeable profits to be made in selling areas. It is against the law for guides to conduct such sales, but they are permitted to sell the improvements in the area, a loophole that effectively permits the selling of areas.