

HPB

112

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Economic Dev.  
 Title: An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting... BRJ: Occupational Licensing  
 Sponsor: Senate Resources Components: All  
 Requestor: Senate Resources

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		39.8	39.8	39.8	39.8	39.8
TRAVEL		28.7	28.7	13.9	13.9	13.9
CONTRACTUAL		16.3	16.3	16.3	16.3	16.3
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT		12.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>98.8</b>	<b>86.8</b>	<b>72.0</b>	<b>72.0</b>	<b>72.0</b>

CAPITAL						
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REVENUE		103.0	105.5	108.0	110.5	113.0
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		98.8	86.8	72.0	72.0	72.0
<b>TOTAL</b>		<b>98.8</b>	<b>86.8</b>	<b>72.0</b>	<b>72.0</b>	<b>72.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME		2	2	2	2	2
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

See attached for explanation.

Prepared by: Jennifer Strickler, Administrative Officer  
 Division: Occupational Licensing

Phone: 465-2144  
 Date: February 14, 1989

Approved by Commissioner: Larry Mercurieff  
 Agency: Commerce and Economic Development

Date: 2/14/89

**Distribution (by preparer):**

Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

## BIG GAME COMMERCIAL SERVICES BOARD EXPENSES

The expenses identified in this fiscal note, except where noted, are new costs expected to be incurred by the new Commercial Services Board in addition to those already budgeted for the current Guide Board. The increase in board expenses will be covered by a parallel increase in the division's program receipt authority. The expenses will be paid for by revenues generated by new or increased licensing fees.

FY 90:

### PERSONAL SERVICES:

Occupational Licensing Examiner I, Range 125 6 months (PPT), Juneau	\$17.2
Investigator II, Range 14A 6 months (PPT), Anchorage	22.5
Personal Services Sub-Total:	\$39.8

### BOARD RELATED TRAVEL:

Travel costs are based on nine (9) members from the following locations:

- 2 Anchorage members
- 2 Fairbanks members
- 1 Juneau member
- 1 Kenai member
- 1 King Salmon member
- 1 Kodiak member
- 1 Kotzebue member

and four (4) staff members (three from Juneau, and one from Anchorage)

Travel to board meetings by board members and staff in the first year is based on:

2 Anchorage meetings (\$6330 x 2)	\$12.7
1 Fairbanks meeting	8.6
1 Juneau meeting	8.5
	\$29.8

### GISSE TRAVEL (Rural Implementation):

In order to encourage rural resident participation in the big game commercial services industry, it is planned that a Licensing Examiner will travel to seven rural sites for out-reach purposes; Barrow, Kotzebue, McGrath, Bethel, Dillingham, Kodiak, and Ketchikan  
\$5.3

### GISSE TRAVEL (Investigational):

Primarily to focus on the licensure of transporters and commercial use permit holders, funds are necessary for an Investigator to travel to seven sites for enforcement activity: Fairbanks, King Salmon, Kotzebue, Bethel, Kenai, Cordova, and Bettles  
\$1.1

(Travel to be reduced by \$11.0 already built into the Licensing Board's component of the division of occupational licensing operating budget.)  
(\$11.0)

Travel Sub-Total:

\$28.7

**CONTINGENTIAL**

Printing (Materials, forms, etc.)	\$5.0
Advertising (news ads and regulations)	1.7
Team consultation	3.0
Stamps, postage	2.0
Space rent (for meetings)	1.1
	\$13.8

Contingent Total: \$13.8

\$13.8

**OPERATIONAL**

Standard operating supplies such as stationery, envelopes, pens, etc.

\$0.0

**EQUIPMENT: (one time costs only)**

2 - Phone units	1.0ea.	2.0
2 - DP/MP Computer Workstations	0.7ea.	1.4
2 - Desks, double pedestal, 70x36	.7ea.	1.4
2 - Chairs, swivel with arms	.7ea.	1.4
2 - Chairs, side without arms	.2ea.	.4
2 - Typewriters, IBM Selectric III	1.2ea.	2.4
2 - Desk calculators	.1ea.	.2
2 - Tables, 72x36	.2ea.	.4
2 - File cabinets, 5 dr legal with lock	.3ea.	.6
		\$12.0

Equipment Sub-Total:

\$12.0

**TOTAL FY 90 COSTS:**

**98.8**

**FY 91:**

Costs in FY 91 are anticipated to be the same as in FY 90, less the one-time FY 90 equipment cost of \$12.0.

**TOTAL FY 91 COSTS:**

**\$86.8**

**FY 92:**

Cost differences between FY 90 and FY 92 result from a reduction in FY 92 of the number of meetings budgeted under travel. FY 92 expense is based on two meetings, one in Anchorage and one in Fairbanks, while FY 90 was based on four.

Anchorage Board Meeting Deleted	(6.31)
Juneau Board Meeting Deleted	(19.51)
	(14.81)

\$14.81

**TOTAL FY 92 COSTS:**

**\$72.0**

Costs are the same for FY 90 and FY 91 taking into consideration two meetings to be held each year, one in Anchorage and the other to alternate between Fairbanks and Juneau each fiscal year.

## BIG GAME COMMERCIAL SERVICES BOARD PROGRAM RECEIPTS

The current Guide Board already generates program receipts through the licensing fees. The revenues reflected in this fiscal note represent the amount of **additional** revenue necessary to cover the added costs associated in SB 140 with sunseting the Guide Board and creating a Big Game Commercial Services Board. The revenues are based on a modest increase of \$50.00 in the fees presently established by regulation for licensed guide-outfitters renewing their licenses and against persons seeking initial licenses. Initial licenses are issued for a 1-year period, which renew biennially. SB 140 requires annual renewal and the fees to be set at that amount.

FY 90 is based on:

377 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
200 Transporters x \$50	10.0
100 Outfitters x \$50	5.0
<b>FY 90 Revenue</b>	<b>\$103.0</b>

FY 91 is based on FY 90 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
325 Transporters x \$50	16.2
125 Outfitters x \$50	6.2
<b>FY 91 Revenue</b>	<b>105.5</b>

FY 92 is based on FY 91 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
350 Transporters x \$50	17.5
150 Outfitters x \$50	7.5
<b>FY 92 Revenue</b>	<b>\$108.0</b>

FY 93 is based on FY 92 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
375 Transporters x \$50	18.7
125 Outfitters x \$50	6.7
<b>FY 93 Revenue</b>	<b>\$110.5</b>

FY 94 is based on FY 93 calculations with an additional 50 new licensees added:

127 Guide-Outfitters x \$50	\$63.50
1224 Class-A and Assistant Guides x \$50	\$61.20
100 Transporters x \$50	\$5.00
600 Outfitters x \$50	\$30.30
FY 94 Revenue	\$113.00

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Economic Dev.  
 Title: An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting... BRU: Occupational Licensing  
 Sponsor: House Resources Components: All  
 Requestor: House Resources

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		39.8	39.8	39.8	39.8	39.8
TRAVEL		28.7	28.7	13.9	13.9	13.9
CONTRACTUAL		16.3	16.3	16.3	16.3	16.3
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT		12.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>98.8</b>	<b>86.8</b>	<b>72.0</b>	<b>72.0</b>	<b>72.0</b>
<b>CAPITAL</b>						
<b>REVENUE</b>		<b>103.0</b>	<b>105.5</b>	<b>108.0</b>	<b>110.5</b>	<b>113.0</b>

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (GF/PR)		98.8	86.8	72.0	72.0	72.0
<b>TOTAL</b>		<b>98.8</b>	<b>86.8</b>	<b>72.0</b>	<b>72.0</b>	<b>72.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME		2	2	2	2	2
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

See attached for explanation.

Prepared by: Jennifer Strickler, Administrative Officer  
 Division: Occupational Licensing

Phone: 465-2144  
 Date: March 14, 1989

Approved by Commissioner: Larry Merculieff  
 Agency: Commerce and Economic Development

Date: 4/1/89

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

**BIG GAME COMMERCIAL SERVICES BOARD EXPENSES**

The expenses identified in this fiscal note, except where noted, are new costs expected to be incurred by the new Commercial Services Board in **addition** to those already budgeted for the current Guide Board. The increase in board expenses will be covered by a parallel increase in the division's program receipt authority. The expenses will be paid for by revenues generated by new or increased licensing fees.

**FY 90:**

**PERSONAL SERVICES:**

Occupational Licensing Examiner I, Range 12A 6 months (PPT), Juneau	\$17.3
Investigator II, Range 16A 6 months (PPT), Anchorage	22.5
Personal Services Sub-Total:	\$39.8

**BOARD RELATED TRAVEL:**

Travel costs are based on nine (9) members from the following locations:

- 2 Anchorage members
- 2 Fairbanks members
- 1 Juneau member
- 1 Kenai member
- 1 King Salmon member
- 1 Kodiak member
- 1 Kotzebue member

and four (4) staff members (three from Juneau, and one from Anchorage)

Travel to board meetings by board members and staff in the first year is based on:

2 Anchorage meetings (\$6330 x 2)	\$12.7
1 Fairbanks meeting	8.6
1 Juneau meeting	8.5
	\$29.8

**STAFF TRAVEL (Rural Implementation):**

In order to encourage rural resident participation in the big game commercial services industry, it is planned that a Licensing Examiner will travel to seven rural sites for out-reach purposes; Barrow, Kotzebue, McGrath, Bethel, Dillingham, Kodiak, and Ketchikan  
\$5.8

**STAFF TRAVEL (Investigations):**

Primarily to focus on the licensure of transporters and commercial use permit holders, funds are necessary for an Investigator to travel to seven sites for enforcement activity: Fairbanks, King Salmon, Kotzebue, Bethel, Kenai, Cordova, and Bettles  
\$4.1

(Travel to be reduced by \$11.0 already built into the Licensing Boards component of the division of occupational licensing operating budget.)  
[\$11.0]

**Travel Sub-Total:**

**\$28.7**

CONTRACTUAL

Printing (decals, forms, etc.)	\$5.0
Advertising (meetings and regulations)	1.7
Exam consultation	5.0
Phones, postage	3.0
Space rent (for meetings)	1.6
	\$16.3

Contractual Sub-Total \$16.3

COMMODITIES:

Standard operating supplies such as stationery, envelopes, pens, etc. \$2.0

EQUIPMENT: (one-time costs only)

2 - Phone units	.4ea.	.8
2 - DP/WP Computer workstations	2.2ea.	4.4
2 - Desks, double pedestal, 70x36	.7ea.	1.4
2 - Chairs, swivel with arms	.7ea.	1.4
2 - Chairs, side without arms	.2ea.	.4
2 - Typewriters, IBM SelectricIII	1.2ea.	2.4
2 - Desk calculators	.1ea.	.2
2 - Tables, 72x36	.2ea.	.4
2 - File cabinets, 5 dr legal with lock	.3ea.	.6
		\$12.0

Equipment Sub-Total: \$12.0

TOTAL FY 90 COSTS: 98.8

FY 91:

Costs in FY 91 are anticipated to be the same as in FY 90, less the one-time FY 90 equipment costs of \$12.0.

TOTAL FY 91 COSTS: \$86.8

FY 92:

Cost differences between FY 90 and FY 92 result from a reduction in FY 92 of the number of meetings budgeted under travel. FY 92 expense is based on two meetings, one in Anchorage and one in Fairbanks, while FY 90 was based on four.

Anchorage Board Meeting Deleted	[6.3]	
Juneau Board Meeting Deleted	[8.5]	
	[14.8]	[14.8]

TOTAL FY 92 COSTS: \$72.0

Costs are the same for FY 93 and FY 94 taking into consideration two meetings to be held each year, one in Anchorage and the other to alternate between Fairbanks and Juneau each fiscal year.

## BIG GAME COMMERCIAL SERVICES BOARD PROGRAM RECEIPTS

The current Guide Board already generate program receipts through its licensing fees. The revenues reflected in this fiscal note represent the amount of **additional** revenue necessary to cover the added costs associated in CSHB 112(Res) with sunseting the Guide Board and creating a Big Game Commercial Services Board. The revenues are based on a modest increase of \$50.00 to the fees presently established by regulation and assessed against licensed guides renewing their licenses and against persons seeking initial licensure. Unlike other occupational licensing areas, which renew biennially, CSHB 112(Res) requires annual renewal and the revenue reflects that mandate.

FY 90 is based on:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
300 Transporters x \$50	15.0
100 Outfitters x \$50	5.0
<b>FY 90 Revenue</b>	<b>\$103.0</b>

FY 91 is based on FY 90 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
325 Transporters x \$50	16.3
125 Outfitters x \$50	6.2
<b>FY 91 Revenue</b>	<b>105.5</b>

FY 92 is based on FY 91 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
350 Transporters x \$50	17.5
150 Outfitters x \$50	7.5
<b>FY 92 Revenue</b>	<b>\$108.0</b>

FY 93 is based on FY 92 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
375 Transporters x \$50	18.8
175 Outfitters x \$50	8.7
<b>FY 93 Revenue</b>	<b>\$110.5</b>

FY 94 is based on FY 93 calculations with an additional 50 new licensees added:

437 Guide-Outfitters x \$50	\$21.8
1224 Class-A and Assistant Guides x \$50	61.2
400 Transporters x \$50	20.0
200 Outfitters x \$50	10.0
FY 94 Revenue	\$113.0

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
Title: Big game guiding and sport BRU: Fish & Wildlife Protection  
hunting  
Sponsor: House Resources Component: Enforcement & ISU  
Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of HB 112 would create a nine-member Big Game Commercial Services Board. It is anticipated that travel expenses for Board members would be included in the budget of the Department of Commerce and Economic Development, Division of Occupational Licensing. Department of Public Safety (DPS) staff time will be provided to assist the Board as necessary; no additional fiscal impact on DPS is anticipated.

Prepared by: Captain Conrad Seibel  
Division: Fish & Wildlife Protection

Phone: 269-5509  
Date: 3/15/89

Approved by Commissioner: SAH. English  
Agency: Department of Public Safety

Date: 3/15/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Bio game hunting and regulation

Agency Affected: Public Safety  
BRU: Fish & Wildlife Protection

Sponsor: Senate Resources  
Requestor: Senator Fahrenkamp

Component: Enforcement & ISU

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of SB 140 would create a nine-member Big Game Commercial Services Board. One of the board members would be the Commissioner of Public Safety or the Commissioner's designee.

It is anticipated that travel expenses for Board members would be included in the budget of the Department of Commerce and Economic Development, Division of Occupational Licensing. DPS staff time will be devoted to the Board as necessary; no additional fiscal impact is anticipated.

Prepared by: Captain Conrad Seibel  
Division: Fish & Wildlife Protection

Phone: 269-5509  
Date: 1/30/89

Approved by Commissioner: A. H. English  
Agency: Department of Public Safety

Date: 2/6/89

*JML*  
*2/6/89*



STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION CSHB 112 (Res)

PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 15-Feb-89 Agency Affected: Natural Resources  
 Title: An Act relating to big game hunting and regulation of commercial services. BRU: Management and Administration  
 Sponsor: House Resources Components: Commissioners Office  
 Requestor: House Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Travel costs for Natural Resources will be included in DCED fiscal note.

Prepared by: Carol Wilson Phone: 465-2400  
 Division: Commissioners Office Date: 15-Feb-89

Approved by Commissioner: Lennie Gorsuch Date: 15-Feb-89  
 Agency: Department of Natural Resources

Distribution (by preparer) :  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act Relating to Commercial  
 Services for Big Game Hunters  
 Sponsor: Resources Committee  
 Requestor: \_\_\_\_\_

Agency Affected: Fish and Game  
 BRU: Wildlife Conservation  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	31.5	76.8	67.5	58.2	58.2	58.2
TRAVEL	1.5	5.0	3.0	1.0	1.0	1.0
CONTRACTUAL		.5	.5	.5	.5	.5
SUPPLIES		1.7	1.0	1.0	1.0	1.0
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>33.0</b>	<b>90.0</b>	<b>72.0</b>	<b>60.7</b>	<b>60.7</b>	<b>60.7</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary) The FY89, FY90, and FY91 expenditures are necessary to coordinate the development of a computerized area-based management system for use in administering the guide/outfitting industry. The FY92, FY93, and FY94 expenditures would depend on the guide/outfitter area management system which is devised and ADF&G's role in that system.

Prepared by: W. Lewis Pamplin, Jr., Director Phone: 465-4190  
 Division: Wildlife Conservation Date: 2/15/89

Approved by Commissioner: [Signature] Date: 2/15/89  
 Agency: Fish and Game

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE FOR HOUSE BILL 112

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	FY89		FY90		FY91		FY92	
	Mos.	Cost	Mos.	Cost	Mos.	Cost	Mos.	Cost
LINE 100								
WB III @ \$4.5/month	3	13.5	11	49.5	11	49.5	11	49.5
AP II @ \$3.3/month	3	9.9	5	16.5	3	9.9	1	3.3
DPC II @ \$2.7/month	3	8.1	4	10.8	3	8.1	2	5.4
TOTAL		31.5		76.8		67.5		58.2
LINE 200 TRAVEL		1.5		5.0		3.0		1.0
LINE 300 CONTRACTUAL SERVICES		0.0		0.5		0.5		0.5
LINE 400 SUPPLIES		0.0		1.7		1.0		1.0
LINE 500 EQUIPMENT		0.0		6.0		0.0		0.0
TOTAL		33.0		90.0		72.0		60.7*

\* This total may vary with the role that ADF&G ultimately plays in the guide/outfitter area management system.

**STATE OF ALASKA  
1989 LEGISLATIVE SESSION**

BILL VERSION : SB 140  
PUBLISH DATE : \_\_\_\_\_

**FISCAL NOTE**

**REQUEST:**

Revision Date: 6-Feb-89 Agency Affected: Natural Resources  
Title: An Act relating to big game hunting and regulation of commercial services. BRU: Management and Administration  
Sponsor: Senate Resources Components: Commissioners Office  
Requestor: Senate Resources

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
CAPITAL						
REVENUE						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0.0</b>					

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS: (Attach a separate page if necessary)**

Travel costs for Natural Resources will be included in DCED fiscal note.

Prepared by: Carol Wilson Phone: 465-2400  
Division: Commissioners Office Date: 6-Feb-89  
Approved by Commissioner: Lennie Gorsuch Date: 6-Feb-89  
Agency: Department of Natural Resources

**Distribution (by preparer) :**

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Mar 4, 1989

Recommended changes  
to the proposed guide  
outfitter bill

Proposals for changes thus far certainly have merit but fall short of the mark in resolving the issue of how to control the number of guides in hunting areas throughout Alaska. The urgency to pass a guide bill has created a ready, fire, aim approach to this legislation. In my opinion two important criteria should be considered when making decisions about who will guide big game hunters. Conservation of the resource and the safety and welfare of the hunter client. The legislation being proposed is a carry over in many areas from the old and does little to solve the problem.

The first question a person would reasonably ask when seeking a guided big game hunt in Alaska is, "does the guide know the area being hunted?" Present rules allow for the guide board to interview the guide applicant and determine if the person should be allowed to guide in a particular area. That method of determining experience should supplement other firm, qualifying criteria. I recommend the legislature set a minimum field experience qualification for each game management unit. The experience qualification would apply to guide applicants and to qualified guides. These persons would have to meet the experience requirements prior to guiding in a particular area. For example: Specifically require a guide to have been "in the field" for a minimum of 60 days each year for the past five years in the area that he intends to guide hunters. The US Coast Guard requires that you have operated for 365 days on the water in the past five years before you can apply for a motor boat operators license. We certainly could require a guide to have operated on the land for a similar period of time.

Another question that a hunter client could reasonable ask is , "Has the guide hunted that particular animal?" With the anticipated influx of new, relatively inexperienced guides, it is entirely possible that a guide may know little more than the client when hunting various big game species. I recommend firm criteria be established

in the guide/outfitter bill that would insure that guide applicants and current licensed guides furnish evidence that they have participated in a minimum of six hunts for each type of big game they intend to hunt. This objective criteria would complement the proposed Big Game Commercial Services Board's interview of the guide applicant and provide definitive criteria for current guides to meet.

In the past guides have not been required to prove their financial responsibility. As a specialty contractor in Alaska I am required to meet numerous financial hurdles before I can do business. Among these requirements are bonding, liability insurance and workmans compensation insurance. This kind of financial responsibility is required for most if not all the licensed professions in Alaska. We have none for the guiding industry. I recommend that a guide who employs one or more assistant guides meet the same requirements for financial responsibility as other employers.

It is my opinion that if the above criteria were implemented it would have chilling effect upon guides moving into new territories. In effect it would increase the professionalism among guides and go far in insuring that a hunter client has a safe and rewarding Alaska hunting experience. In addition the limited number of guides qualifying in the various areas would greatly decrease the pressure on the game resources. In the past we may have been able to assume that established guides with exclusive territories were doing a good job and met the criteria that I have recommended. Those assumptions will very likely not hold true unless specific qualifications are made a pre-requisite for guiding.

This recommendation relates to assistant guides and Class A assistant guides. There is no reason to continue the two distinctions. I recommend that both types of assistant guides be merged and new, tough qualifying criteria be established. Among these qualifications could be a requires training course in guiding-outfitting. With the guiding industry being one of the cornerstones of the economy it makes good sense to have a program for persons to train and become qualified as an assistant guide. It would give licensed guides a manpower pool of trained assistants and provide a mechanism for young people to enter into the guiding industry.

The last item of concern is the transitioning of outfitters into the guiding business. Criteria has been proposed that would allow outfitters to take the guide test if they met certain qualifications. Among that criteria is having been engaged in the business of outfitting in 1986, 87 and 88 and having registered a camp, cabin or lodge in 1988. The fact that a person registered a camp, cabin or

lodge has nothing to do with outfitting. It has something to do with being a lodge operator'. The problem is no one has been willing to define an outfitter. Webster defines outfit as, 1. the equipment used in an activity. Webster further defines outfitting in the same context as: to furnish with an outfit. This definition can only leave a person with the inescapable conclusion that to outfit you must furnish someone with equipment related to the activity. In the business of big game hunting I would conclude that to outfit you would provide a variety of equipment such as tents, rafts, cooking gear and other paraphernalia related to hunting. We surely strayed far afield to require a outfitter to register a camp, cabin or lodge in the field. That requirement practically guarantees that big game animals will be taken near the camp, cabin or lodge. If the outfitter is present when the big game animal is taken that would be in direct conflict with the stipulation that no person may accompany a hunter in the field for compensation. To do so would be guiding. That is how I understand the legislation and more importantly how I understand my responsibilities as an outfitter in 1988. It is my recommendation that all outfitters be required to meet the minimum criteria for assistant guides and prove they provided equipment to hunters during the years in question. To require that you have registered a camp, cabin or lodge in the field in 1988 to meet one of the transitioning criteria for a guide application is not reasonable. It ignores the outfitter that provided outfitting services without being in the field with the hunter.

Hopefully these recommendations will provide a differing insight than from what is being proposed.

Submitted by:

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A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 112

Line 20  
Page 7, ~~line 20~~, after "if", through line ~~25~~ 26.

Delete all material and insert:

"(1) the person

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

(B) has had at least 10 years hunting experience in the game management unit in which the person is to be employed; military service outside the state for not more than three years shall be accepted as part of the required 10 years hunting experience; or

(2) the person

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

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

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

6-0401H ✓  
Utermohle  
3/13/89

Original sponsor: Resources Committee

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 112 (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 the person

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

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

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

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

29 (2) shall be under the supervision of a guide-outfitter who

1 has contracted with the client for whom the class-A assistant guide-  
2 outfitter is conducting the hunt; and

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

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

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

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

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

13 (4) has demonstrated practical knowledge of first aid and  
14 cardiopulmonary resuscitation;

15 (5) is in sound physical condition; and

16 (6) meets additional qualifications that the board may  
17 establish.

18 (b) An assistant guide-outfitter

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

20 (2) shall be employed by a guide-outfitter and under the  
21 supervision of a guide-outfitter or class-A assistant guide-outfitter  
22 at all times while the assistant guide-outfitter is in the field on  
23 guide-outfitted hunts.

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

26 (1) applies on a form provided by the department;

27 (2) pays the license fee;

28 (3) pays the commercial use permit fee;

29 (4) provides proof of

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

5 (B) licensure by the Coast Guard to carry passengers  
6 for hire, if the person provides water transportation services to  
7 big game hunters and if licensure is required by the Coast Guard;  
8 and

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

10 (b) A transporter may provide transportation services for com-  
11 pensation to big game hunters and accommodations in the field at a  
12 permanent lodge, house, or cabin owned by the transporter or on a boat  
13 with permanent living quarters located on salt water. A transporter  
14 may also provide, under authority of a commercial use permit, other  
15 big game commercial services as defined under AS 08.54.460. A trans-  
16 porter may not provide big game commercial hunting services without  
17 holding the appropriate license.

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

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

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

24 (3) the commercial use permit fee for the next licensing  
25 period; and

26 (4) proof of

27 (A) an air taxi/commercial operator certificate issued  
28 by the Federal Aviation Administration under 14 C.F.R. Part 135,  
29 if the applicant provides air transportation services to big game

1 hunters;

2 (B) licensure by the Coast Guard to carry passengers  
3 for hire, if the applicant provides water transportation services  
4 to big game hunters and if licensure is required by the Coast  
5 Guard.

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

10 (e) A transporter shall place a decal provided by the department  
11 on each plane, boat, vehicle, or other equipment used by the trans-  
12 porter to provide transportation services to big game hunters. The  
13 decal must bear the transporter's license number. The decal is valid  
14 only for the plane, boat, vehicle, or other equipment for which the  
15 decal is issued.

16 Sec. 08.54.410. APPEAL TO COMMISSIONER FROM BOARD ON DENIAL OF  
17 LICENSE. The commissioner of commerce and economic development may  
18 order that an applicant for an initial license under AS 08.54.350 -  
19 08.54.400 be allowed to take the license examination or be issued the  
20 license if, after reviewing a petition filed by the applicant, the  
21 commissioner finds that

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

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

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

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

29 (B) the applicant's failure of the license examination

1           due to faulty or unfair examination questions or procedures;

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

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

6           Sec. 08.54.420. RENEWAL OF LICENSES. Notwithstanding AS 08.01.-  
7 100(a), guide-outfitter, marine mammal guide-outfitter, and transport-  
8 er licenses shall be renewed annually on dates set by the department  
9 with the approval of the board.

10           Sec. 08.54.430. EXAMINATIONS FOR GUIDE-OUTFITTER LICENSES. (a)  
11 The board shall administer the qualification examinations required  
12 under this chapter at least twice a year. An examination may not be  
13 given within 90 days after the previous examination. At least once  
14 every other year the board shall give the examination at a location  
15 other than Anchorage.

16           (b) The board shall regularly disseminate information regarding  
17 examinations and other qualifications for all classes of guide-out-  
18 fitter licenses to residents of the rural areas of the state.

19           Sec. 08.54.440. FAILURE TO RENEW. (a) A license may not be  
20 issued to a guide-outfitter, marine mammal guide-outfitter, class-A  
21 assistant guide-outfitter, or assistant guide-outfitter who has failed  
22 to renew a license issued under this chapter for two consecutive years  
23 unless the guide-outfitter, marine mammal guide-outfitter, class-A  
24 assistant guide-outfitter, or assistant guide-outfitter again meets  
25 the qualifications for initial issuance of the license.

26           (b) Notwithstanding (a) of this section, a guide-outfitter who  
27 fails to renew a license is not required to requalify under AS 08.54.-  
28 350(a)(7), unless the license has been lapsed for three or more years.

29           Sec. 08.54.450. LICENSE AND EXAMINATION FEES. (a) The

1 department shall set license fees under AS 08.01.065 for each of the  
2 following:

- 3 (1) guide-outfitter
- 4 (2) class-A assistant guide-outfitter;
- 5 (3) assistant guide-outfitter;
- 6 (4) marine mammal guide-outfitter;
- 7 (5) transporter.

8 (b) The license fee for the guide-outfitter, marine mammal  
9 guide-outfitter, class-A assistant guide-outfitter, or assistant  
10 guide-outfitter license is in addition to the fee required for a  
11 hunting license.

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

15 Sec. 08.54.460. COMMERCIAL USE PERMIT HOLDER. A person, other  
16 than a guide-outfitter, marine mammal guide-outfitter, or a trans-  
17 porter, who provides other big game commercial services for compen-  
18 sation shall register with the board on a form provided by the board  
19 and shall obtain a commercial use permit and pay the annual commercial  
20 use permit fee set under AS 08.54.470. In this section "other big  
21 game commercial services" includes provision of accommodations in the  
22 field at a permanent lodge, house, or cabin owned by the commercial  
23 use permit holder, hunt broker services, gear rental services, photo-  
24 graphic or videographic services, and services as defined by the board  
25 by regulation.

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

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

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

7 (d) The commissioner of administration shall separately account  
8 for commercial use permit fees deposited in the general fund by the  
9 department. The annual estimated balance in the account may be used  
10 by the legislature to make appropriations to the Department of Fish  
11 and Game and the Department of Public Safety to carry out their re-  
12 spective responsibilities for management of game resources and en-  
13 forcement of game laws.

14 ARTICLE 6. PENALTIES.

15 Sec. 08.54.500. DISCIPLINE OF GUIDE-OUTFITTERS. (a) The board  
16 may hold a hearing to determine whether disciplinary action is neces-  
17 sary if a written complaint concerning the guide-outfitting activities  
18 of a licensee who holds any class of guide-outfitter license is filed  
19 with the board. The board shall hold a hearing to determine whether a  
20 licensee should be disciplined within a reasonable time after

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

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

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

29 (b) After a hearing, the board may revoke, suspend, or deny

1 renewal of any class of guide-outfitter license, if the board finds  
2 that the licensee

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

8 (2) violated a provision of a federal or state statute or  
9 regulation relating to hunting or provision of big game commercial  
10 services.

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

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

15 (2) is incompetent as a guide-outfitter, marine mammal  
16 guide-outfitter, class-A assistant guide-outfitter, or assistant  
17 guide-outfitter; or

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

21 (A) waste of a wild food animal;

22 (B) hunting on the same day airborne;

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

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

25 regulation.

26 (d) If a certified copy of a judgment of conviction of a licens-  
27 ee who holds any class of guide-outfitter license for an offense  
28 described under (c)(3) of this section is filed with the board, the  
29 board shall immediately suspend the licensee's license. The

1 suspension may be ordered even if the conviction resulted from a plea  
2 of nolo contendere or if the conviction is under appeal. The suspen-  
3 sion remains in effect until after the final disposition of the disci-  
4 plinary proceeding under this section.

5 Sec. 08.54.505. DISCIPLINE OF TRANSPORTERS AND COMMERCIAL USE  
6 PERMITTEES. (a) The board may hold a hearing to determine whether  
7 disciplinary action is necessary if a complaint concerning the big  
8 game commercial service activities of a transporter who is licensed  
9 under AS 08.54.400 or a commercial use permittee who holds a permit  
10 issued under AS 08.54.460 is filed with the board. The board shall  
11 hold a hearing to determine whether a licensee or permittee should be  
12 disciplined within a reasonable time after

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

17 (2) a licensee or permittee has been convicted of a viola-  
18 tion of a federal or state statute or regulation relating to hunting  
19 or provision of big game commercial services.

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

23 (1) engaged in unethical activity, unsafe activity, or  
24 activity that adversely affects the natural resources of the state  
25 when the activity is related to the purposes of providing big game  
26 commercial services, however the board may not discipline a licensee  
27 or permittee under this paragraph for unsafe operation of an aircraft;  
28 or

29 (2) violated a provision of a federal or state statute or

1 regulation relating to hunting or provision of big game commercial  
2 services.

3 (c) The board may not revoke, suspend, or deny renewal of a  
4 transporter license or commercial use permit for a violation of a  
5 federal or state statute or regulation relating to game or provision  
6 of big game commercial services committed by an employee of the li-  
7 censee or permittee unless the licensee or permittee participated or  
8 aided in the violation.

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

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

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

16 (A) waste of a wild food animal;

17 (B) hunting on the same day airborne;

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

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

20 regulation.

21 (e) If a certified copy of a judgment of conviction of a licens-  
22 ee or permittee for an offense described under (d)(2) of this section  
23 is filed with the board, the board shall immediately suspend the  
24 licensee's or permittee's license or permit. The suspension may be  
25 ordered even if the conviction resulted from a pleas of nolo con-  
26 tendere or if the conviction is under appeal. The suspension remains  
27 in effect until after the final disposition of the disciplinary pro-  
28 ceeding under this section.

29 Sec. 08.54.510. DISCIPLINE; GENERAL PROVISIONS. (a) A person  
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1 who is disciplined under AS 08.54.500 or 08.54.505 may not engage in  
2 the provision of big game commercial services during the period of  
3 license or permit revocation or other disciplinary action. A person  
4 who is licensed under this chapter, or who holds a permit issued under  
5 this chapter, may not hire a person whose license or permit to provide  
6 big game commercial services is suspended or revoked under AS 08.54.-  
7 500 or 08.54.505. A person whose license or permit is suspended or  
8 revoked may not be employed by a person who is licensed or who holds a  
9 permit under this chapter.

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

13 (c) A certified copy of a judgment of conviction of a licensee  
14 or permittee for an offense is conclusive evidence of the commission  
15 of that offense in a disciplinary proceeding instituted against the  
16 licensee or permittee under AS 08.54.500 or 08.54.505 based on that  
17 conviction, regardless of whether the conviction resulted from a plea  
18 of nolo contendere or the conviction is under appeal, unless the  
19 conviction is overturned on appeal.

20 (d) Within 30 days after conclusion of a hearing under AS 08.-  
21 54.500 or 08.54.505, the board shall notify the complainant of the  
22 results of the hearing, including written reasons justifying a deci-  
23 sion not to take disciplinary action.

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

25 (1) person who is licensed or who holds a commercial use  
26 permit under this chapter to knowingly fail to timely report to the  
27 Department of Public Safety, division of fish and wildlife protection,  
28 and in no event later than 30 days, a violation of a state fish, game,  
29 or big game commercial services statute or regulation that the person

1 reasonably believes was committed by a client or an employee of the  
2 person;

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

5 (A) commit or aid the commission of a violation of  
6 this chapter, a regulation adopted under this chapter, or a state  
7 fish or game statute or regulation; or

8 (B) permit the commission of a violation of this  
9 chapter, a regulation adopted under this chapter, or a state fish  
10 or game statute or regulation that the person knows or reasonably  
11 believes is being or will be committed without

12 (i) attempting to prevent it, short of using  
13 force; and

14 (ii) reporting it;

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

17 (4) person who is licensed or who holds a commercial use  
18 permit issued under this chapter to intentionally obstruct or hinder  
19 or attempt to obstruct or hinder lawful hunting engaged in by a person  
20 who is not a client of the person;

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

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

28 (7) person to knowingly guide-outfit without having a  
29 current guide-outfitter, marine mammal guide-outfitter, class-A

1 assistant guide-outfitter, or assistant guide-outfitter license and  
2 hunting license in actual possession;

3 (8) person without a current guide-outfitter or marine  
4 mammal guide-outfitter license to knowingly advertise as or represent  
5 to be a guide-outfitter;

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

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

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

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

17 (c) A person who commits an offense set out in (a)(7) - (10) of  
18 this section is guilty,

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

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

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

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

28 (1) the court may revoke the person's license to provide  
29 guide-outfitting or transportation services for not more than five

1 years; and

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

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

12 Sec. 08.54.530. INJUNCTION AGAINST UNLAWFUL ACTION. When in the  
13 judgment of the board a person has engaged in an act in violation of  
14 AS 08.54.380(b), 08.54.390(b), 08.54.400(b), 08.54.510(a), and 08.54.-  
15 520 or the regulations adopted under them, the board may apply to the  
16 appropriate court for an order enjoining the action. Upon a showing  
17 by the board that the person is engaging in the act, the court shall  
18 grant injunctive relief or other appropriate order without bond.

19 Sec. 08.54.540. RESPONSIBILITY OF GUIDE-OUTFITTER FOR VIOLA-  
20 TIONS. A guide-outfitter who contracts to guide-outfit a hunt is  
21 equally responsible under AS 08.54.500 for a violation of a federal or  
22 state game or guide-outfitting statute or regulation committed by a  
23 class-A assistant guide-outfitter or an assistant guide-outfitter  
24 while in the course of the class-A assistant guide-outfitter's or  
25 assistant guide-outfitter's employment for the guide-outfitter.

26 ARTICLE 7. GENERAL PROVISIONS.

27 Sec. 08.54.550. HUNT RECORDS; CONFIDENTIALITY OF HUNT RECORDS  
28 AND ACTIVITY REPORTS. (a) The department shall collect and maintain  
29 hunt records provided by guide-outfitters or marine mammal

1 guide-outfitters. A hunt record must include a list of all big game  
2 hunters who used the services of the guide-outfitter or marine mammal  
3 guide-outfitter, the number of each big game species taken, and other  
4 information required by the board. The department shall provide forms  
5 for reporting hunt records.

6 (b) The department shall make hunt records, and activity reports  
7 received under AS 08.54.400, available to state and federal agencies  
8 charged with the enforcement of statutes and regulations relating to  
9 guide-outfitting or game or with management of game if requested for  
10 game management or law enforcement purposes. Aggregated data compiled  
11 from hunt records and activity reports may be included in reports by  
12 the department. For all other purposes, the hunt records and activity  
13 reports are confidential and are not subject to inspection or copying  
14 under AS 09.25.110 - 09.25.125.

15 Sec. 08.54.590. DEFINITIONS. In this chapter

16 (1) "base camp" means a guide-outfitter's or marine mammal  
17 guide-outfitter's primary base of operations in the field; "base camp"  
18 does not include a spike camp;

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

22 (3) "big game commercial hunting service" means a service  
23 for which the provider of the service must obtain a guide-outfitter,  
24 marine mammal guide-outfitter, class-A assistant guide-outfitter, or  
25 assistant guide-outfitter license;

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

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

29 (6) "compensation" means payment for services including

1 wages or other remuneration but not including reimbursement for actual  
2 expenses incurred;

3 (7) "department" means the Department of Commerce and  
4 Economic Development;

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

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

9 (10) "guide-outfit" means to provide, for compensation or  
10 with the intent or with an agreement to receive compensation, big game  
11 commercial hunting services in the field; "guide-outfit" includes  
12 accompanying or being present with a big game hunter in the field  
13 either personally or through an assistant; "guide-outfit" does not  
14 include the provision of transportation to, from, or in the field if  
15 the person providing the transportation and the person being trans-  
16 ported do not stalk, pursue, track, kill, or attempt to kill big game  
17 during the provision of transportation;

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

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

25 (13) "transportation services" means the carriage for com-  
26 pensation of big game hunters, their equipment, or big game animals  
27 harvested by hunters to, from, or in the field; "transportation ser-  
28 vices" does not include the carriage by aircraft of big game hunters,  
29 their equipment, or big game animals harvested by hunters

1 (A) on nonstop flights between state or federally  
2 maintained airports; or

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

7 (14) "unethical activity" means

8 (A) deception or misrepresentation involving prospec-  
9 tive or actual clients either before, during, or following the  
10 provision of big game commercial services, including misrepresen-  
11 tations through private or public advertising of the type, dura-  
12 tion, cost, or conditions of the services;

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

15 (C) engaging in unsafe or unsportsmanlike activities  
16 that are detrimental to the game resources of the state, as  
17 defined by regulations of the board, including violations of  
18 state hunting or big game commercial services statutes or regu-  
19 lations; or

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

23 \* Sec. 4. AS 12.55.125(c) is amended to read:

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

28 (1) if the offense is a second felony conviction, two  
29 years;

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

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

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

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

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

15 (1) a person who is licensed as a guide-outfitter, [MASTER  
16 GUIDE, REGISTERED GUIDE,] class-A assistant guide-outfitter, [GUIDE]  
17 or assistant guide-outfitter [GUIDE] by the Big Game Commercial Ser-  
18 vices [GUIDE] Board; or

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

20 (A) the spouse of the nonresident; or

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

23 \* Sec. 6. AS 6.05.407(d) is amended to read:

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

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

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

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

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

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

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

11 (1) engage in activities in direct support of big game  
12 hunting, including transportation or guide-outfitting of big game  
13 hunters; or

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

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

16 (1) an organization that offers use of property or services  
17 to individuals who pay a membership fee for the privilege of using the  
18 property or services for hunting; or

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

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

24 (48) Big Game Commercial Services [GUIDE] Board AS 08.54.-  
25 300 [(AS 08.54.010)]; and

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

27 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the  
28 authority of

29 (1) the Department of Fish and Game, the Board of

1 Fisheries, the Board of Game, or the Big Game Commercial Services  
2 [GUIDE LICENSING AND CONTROL] Board under AS 08.54, AS 16, or AS  
3 41.99.010;

4 (2) the Department of Environmental Conservation under AS  
5 46.03; or

6 (3) state agencies and municipalities under AS 44.19.145(a)-  
7 (11) and AS 46.40.100.

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

9 (35) Big Game Commercial Services [GUIDE LICENSING AND  
10 CONTROL] Board

11 \* Sec. 12. TRANSITION: GUIDE-OUTFITTER LICENSES. (a) Notwithstanding  
12 the repeal of AS 08.54.010 - 08.54.240, all licenses issued under AS 08.-  
13 54.010 - 08.54.240 are valid for the period for which the licenses were is-  
14 sued.

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

17 (1) master guide license issued under former AS 08.54.100 and a  
18 registered guide license issued under former AS 08.54.110 shall be con-  
19 sidered a guide-outfitter license issued under AS 08.54.350;

20 (2) class-A assistant guide license issued under former AS 08.-  
21 54.120 shall be considered a class-A assistant guide-outfitter license  
22 issued under AS 08.54.380;

23 (3) an assistant guide license issued under former AS 08.54.140  
24 shall be considered an assistant guide-outfitter license issued under  
25 AS 08.54.390.

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

28 (1) a master guide shall receive a master guide-outfitter li-  
29 cense if the person

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

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

5 (2) a registered guide shall receive a guide-outfitter license  
6 if the person

7 (A) is in good standing at the time of issuance of the  
8 license; and

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

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

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

15 (B) has paid the class-A assistant guide-outfitter license  
16 fee;

17 (4) an assistant guide shall receive an assistant guide-out-  
18 fitter license if the person

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

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

22 (d) Notwithstanding (c) of this section, the Department of Commerce  
23 and Economic Development may issue a new license under AS 08.54.300 -  
24 08.54.590, without an additional fee, to a person licensed under former  
25 AS 08.54.010 - 08.54.240 before the next renewal period following the  
26 effective date of this Act, if the person satisfies the requirements for  
27 the license and the license is valid only for the same period for which the  
28 replaced license was issued.

29 \* Sec. 13. TRANSITION; OUTFITTERS. (a) Notwithstanding AS 08.54.350,

1 as enacted by sec. 3 of this Act, a natural person is entitled to receive a  
2 guide-outfitter license if the person

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

5 (2) lawfully registered a camp, cabin, or lodge under AS 16.-  
6 05.787 during 1988;

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

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

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

17 (6) has legally hunted in the state for part of each of any five  
18 years in a manner directly contributing to the person's experience and  
19 competency as a guide-outfitter;

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

24 (8) pays the guide-outfitter license fee and the commercial use  
25 permit fee; and

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

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

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

7 (2) the board's denial or refusal has been upheld by a final  
8 administrative order and the order has not been appealed to the superior  
9 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 due  
13 to faulty or unfair examination questions or procedures;

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

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

18 (c) A guide-outfitter license issued under (a) of this section is for  
19 all purposes a license issued under AS 08.54.350, as enacted by sec. 3 of  
20 this Act.

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

28 (1) the date of issuance of a guide-outfitter license to the  
29 person;

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

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

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

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

14 (g) A person who holds an interim outfitter license may accompany or  
15 be present with a hunter at a base camp, cabin, or permanent lodge in  
16 connection with a big game hunt for compensation only if the person has  
17 furnished an affidavit to the Department of Public Safety, division of fish  
18 and wildlife protection, at least two weeks in advance. The person may not  
19 register more than two base camps. The affidavit must be signed by the  
20 person and must provide the following information:

21 (1) the specific location of the camp, cabin, or lodge;

22 (2) the number of big game hunters in each party that will use  
23 the camp, cabin, or lodge; and

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

25 (h) A person who furnishes an affidavit under (g) of this section  
26 shall notify the Department of Public Safety of the amount and kinds or  
27 species of big game taken by each hunter who uses the base camp, cabin, or  
28 permanent lodge to which the affidavit relates. Notice shall be given  
29 within 30 days after the game is taken. The Department of Public Safety

1 shall provide the information received under this subsection to the Depart-  
2 ment of Fish and Game.

3 (i) A person who

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

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

9 (j) In this section,

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

12 (2) "big game" and "field" have the meaning given in AS 08.54.-  
13 590, as enacted by sec. 3 of this Act;

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

18 (A) providing transportation to or from the field, if the  
19 person providing transportation and the persons being transported do  
20 not stalk, pursue, track, kill, or attempt to kill big game during the  
21 transportation; or

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

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

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

29 (1) AS 08.54.300(b)(1) may also be filled by the appointment of

1 a master guide or registered guide licensed under former AS 08.54.010 -  
2 08.54.240 or a person who lawfully registered a camp, cabin, or lodge under  
3 AS 16.05.787 during 1988 and legally engaged in the business of big game  
4 outfitting in 1986, 1987, and 1988;

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

8 \* Sec. 15. TRANSITION. Litigation, hearings, investigations, and other  
9 proceedings pending under a law amended or repealed by this Act continue in  
10 effect and may be continued and completed notwithstanding an amendment or  
11 repeal provided for in this Act. Licenses, orders, and regulations issued  
12 or adopted under authority of a law amended or repealed by this Act remain  
13 in effect for the term issued or until revoked, vacated, or otherwise  
14 modified under the provisions of this Act.

15 \* Sec. 16. AS 08.54.010, 08.54.030, 08.54.035, 08.54.040, 08.54.045,  
16 08.54.050, 08.54.060, 08.54.070, 08.54.100, 08.54.110, 08.54.120, 08.54.-  
17 130, 08.54.140, 08.54.141, 08.54.150, 08.54.160, 08.54.170, 08.54.180,  
18 08.54.186, 08.54.190, 08.54.195, 08.54.200, 08.54.210, 08.54.220, 08.54.-  
19 230, 08.54.240; AS 16.05.370(b), 16.05.370(c), 16.05.407(e), 16.05.786, and  
20 16.05.787 are repealed.

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

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

24 (1) January 15, 1990; or

25 (2) the date of submission to the legislature of a recom-  
26 mendation by the Task Force on Guiding and Game for a resource-based  
27 management system for allocating access to big game hunting opportuni-  
28 ties among guide-outfitters licensed under AS 08.54.

29 \* Sec. 19. Except for AS 08.54.310(b)(1), as enacted by sec. 3 of this  
CSHB 112(Res)

1 Act, this Act takes effect immediately under AS 01.10.070(c).  
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# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

STEVE COWPER, GOVERNOR

REPLY TO

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

March 2, 1989

The Honorable Bettye Fahrenkamp  
Resources Committee Chair  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

The Honorable Cliff Davidson  
The Honorable Curt Menard  
Resources Committee Co-Chairs  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Fahrenkamp and Representatives Davidson and Menard:

The Criminal Division of the Department of Law has carefully reviewed the sections of the HB 112 and SB 140 that relate to imposition of criminal penalties. We see a number of potential problems with the bills as presently drafted, and would respectfully request that you consider adoption of the amendments outlined in this letter.

#### I. Mens Rea Not Specified

##### A. Discussion of Problem

The proposed AS 08.54.520 outlines a number of criminal acts, however, the statute does not specify an accompanying mental state or level of criminal intent. The Alaska Supreme Court has repeatedly expressed its aversion to the imposition of criminal sanctions in the absence of proof that an offender was aware or conscious of some wrongdoing.<sup>1</sup>

In analyzing the effect of the above-cited cases, the Supreme Court in Reynolds v. State, 655 P.2d 1313, 1315 (Alaska App. 1982) stated: "The teaching of these cases is that strict liability is an exception to the rule that criminal intent is required. The decision whether to require that a mental state be

<sup>1</sup>See, e.g. Speidel v. State, 460 P.2d 77, 78 (Alaska 1969); Hentzner v. State, 613 P.2d 821 (Alaska 1980); State v. Rice, 626 P.2d 104 (Alaska 1981).

read into a statute or regulation, even in the context of fish and game violations, must be made on a case-by-case basis." (emphasis added).

In order to avoid having to litigate the appropriate mental state in every instance that a prosecution is brought for unlawful guiding activities, the level of criminal intent should be specified for each listed unlawful act. As proposed, only one section, 08.54.520(a)(4), specifies a mental state by requiring proof of intentional behavior.

B. Proposed Amendments to Provide for Mens Rea

1. Page 17, line 1, following "chapter to":  
Insert "knowingly"
2. Page 17, line 7, following "to":  
Insert "knowingly"
3. Page 17, line 19, following "to":  
Insert "knowingly"
4. Page 17, line 25, following "transporter to":<sup>2</sup>  
Insert "knowingly"
5. Page 17, line 28, following "to":  
Insert "knowingly"
6. Page 18, line 2, following "to":  
Insert "knowingly"
7. Page 18, line 7, following "license to":  
Insert "knowingly"
8. Page 18, line 9, following "person to":  
Insert "knowingly"
9. Page 18, line 12, following "to":  
Insert "knowingly"
10. Page 18, line 13, following "to":  
Insert knowingly

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<sup>2</sup>This amendment is unnecessary if, as proposed in Section IV below, the bill section set out at page 17, lines 24 - 26 is deleted.

## II. Appropriate Definitions Not Provided

### A. Discussion of Problem

A number of key terms are not defined in the proposed legislation. The lack of definition may lead to claims that the statute does not provide adequate notice of prohibited activities, may inappropriately make some persons subject to criminal prosecution, and may cause legal problems during trials of criminal charges brought under the statute.

As an example of the potential problems faced by prosecutors, under proposed AS 08.54.520(a)(9), it is unlawful for a person "to provide transportation services to big game hunters without holding a transporter license." Transportation services is defined in proposed AS 08.54.590 (6) to mean, "carriage for compensation of big game hunters, their equipment, or big game animals harvested by hunters to, from, or in the field." Compensation is not defined.

In prosecutions under existing guiding statutes, trial courts have taken divergent views on the definition of compensation. In one Anchorage case, Judge Carlson defined compensation as "payment for services including wages or other remuneration." If this definition were applied, a friend or relative transporting someone into the field in exchange for gasoline could be subject to criminal prosecution. In another Anchorage case, Judge Rowland defined compensation as above, however, gave a separate instruction that "compensation does not include reimbursement for actual expenses incurred." If this definition were applied, the friend or relative mentioned above would not have violated the law. The legislature needs to spell out its intent by defining the term "compensation."

### B. Terms That Need Definition

Although we have identified terms that need definition, the Criminal Division does not have the practical expertise to prepare definitions for the listed terms. We are, however, working with the Division of Wildlife Conservation and the Division of Occupational Licensing to help develop adequate definitions.

Page 12, line 9:	"expediter services"
Page 17, line 19:	"big game commercial services"
Page 18, line 13:	"big game commercial services"
Page 21, line 9:	"big game commercial services"
Page 21, lines 19-20:	"big game commercial services":

Page 17, line 28: "guide-outfitting services"<sup>3</sup>  
Page 18, line 2: "guide-outfitter services"  
  
Page 20, lines 25-6: "big game commercial hunting  
services"<sup>4</sup>  
  
Page 20, line 26: "compensation"  
Page 21, lines 3-4: "compensation"

III. Inadequate Definition of "Field"

A. Discussion of Problem

Although a definition of field is provided, the definition does not address the issue of activities occurring in a base camp. In past prosecutions for illegal guiding, the courts have allowed a defense that activities taking place in a base camp are not prohibited since a base camp is not "in the field."<sup>5</sup> The

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<sup>3</sup>Since "guide-outfit" is defined in 08.54.590(4), instead of providing a separate definition for "guide-outfitting services," it may make more sense to rewrite the paragraphs in which the term is used as follows:

Page 17, lines 27 - 29, and page 18, line 1:  
(6) class-A guide-outfitter or an assistant guide-outfitter to knowingly guide-outfit [PROVIDE GUIDE-OUTFITTING SERVICES] in the field on a guided-outfitted hunt except while employed and supervised by a guide-outfitter;

Page 18, lines 2 - 5:  
(7) person to knowingly guide-outfit [PROVIDE GUIDE-OUTFITTER SERVICES] without having a current guide-outfitter, marine mammal guide-outfitter, class-A guide-outfitter, or assistant guide-outfitter license and hunting license in actual possession;

<sup>4</sup>For consistency, it may make sense to change this reference from "big game commercial hunting services" to "big game commercial services."

<sup>5</sup>For example, in the Zedlar case, Judge Rowland gave the following two instructions,

definition of "field" needs to address to what extent base camp activities are covered, and to provide a definition of "base camp."

B. Proposed Amendment to Definition of "Field"

Page 21, line 1, following "village":

Insert ", including a base camp"

*field clearly  
includes  
base camp*

IV. Fairness of Penalty in AS 08.54.520(a) (5)

A. Discussion of Problem

Under AS 08.54.520(a) (5), a person who fails to transmit to the department big game conservation fees due under AS 16.05.344, is guilty of a misdemeanor punishable by a fine up to \$30,000 and a jail sentence of two months to one year. This is an inappropriately stiff penalty for failure to submit fees, and does not fit in with penalties provided in other instances where a person fails to remit fees to the state.<sup>6</sup> After considering this

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"Guide" or "Guiding" does not include providing food, shelter, supplies, ammunition, transportation, preparation of trophies, salvaging of meat, and/or assisting, accompanying or directing a hunter in arriving at or departing from a base camp, even if for compensation or with the intent or an agreement to receive compensation.

A base camp is that location at which an outfitter conducts his business in providing outfitting services to clients. The base camp may be located in the hunting area, and the client and the outfitter can leave the base camp and be in the hunting field so long as the outfitter is not guiding.

In reviewing the legislation, there seems to be an intent to criminalize many of the activities exempted by Judge Rowland in the above instructions.

<sup>6</sup>For example, a comparable situation is presented in the case of a person who collects fees for fish and game licenses and fails to remit the fees to the state. This situation is addressed in a bill presently being considered by the legislature, HB 76, which provides that a person failing to remit license fees is assessed a penalty of one and one-half percent of the amount of the proceeds due, with the penalty assessed for each month that the proceeds are delinquent.

issue, representatives of executive branch agencies agreed that an adequate way to enforce payment of big game conservation fees would be to make renewal of a guide-outfitter or transporters license contingent on payment.

B. Proposed Amendments to Enforce Collection of Big Game Conservation Fees

1. Page 17, lines 24 - 26

Delete all material.  
Renumber the following sections accordingly.

2. Page 22, line 13, following "license."

Insert "A license may not be renewed unless all fees due under this section have been paid."

V. Creation of Nonconforming Penalties

A. Discussion of Problem

Over the past ten years, a great deal of effort has gone into developing and passing laws that set out a uniform sentencing scheme in Alaska. Under this scheme, offenses are categorized by the level of seriousness, and punished accordingly. Before the new sentencing scheme, the state had a mixed bag of felony and misdemeanor sentences, none of which necessarily fell into any logical scheme or plan.

Under proposed AS 08.54.520(c) and (d), penalties are set out that do not fall into the existing sentencing structure. We are very concerned about setting a precedent for creation of new types of felonies, and would prefer that the penalties stay within the existing structure. The problems presented by this approach are easiest to understand in the context of felony prosecutions. For example, since the felony provided is neither an A, B, or C felony, it is unclear how it would fit into the presumptive sentencing scheme.

An easy way to solve the problem would be to amend the language of (c)(2) and (d) to simply say that a person is guilty of a class C felony. The penalty for a class C felony is a fine of not more than \$50,000 and a jail term of not more than five years.

B. Proposed Amendments to Conform Felony Penalties<sup>7</sup>

1. Page 18, lines 25 - 27:

Delete all material and insert:

"(2) for a second or subsequent offense, or a Class C felony."

2. Page 21, following line 21:

Insert a new bill section to read:

"\*Sec. 4. AS 12.55.125(e) is amended by adding a new paragraph to read:

(4) if the offense is a first felony conviction, and the defendant violates AS 08.54.520(c), one year."

Renumber the following bill sections accordingly.

VI. Technical Amendment to Unlawful Acts Section

A. Discussion of Problem

In its joint position paper, the administration has previously proposed an amendment to clarify that the intent of the bill is to limit the court's sentencing discretion in cases involving unlawful acts by big game commercial services providers. However, the proposed amendment may have the effect of limiting the court's ability to place a guide on probation for a period in excess of the mandatory minimum jail term.

B. Proposed Technical Amendment

Page 19, lines 12 -14:

Delete all material and insert:

"(f) Upon conviction of a person for committing an offense set out in (a) of this section, the execution of sentence may not be suspended nor may probation be granted except on

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<sup>7</sup>The proposed amendments incorporate the previously suggested changes to HB 112 and SB 140 contained in the "Joint Department Position Paper on SB 140" and discussed on page 8 of the position paper.

The Honorable Bettye Fahrenkamp  
The Honorable Cliff Davidson  
The Honorable Curt Menard

March 2, 1989  
Page 8

condition that the minimum term of imprisonment is served.  
Impositior. of sentence may not be suspended."

## VII. Reference to Perjury Statute

### A. Discussion of Problem

On page 28, lines 15 - 16, the proposed legislation states that a person who "falsifies an affidavit under (f) of this section is guilty of perjury under AS 11.56.200." As set out at page 27, lines 22-28, the affidavit must "be signed by the person," but is not required to be made under oath. Because this type of statement doe not fall within the definition of perjury, we do not believe it is possible to charge someone with perjury for making false statements in the required affidavit.<sup>8</sup> Since the conduct does fall within the definition of unsworn falsification under AS 11.56.210, the reference should be changed to accurately reflect the crime committed.

### B. Proposed Amendment to Correct Perjury Reference

Page 28, line 16:

Delete all material and insert:  
"of unsworn falsification under AS 11.56.210.

## VIII. Conclusion

The amendments proposed in this letter are intended to make the new guide-outfitter laws workable and enforceable. We have approached the issues involved solely from a technical point of view, with the aim of clarifying the law and making it easy to implement. Since the policy issues involved in setting the appropriate level of penalty were considered by the Task Force, the Criminal Division has not reanalyzed such matters.

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<sup>8</sup>Perjury is defined as making "a false sworn statement which the person does not believe to be true." A "sworn statement" means:

(A) a statement knowingly given under oath or affirmation attesting to the truth of what is stated, including a notarized statement; or

(B) a statement knowingly given under penalty of perjury under AS 09.63.020.

The Honorable Bettye Fahrenkamp  
The Honorable Cliff Davidson  
The Honorable Curt Menard

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If you have any questions about the amendments proposed in this letter, we will be happy to meet with you at your convenience.

Very truly yours,

DOUGLAS B. BAILY  
ATTORNEY GENERAL

By: 

Laurie H. Otto  
Assistant Attorney General

cc: Ron Clarke, Office of the Governor  
Bob Evans, Office of the Governor  
Randall Burns, Division of Occupational Licensing



Alaska State Legislature  
HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

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

M E M O R A N D U M

TO: HOUSE RESOURCES COMMITTEE MEMBERS  
FROM: COMMITTEE STAFF  
RE: AMENDMENTS TO WORK DRAFT OF 3/3/89 FOR HB 112  
DATE: MARCH 13, 1989

THE FOLLOWING ARE CHANGES TO HB 112 3/3/89 WORK DRAFT:

PAGE 5, LINE 25 - 29, PAGE 6, LINE 1, ADDS IN LANGUAGE FOR MASTER GUIDE-OUTFITTER CATEGORY AS FOLLOWS "(b) A person who receives a master guide-outfitter license under sec. 12 of this Act may use the title master guide-outfitter and may annually renew the license unless the license has been revoked or suspended or has lapsed under AS 08.54.440. A master guide-outfitter license is for all purposes under this chapter a guide-outfitter license.

PAGE 6, LINE 2 -4, ADDS LANGUAGE TO CLARIFY THAT A GUIDE-OUTFITTER MAY PROVIDE INCIDENTAL TRANSPORTATION WITHOUT HOLDING A TRANSPORTER LICENSE AS FOLLOWS:

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

PAGE 7, LINE 24, AFTER "MANAGEMENT", ADD "UNITS".

PAGE 13, LINE 17, BEFORE "COMPLAINT", INSERT "WRITTEN".

PAGE 18, LINE 25, AFTER "KNOWINGLY", INSERT "ENTER OR REMAIN".

PAGE 18, LINE 26, AFTER "WITHOUT" INSERT "PRIOR".

PAGE 19, LINES 6-7, DELETE [IF THE PERSON ADVERTISES, USES BOOKING AGENTS, OR USES OTHER MEANS TO PROMOTE BIG GAME HUNTING IN THE STATE] AND ADDS LANGUAGE AT PAGE 23, LINE 3-6, WHICH ALLOWS AN EXEMPTION TO THE TRANSPORTER LICENSE FOR THOSE TRANSPORTERS TO TRANSPORT HUNTERS IN THE FIELD AS AN INCIDENTAL PART OF THEIR BUSINESS.

PAGE 20, LINE 22, AFTER "STATE", DELETE [SPORT FISH].

PAGE 21, LINE 16-18, UNDER DEFINITIONS, ADD A DEFINITION FOR "BASE CAMP". "BASE CAMP" MEANS A GUIDE-OUTFITTER'S OR A MARINE MAMMAL GUIDE-OUTFITTER'S PRIMARY BASE OF OPERATIONS IN THE FIELD; "BASE CAMP" DOES NOT INCLUDE A SPIKE CAMP.

PAGE 22, LINE 7-8, UNDER DEFINITIONS, ADD A DEFINITION FOR "GAME MANAGEMENT UNIT". "GAME MANAGEMENT UNIT" MEANS ONE OF THE 26 GEOGRAPHIC AREAS DEFINED BY THE BOARD OF GAME FOR GAME MANAGEMENT PURPOSES.

#### TRANSITION SECTION CHANGES

PAGE 28, LINE 13-16: ADD IN LANGUAGE FROM PAGE 6, LINE 17-21:

HAS NOT BEEN CONVICTED OF VIOLATING A STATE OR FEDERAL GAME OR GUIDE-OUTFITTING STATUTE OR REGULATION DURING THE PREVIOUS FIVE YEARS FOR WHICH THE PERSON WAS FINED MORE THAN \$500 OR IMPRISONED FOR MORE THAN FIVE DAYS.

PAGE 28, LINE 5, BEFORE REGISTERED, INSERT "LAWFULLY"

PAGE 28, LINE 8, BEFORE "ENGAGED", INSERT "LEGALLY"

PAGE 28, LINE 20-23, ADD IN REQUIREMENT FOR SIX FAVORABLE HUNTER RECOMMENDATIONS AS IS REQUIRED UNDER GUIDE-OUTFITTER LICENSING.

PAGE 28, LINE 17-19, ADDS IN REQUIRED HUNTING EXPERIENCE IN THE STATE FOR FIVE YEARS AS IS REQUIRED UNDER GUIDE-OUTFITTER LICENSING.

PAGE 28, LINE 28-29, PAGE 29, LINE 1-29, PAGE 30, LINE 1-2, ADD IN AN APPEAL PROCESS SECTION, NOT SUBJECT TO THE A.P.A., WITH ALL DETERMINATIONS BY THE COMMISSIONER.

PAGE 30, LINE 3, DELETE [ONE] AND INSERT "TWO".

PAGE 28, LINE 11, DELETE [ONE], AND INSERT "TWO".

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 4, 1989

SUBJECT: Sectional Summary of SB 140; An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters, creating the Big Game Commercial Services Board; and providing for an effective date.

TO: Senator Bettye Fahrenkamp

FROM: George Utermohle *GU*  
Legislative Counsel

The following is a sectional summary of SB 140 requested by Nancy Peterson of your staff.

Please note that a summary of a bill should not be considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill repeals and reenacts AS 08.01.010(10) to provide that the Big Game Commercial Services Board is subject to and benefits from centralized licensing procedures under AS 08.01.

Section 2 of the bill repeals and reenacts AS 08.03.-010(c)(20) to provide that the Big Game Commercial Services Board terminates on June 30, 1993 under the "sunset" provisions of AS 08.03.

Section 3 of the bill adds new sections to AS 08.54.

ARTICLE 4. BIG GAME COMMERCIAL SERVICES BOARD.

Sec. 08.54.300 establishes the Big Game Commercial Services Board (Board) in the Department of Commerce and Economic Development. The Board consists of nine members. Three members of the Board are the commissioners (or their designee) of fish and game, natural resources, and public safety.

Two members of the board are either guide-outfitters or class-A guide-outfitters. One member of the Board is a transporter. One member of the Board is a member of the Board of Game who is chosen by the Board of Game. One member is a person who represents Native landholders. And one member of the Board is a public member. The guide-outfitter, transporter, and public members of the Board, as well as the representative of Native landholders, are appointed by the governor.

Sec. 08.54.310 sets out the duties and powers of the Board. The Board shall prepare, grade, and administer examinations for guide-outfitters licenses and for game management unit certifications; determine qualifications for class-A guide-outfitter, marine mammal guide-outfitter, and assistant guide-outfitter licenses; establish performance standards for providers of big game commercial services and regulate the activities of these providers; publish an annual list of big game commercial services providers; prohibit big game commercial services that are unsportsmanlike, unethical, unsafe, etc; revoke, suspend, or deny renewal of licenses and permits; authorize issuance of transporter licenses and commercial use permits; and meet at least twice each year.

The Board may provide for registration of hunting camps and facilities; establish a management system for guide-outfitters; and establish standards of supervision that a guide-outfitter must exercise over class-A guide-outfitters and assistant guide-outfitters.

Sec. 08.54.320 provides that the Board shall adopt regulations as required by this chapter and as necessary for administration of this chapter.

#### ARTICLE 5. LICENSING.

Sec. 08.54.350 sets out the minimum qualifications necessary for a guide-outfitter license. A guide-outfitter may contract to guide-outfit hunts for big game.

Sec. 08.54.360 sets out the minimum qualifications necessary for a marine mammal guide-outfitter license. A marine mammal guide-outfitter may contract to guide-outfit hunts for marine mammals.

Sec. 08.54.370 sets out the requirements for renewal of guide-outfitter and marine mammal guide-outfitter licenses. The department may not renew a license unless these requirements are satisfied.

Sec. 08.54.380 sets out the minimum qualifications necessary for a class-A guide-outfitter license. A class-A guide-outfitter may not contract to guide-outfit hunts. A class-A guide-outfitter must be under the supervision of a guide-outfitter but may take charge of a camp in the absence of a guide-outfitter.

Sec. 08.54.390 sets out the minimum qualifications necessary for an assistant guide-outfitter license. An assistant guide-outfitter may not contract to guide-outfit hunts and must be employed by a guide-outfitter and supervised by a guide-outfitter or class-A guide-outfitter while in the field on a hunt.

Sec. 08.54.400 sets out the requirements for obtaining and renewing a transporter license.

A transporter may provide transportation services to big game hunters. A transporter may also provide accommodations to big game hunters in the field in certain situations. A transporter must place a decal provided by the department on each piece of transportation equipment that the transporter uses in providing transportation services to big game hunters.

Sec. 08.54.410 provides for an appeal to the commissioner of commerce and economic development if an applicant for any class of guide-outfitter license or transporter license is denied a license by the Board. Specific criteria that an appellant must satisfy in order to file an appeal under this section are set out.

Sec. 08.54.420 provides that guide-outfitter, marine mammal guide-outfitter, and transporter licenses are renewed annually.

Sec. 08.54.430 provides for examinations for any class of guide-outfitter license that may be required under this chapter. The Board shall administer qualification examinations at least twice a year and at least once each two years shall administer the examinations at a location

outside of Anchorage. The examinations must be administered at least 90 days apart.

The Board shall regularly provide information on examinations and qualifications for all classes of guide-outfitter licenses to residents of rural areas.

Sec. 08.54.440 provides for renewal of all classes of guide-outfitter licenses after the license has lapsed. If any class of guide-outfitter license has lapsed for two consecutive years, the applicant must satisfy the requirements for initial issuance of the license.

A guide-outfitter does not have to repeat the three year apprenticeship as a class-A guide-outfitter or an assistance guide-outfitter unless the guide-outfitter license has been lapsed for three years or more.

Sec. 08.54.450 provides that the department shall set fees for examinations and licenses required under this chapter. A license fee for any class of guide-outfitter license is in addition to the fee paid for a hunting license.

Sec. 08.54.460 requires that a person, other than a licensed guide-outfitter, marine mammal guide-outfitter, or transporter, who provides other big game commercial services for compensation register with the Board, obtain a commercial use permit, and pay the commercial use permit fee. Examples of "other big game commercial services" are listed.

Sec. 08.54.470 requires guide-outfitters, marine mammal guide-outfitters, and transporters to obtain an annual commercial use permit and pay the commercial use permit fee.

The department, in consultation with the Board, shall set the amount of the commercial use permit fee.

A guide-outfitter, marine mammal guide-outfitter, or transporter shall pay the commercial use permit fee with the application for issuance or renewal of their license.

The commissioner of administration shall separately account for the fees received for commercial use permits. The legislature may use the money received for commercial use permits to make appropriations to the Department of Fish and Game and the Department of Public Safety for game management and enforcement of game laws.

ARTICLE 6. PENALTIES.

Sec. 08.54.500 sets out the procedures for discipline of a person who holds any class of guide-outfitter license.

The Board may hold a disciplinary hearing upon receiving a complaint about the guide-outfitter licensee. The Board shall hold a disciplinary hearing upon receiving three complaints from members of three separate hunting parties about a licensee's activities or a complaint about a licensee's conduct in a life-threatening situation or if the licensee is convicted of certain state or federal laws.

The Board may revoke, suspend, or deny renewal of any class of guide-outfitter license after a hearing if the Board finds that the licensee engaged in certain proscribed activities or violated certain state or federal laws.

The Board shall revoke any class of guide-outfitter license after a hearing if the Board finds that the licensee is not qualified for the license held, is incompetent, or has been convicted of certain state or federal laws during the preceding five years.

The Board shall immediately suspend any class of guide-outfitter license if a certified copy of a judgment of conviction of a licensee for certain state or federal crimes is filed with the Board.

Sec. 08.54.505 provides for the discipline of transporters and commercial use permittees.

The Board may hold a disciplinary hearing regarding the activities of a transporter or commercial use permittee upon receiving a complaint about the transporter or commercial use permittee. The Board shall hold a disciplinary hearing upon receiving three complaints from members of three separate hunting parties about the transporter's or permittee's activities or if the transporter or permittee is convicted of certain state or federal laws.

The Board may revoke, suspend, or deny renewal of transporter license or commercial use permit after a hearing if the Board finds that the licensee or permittee engaged in certain proscribed activities or violated certain state or federal laws.

The board shall revoke a transporter license or commercial use permit after a hearing if the Board finds that the licensee or permittee is not qualified for the license or permit or has been convicted of certain state or federal laws during the preceding five years.

The Board shall immediately suspend a transporter license or commercial use permit, if a certified copy of a judgment of conviction of licensee or permittee for certain state or federal crimes is filed with the Board.

Sec. 08.54.510 sets out general provisions applicable to disciplinary proceedings.

A person who is disciplined under AS 08.54.500 or 08.54.505 may not engage or be employed in the business of providing big game commercial services during a period of license or permit revocation or other disciplinary action. A person who is licensed under this chapter or who holds a commercial use permit may not employ a person whose license or permit under this chapter has been suspended or revoked.

A license or permit that has been revoked must be surrendered immediately to the department.

A certified copy of a judgement of conviction is conclusive evidence of the commission of the offense in a disciplinary proceeding of the Board, regardless of whether the conviction resulted from a plea of nolo contendere or the conviction is under appeal, unless the conviction is overturned on appeal.

The Board shall notify a complainant of the result of the Board's hearing within 30 days after the hearing. The Board must also notify a complainant of its reasons for not taking disciplinary action.

Sec. 08.54.520 sets out unlawful acts involving the provision of big game commercial services and establishes the penalties for those acts.

A person may be punished by a fine of not more than \$30,000 or imprisonment for not less than two months or more than one year or both for

- (1) failing to report violations of certain laws by a client or employee if the person holds a license or permit issued under this chapter;
- (2) committing, aiding in the commission of, or allowing a violation of certain fish and game laws if the person holds a license or permit issued under this chapter;
- (3) providing commercial big game services without holding a commercial use permit;
- (4) obstructing the lawful hunting activities of hunter who is not a client of the person, if the person holds a license or permit under this chapter;
- (5) failing to transmit big game conservation fees to the department;
- (6) providing guide-outfitting services except while employed and supervised by a guide-outfitter, if the person is a class-A guide-outfitter or assistant guide-outfitter.

A person may be punished by a fine of not more than \$30,000, or imprisonment for not less than two months or more than one year, or both for a first offense or by a fine of not more than \$50,000 or imprisonment for not more than three years for a second or subsequent offense for

- (1) providing guide-outfitter services without having an appropriate class of guide-outfitter license and hunting license in actual possession;
- (2) advertising or to representing to be a guide-outfitter without holding a guide-outfitter or marine mammal guide-outfitter license;
- (3) providing transportation services to a big game hunter without holding a transporter license;
- (4) contracting to lead a hunt, if the person is a class-A guide-outfitter or assistant guide-outfitter.

A person who provides big game commercial services while the person's license to provide those services is suspended or

revoked is punishable by a fine of not more than \$50,000 or by imprisonment for not more than three years.

A person who is convicted of an act set out in this section may also be subject to revocation of the person's license to provide guide-outfitter and transportation services for not more than five years and forfeiture of guns, boats, aircraft, and other equipment used in committing the act.

A court may not suspend imposition of sentence, if a person is convicted of an act set out in this section.

Sec. 08.54.530 provides that the Board may obtain an injunction to stop a person from violating certain provisions of this chapter.

Sec. 08.54.540 provides that a guide-outfitter is subject to discipline by the Board under AS 08.54.500 for violations of certain state and federal laws committed during the course of employment by a class-A guide-outfitter or assistant guide who is employed by the guide-outfitter.

#### ARTICLE 7. GENERAL PROVISIONS.

Sec. 08.54.550 provides for the collection of certain information and reports from guide-outfitters, marine mammal guides, and transporters by the department. This information is confidential except that aggregated information may be released in reports by the department.

Sec. 08.54.590 established definitions for "big game", "board", "department", "guide-outfit", "field", "transportation services", and "unethical activity".

Section 4 of the bill amends AS 16.05. by adding a new section.

Sec. 16.05.344 establishes a big game conservation fee to be paid by guide-outfitters, marine mammal guide-outfitters, and transporters for certain big game animals taken by their clients. The amount of the fee is equal to 25 percent of the big game tag paid by the client under AS 16.05.340. The fee shall be paid to the Department of Commerce and Economic Development at the time that the guide-outfitter, marine mammal guide-outfitter, or transporter apply for renewal of their licenses. If the person who owes the fee to the department does not review the person's license, then the

fee must be paid by the end of the calendar year in which the animal was taken.

The commissioner of administration shall separately account for big game conservation fees deposited in the general fund. The funds in the account may be appropriated by the legislature to fund the game management activities of the Department of Fish and Game and the game law enforcement activities of the Department of Public Safety.

Section 5 of the bill amends AS 16.05.407(a) by adding mountain goat to the list of species for which a nonresident hunter is required to utilize the services of a guide-outfitter and by making certain technical changes that are necessary to conform with the remainder of the bill.

Section 6 of the bill amends AS 16.05.407(d) by making a technical change that is necessary to conform to the repeal of AS 16.05.407(e).

Section 7 of the bill amends AS 16.05.408(a) by making a technical change that is necessary to conform with Section 3 of the bill.

Section 8 of the bill amends AS 16.05 by adding a new section.

Sec. 16.05.783 prohibits hunting clubs from supporting big game hunting activities or providing facilities or services for big game hunting.

"Hunting club" is defined.

Section 9 of the bill amends AS 39.50.200(b)(48) in order that the members of the Big Game Commercial Services Board are subject to the conflict of interest law.

Section 10 of the bill amends AS 41.23.420(d) by making a technical change that is necessary to conform to section 3 of the bill.

Section 11 of the bill amends AS 44.62.330(a)(35) to provide that the Big Game Commercial Services Board is subject to certain provisions of the Administrative Procedure Act.

Section 12 of the bill provides for the transition from the existing classes of guide licenses to the new classes of guide-outfitter licenses.

All classes of guide licenses that are in effect on the effective date of this bill continue to be valid for the period for which the licenses were originally issued.

Persons who currently hold master guide or registered guide licenses shall be issued guide-outfitter licenses. Persons who currently hold class-A assistant guide licenses shall be issued class-A guide-outfitter licenses. Persons who currently hold assistant guide licenses shall receive an assistant guide-outfitter license. The new licenses shall be issued to the current licensee at the time of the next license renewal following the effective date of this bill, if the person is in good standing at the time of issuance and pays the appropriate fees.

If the Department of Commerce and Economic Development can issue new licenses sooner than is required by this section, the department may do so without charge to the licensee.

Section 13 of this bill provides that natural persons who have provided big game outfitting services in the past may qualify for a guide-outfitter license.

In order to qualify for a guide-outfitter license under this section, the person must have registered a camp, cabin, or lodge under AS 16.05.787 during 1988, engaged in the business of big game outfitting in 1986, 1987, and 1988, passed the guide-outfitter examination, and satisfied other requirements.

A person who provides sufficient proof of past history as a big game outfitter may receive an interim outfitter license that is valid for a period not to exceed a year from the effective date of this bill.

A person who holds an interim outfitter license may provide transportation and other big game commercial services to hunters in the field, except that the person may not provide big game guiding services.

A person who holds an interim outfitter license must promptly report violations of certain laws committed by a client or employee of the person.

A person who holds an interim outfitter license must register base camps, cabins, and lodges that the person uses in providing big game outfitting services. The person must report the amount and kinds of big game taken by each hunter who uses the registered camp, cabin, or lodge.

A person who holds an interim outfitter license and who fails to report violations of certain laws by clients and employees is punishable by a fine of not more than \$2,000 or imprisonment for up to one year or both. Falsification of an affidavit of registration for a base camp, cabin, or lodge constitutes perjury.

The terms "base camp", "big game", "field", "guiding", and "outfitting" are defined.

Section 14 of the bill allows certain extraordinary appointments to fill the initial vacancies on the Big Game Commercial Services Board.

The guide-outfitter and class-A guide-outfitter seats on the board may initially be filled by persons who are either a master guide, registered guide, or a class-A assistant guide under current law or who registered a camp, cabin, or lodge under AS 16.05.787 during 1988 and engaged in the business of big game outfitting in 1986, 1987, and 1988.

The transporter seat on the board may initially be filled by persons who engaged in the business of providing transportation to big game hunters in 1986, 1987, and 1988.

Section 15 of the bill provides for the continuance of legal proceedings, hearings, investigations, and regulations during the transition from the current guide statutes (AS 08.54.010 - 08.54.240) to the guide-outfitter statutes contained in this bill.

Section 16 of the bill provides for the repeal of the current guide statutes (AS 08.54.010 - 08.54.240); the requirement for big game tag harvest reports and big game transporter reports (AS 16.05.370(b) and (c)); the requirement that nonresident hunters provide information on big game hunting services used in taking moose and caribou (AS 16.05.407(e)); provisions relating to the duty of big game transporters to report violations of certain state law (AS 16.05.786); and the requirement for registration of big game hunting base camps, cabins, and lodges (AS 16.05.787).

Senator Bettye Fahrenkamp  
Page 12  
February 4, 1989

Section 17 of the bill provides for the repeal of certain amendments to AS 08.54 and AS 16.05 that are scheduled to take effect on July 1, 1989.

Section 18 of the bill provides that the bill takes effect immediately.

GU:gc  
W6/082



## Alaska Environmental Lobby, Inc.

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### AEL ISSUE PAPER: HJR's 112 & 113; SB's 139 & 140 - BIG GAME GUIDING AND COMMERCIAL HUNTING BILLS

We would like to commend both the House and Senate Resources Committees for their hard work on a difficult subject. We applaud the recognition that regulation of all commercial activity related to big game hunting is necessary, including transport and outfitter services. Regulation of all hunting-related services is essential to wise conservation and management of our game resources.

We urge the task force to remember, as it develops alternative allocation systems, that its primary responsibility is to proper management of the game resource for all users, including noncommercial hunters and nonconsumptive users. This is our concern. We will be watching with interest.

March 14, 1989  
by Bill Glude



# Alaska State Legislature

## SENATE

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

### M E M O R A N D U M

TO: SENATE AND HOUSE RESOURCES COMMITTEE MEMBERS

FROM: SENATE AND HOUSE COMMITTEE STAFF

RE: AMENDMENTS TO SB 140 AND HB 112, REFLECTED IN CS SB 140 AND CS HB 112, An act relating to big game and creating the Big Game Commercial Services Board

DATE: March 3, 1989

The following are changes to SB 140, reflected in the Committee Substitute before you.  
Page 1, Lines 27 - 29, and

Page 2, Lines 1 - 10, Remove the commissioners of ADFG, DNR, DCED, and DPS, and add one air taxi member and one additional public member to the membership of the board. Removes Class-A guide-outfitter from the membership of the board.

Page 3, Line 6, Add "or federal" after state.

Page 3, Lines 23 - 25, Move "provide for registration of hunting camps..." under may "The board shall provide..." after Page 3, Line 21.

Page 3, Lines 26 - 29, add new language, to enable the board to make recommendations for regulations to ADFG to implement a resource-based management system for allocating access to big game hunting opportunities among guide-outfitters, upon the task force recommendations (on or before January 15, 1990); and the authority to adopt regulations to implement that system, upon concurrence by ADF&G.

Page 4, Line 7, amend Article 4 by adding a new section to read:

"AS 08.54.330. BOARD ASSISTANCE. The departments of fish and game, natural resources, and public safety shall provide the board with any information, data, or technical assistance requested by the board for the purposes of licensing and regulating the activities of the providers of commercial services subject to this chapter."

Page 8, Line 21, add "where required" after Coast Guard.

Page 9, Line 1 - 3, after "quarters", remove [owned by the transporter used for overnight commercial hunts for Sitka

blacktail deer, elk, and marine mammals] and add a provision that this applies only to "saltwater".

Page 9, Line 19, Add to "licensure by the Coast Guard" "where required".

Page 12, Line 7, after "accommodations", add "in the field".

Page 12, Line 9, after "services", delete [EXPEDITER SERVICES].

Page 13, Lines 4; Amend AS 08.54.500 (a) to read: After "board", delete [by a client of the licensee].

Page 14, Line 9, after "closed by", add "state or".

Page 15, Line 10, clarify that "unsafe flying" are practices governed under FAA.

Page 15, Line 24, after "by" add "state or".

Page 17, line 1, following "chapter to": insert "knowingly".

Page 17, Line 7, following "to", insert "knowingly".

Page 17, Line 19, following "to", insert "knowingly".

Page 17, Line 24 -26, delete:[(5) GUIDE-OUTFITTER, MARINE MAMMAL GUIDE-OUTFITTER, OR TRANSPORTER TO FAIL TO TRANSMIT TO THE DEPARTMENT BIG GAME CONSERVATION FEES DUE UNDER AS 16.05.344].

Page 17, Line 25, following "transporter to", insert "knowingly".

Page 17, Line 28, following "to" insert "knowingly".

Page 17, Line 27-29, and page 18, Line 1:  
(6) class-A assistant guide-otufitter or an assistant guide -outfitter to "knowingly guide-outfit [PROVIDE GUIDE-OUTFITTING SERVICES] in the field on a guided-outfitted hunt except while employed and supervised by a guide-outfitter.

Page 18, Line 2, following "to" insert "knowingly guide out-fit [PROVIDE GUIDE-OUTFITTING SERVICES].

Page 18, Line 7, follwing "license to" insert "knowingly".

Page 18, Line 9, following "person to" insert "knowingly".

Page 18, Line 12, following "to", insert "knowingly"

Page 18, Line 13, following "to", insert "knowingly".

Page 18, Line 13 -15, add anew subparagraph to read:  
"(12) person who is licensed or holds a commercial use permit under this chapter to use state, federal, or private land without authorization."

Page 18, Lines 25 - 27: Delete all material and insert:  
"(2) for a second or subsequent offense, or a Class C felony."

Page 19, lines 12 -14:  
Delete all material and insert:  
"(f) Upon conviction of a person for committing an offense set out in (a) of this section, the execution of sentence may not be suspended nor may probation be granted except on condition that the minimum term of imprisonment is served. Imposition of sentence may not be suspended."

Page 20, Lines 25 - 27, Amend AS 08.54.590 (4) to read:  
"guide -outfit" means to provide, for compensation, or with the intent or with an agreement to receive compensation, big game commercial hunting services in the field, [FOR COMPENSATION, IN THE FIELD BUT DOES NOT INCLUDE TRANSPORTATION SERVICES,] including accompanying or being present with a big game hunter in the field either personally or through an assistant; "guide-outfit" does not include providing transportation to, from, or in the field if the persons providing transportation and the persons being transported do not stalk, pursue, track, kill, or attempt to kill big game during the provision of those services;.

Page 21, Line 1, following "village" insert "including a base camp".

Page 21, following line 21: Insert a new section to read  
"Sec. 4. AS 12.55.125 (e) is amended by adding a new paragraph to read:

(4) if the offense is a first felony conviction, and the defendant violates AS 08.54.520 (c), one year."

Page 22, Line 13, delete [IF THE PERSON WHO OWES THE FEE DUE UNDER THIS SECTION DOES NOT APPLY FOR RENEWAL OF A LICENSE UNDER AS 08.54, THE PERSON SHALL PAY THE FEE TO THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BY THE END OF THE CALENDAR YEAR IN WHICH THE ANIMAL WAS TAKEN.] Insert "A license may not be renewed unless all fees due under this section have been paid."

Page 23, Line 24, after "clubs", replace [PROHIBITED] with PROHIBITIONS.

Page 28, Line 16:  
Delete all material and insert:  
"of unsworn falsification under AS 11.56.210."

Add new language to transporters license section which gives an exemption to those transporter who do not advertise transportation services to big game hunters.

Insert new language to define "big game commercial services" and "for compensation".

## JOINT DEPARTMENT POSITION PAPER ON HB 112

### A. General Comments

HB 112 basically repeals the existing Guide Board and replaces it with a Big Game Commercial Services Board which is empowered to license and regulate not just one provider of commercial big game hunting services (i.e., guides) but all aspects of the commercial big game hunting industry in Alaska.

HB 112 reflects the work and recommendations of the Legislative Task Force on Guiding and Game, which included representatives from the Departments of Commerce and Economic Development, Fish and Game, and Public Safety, as well as the active (but nonvoting) participation of the Department of Law. The report of the Task Force reflects the position of the Administration on many of the issues addressed in HB 112, and has been endorsed by the departments' representatives. All members of the Task Force deserve thanks for the time, patience, and thought each member brought to the deliberations that resulted in both the final report and this bill.

Because the recommendations generally reflect Administration policy, we will not in detail reiterate here what has already been more than adequately expressed in the report and in this proposed legislation. However, we do wish to emphasize a few particular issues raised in the report and offer, where we believe appropriate or necessary, a number of amendments to HB 112.

First, we wish to stress our belief in and support for the "holistic" approach taken by the Task Force to the commercial taking of Alaska's "big game" resource. We believe it is key to the bill. The intent is clear: if any person directly or indirectly receives compensation from the commercial harvest of Alaska's big game, then that person needs to be identified and regulated. As envisioned by the Task Force and as drafted in SB 140, the degree to which a commercial big game services provider is regulated reflects the level of consumer and resource protection deemed necessary by the Task Force.

Thus, some service providers are only required to register with the Big Game Commercial Services Board, receiving a simple commercial use permit which identifies them as a beneficiary of our game resource but requires no special licensing or admission criteria. Examples of commercial use permit holders include a hunting lodge on a remote lake, a hunt broker, or a sporting goods store renting hunting gear.

Other providers, however, are required to meet certain conditions before they may be licensed and receive compensation for the big game commercial hunting services they provide. There are two classes of these more highly regulated commercial users: guide-outfitters and transporters.

Of these two, transporters (persons who may provide transportation services of any kind) are somewhat less regulated under this act than are guide-outfitters. As you are aware, a majority of the transporters provide air or water transportation services. Under this bill, any person

seeking to provide such services to big game hunters must have a transporter license from the board. However, to qualify for that license, the transporter must first provide proof to the board that the transporter holds the applicable FAA or Coast Guard commercial operator licenses.

For the guide-outfitter (a class which contains a number of subcategories: class A, marine mammal, and assistant), licensure is dependent upon demonstration -- to an extent and degree satisfactory to the board -- of considerable expertise in the field of guide-outfitting. For example, in order to be licensed as an assistant guide-outfitter (an apprentice, of sorts), a person must first pass an exam and meet other established criteria. An assistant must later pass a more rigorous exam to become a licensed guide-outfitter, because the guide-outfitter is the only licensed professional eligible to actually sign contracts to conduct big game hunts.

A license to transport or guide-outfit is conditioned because the activities of these two groups have the most significant impact on the resource. It is especially important to consider the impact of the airplane on the degree and distribution of the harvest of the resource and the impression of that impact (mostly negative) on the Task Force's actions in regulating transporters.

While there may only be some 180 FAA licensed air taxi/commercial air services in the state, there are in excess of 1,000 transportation services providers which have been identified by the Department of Fish and Game. While many of these businesses appear to principally provide outfitting or lodging, or both, almost all also provide transportation to, from, and in the field, and all serve big game hunters. The survey of rural residents and village and Native Corporations done by RurALCAP on behalf of the Task Force makes it clear that the use of the airplane -- because of its easy access to the game in the field -- may contribute substantially to the overharvest and waste of game. This conclusion is also concurred in by Departments of Fish and Game and Public Safety.

By requiring resident and nonresident transporters to have to meet FAA Part 135 requirements, the Task Force hopes to reduce the potential for unregulated overharvest of those big game species that are of great importance to subsistence and resident users as meat animals (i.e., moose and caribou).

This bill also eliminates the distinction between guides and outfitters, and creates a "guide-outfitter" class. Outfitters in the past have been unregulated; this bill now requires that these individuals meet the licensing criteria established for all persons given direct, one-on-one responsibility for the conduct of a big game hunt. By melding guides and outfitters into one license category, the Task Force -- through this bill -- hopes to establish a pool of well-qualified, licensed persons to provide guided or outfitted big game hunts. In addition, these licensing requirements will indirectly serve to regulate the numbers available to conduct guided or outfitted hunts.

(In fairness to the previously unregulated outfitters, the bill does provide some transition -- or grandfather -- provisions, in order that those who have outfitted for the past three years and met the require-

ments of last year's SB 191 might continue to outfit while preparing to take the guide-outfitter exam for which this bill makes them eligible to sit.)

The Task Force also recognized that the commercial harvest of Alaska's big game resource plays a major role in Alaska's economic well-being. The Administration is anxious that this point not be overlooked by the Legislature.

Hunts by nonresidents (whether U.S. citizens or foreigners) for Alaska's big game trophy animals are a significant part of our "tourist" industry. In addition, nonresident tag fees provide 75% or more of the fish and game funds currently supporting the resource management budget within the Division of Wildlife Conservation. Although, unfortunately, no one can currently say with any real authority just exactly how many millions of dollars are spent each year in Alaska as a result of the harvest of Alaska's wildlife resource (including how much is spent on incidentals and gift items while visiting here), no one has contested the \$100 million figure so often used by industry proponents.

It is important to note that, as with our fisheries, the "product" of this industry -- the game -- costs the commercial big game industry absolutely nothing to create: it is growing in the wild, free and available. The fact that such significant sums of money are generated from a public resource mandates that the state:

1. identify and regulate those who financially benefit from the commercial activities associated with big game hunting;
2. receive back from all private sector commercial users a portion of that revenue to assist in game management and enforcement of game laws and regulations; and
3. continue to manage the game resource in order to insure that not only subsistence and resident user needs are met, but that a sufficient yield is maintained to also provide for nonresident hunters and a viable big game commercial services industry.

HB 112 provides us with the tools to accomplish these three important goals.

The bill requires all persons covered by the act to pay a "commercial use permit fee" which will be separately accounted for in the general fund. The bill provides that the Legislature may make appropriations based on the annual estimated balance of that special fund to the Departments of Fish and Game and Public Safety for game management and enforcement. The bill also establishes a "big game conservation fee," which, under certain criteria, is due to the state for each animal taken by a big game hunter. Again, these fees are to be separately accounted for and utilized by Fish and Game and Public Safety.

These fees "reimburse," as it were, the citizens of Alaska for the annual commercial harvest of their game resource, and provide the state with

funds to continue to properly manage the game and adequately enforce game laws and regulations.

We are aware that many previously unregulated persons may well resist the sweeping changes proposed in the bill and resent its tough accountability provisions. We strongly believe, however, that the advantages to Alaskans generally that accrue from this bill outweigh the concerns of those commercial users who must now stand, be counted, assume some responsibility for the resource, and pay.

Finally, there is the issue of proposed amendments. The Administration has a few substantive changes to propose. We also have a number of mostly self-explanatory technical amendments, the majority of which were requested by the Department of Public Safety to clarify the discipline and penalty provisions of the bill. Each of these proposals is separately discussed below.

#### B. Rationale for Proposed Amendments

Attached to this position paper are our proposed amendments. They are numbered 1 through 14 and will be discussed in that order.

##### Amendment No. 1: Board Composition

Proposed AS 08.54.300(b)(1), (2), and (3) would include among the members of the proposed board three representatives of the Administration: the commissioners of fish and game, natural resources, and public safety (or their designees). We believe this is not a good idea.

The proposed board is a regulatory one. Its powers and duties would include the power to discipline those regulated by the proposed board. If a state agency filed a complaint with the proposed board, which might result in the proposed board taking disciplinary action, an obvious due process problem would result: with the agency bringing the complaint also being represented on the proposed board itself, the agency would be serving as both accuser and adjudicator.

A second problem: since the three named state departments are clearly within the executive branch and, therefore, represent the Administration, we believe agency representation on the proposed board might limit the Administration's flexibility in responding to the proposed board's actions and recommendations. A related problem is that, since the Administration always tries to speak with one voice, albeit not always successfully, having three separate agency representatives on the proposed board either would be redundant or, worse, would open the door to having internal disagreement within the Administration aired in a public forum.

None of these situations seem advisable to us. The board's disciplinary/enforcement role could be compromised and, if the agency representatives attempt to speak with but one voice, the board, which needs the benefit of free discussion, would be considerably hampered by the lack of independent viewpoints and perspectives.

We have proposed instead, two amendments. This first one would remove the three state agency representatives from the Big Game Commercial Services Board (CSB). In their place, we have added one seat for the class of commercial use permit holders discussed in AS 08.54.460, not previously represented on the board, and increased the public membership on the board from one to three.

In addition, we have clarified that the board member appointed by the Board of Game cannot, while serving on the CSB, also hold a commercial use permit. This would ensure that the Board of Game representative did not have a financial interest in the big game hunting industry while on the board, thus attempting to maintain (along with the additional public members) some balance of special interests on the board.

In addition, because we recognize that much of the impetus behind the Task Force's decision to place state agency representation on the CSB came from a desire that the board be assured of receiving adequate information and data from the various departments, we have proposed Amendment No. 4, which will state, in statute, that the Departments of Fish and Game, Natural Resources, and Public Safety must provide the board with technical assistance and information.

#### Amendment No. 2: Board Duties

This amendment clarifies that the roster of big game commercial services providers maintained by the CSB should list only those qualified to be listed, regardless of the origin (federal or state) of the convictions.

#### Amendment No. 3: Management System

A majority of the members of the Task Force were fairly clear in their desire to recreate, to the maximum extent possible, an area scheme similar in construction to that which was held unconstitutional in Owsichuk v. State, Guide Licensing and Control Board, 763 P.2d 488 (Alaska 1988). To this end, proposed AS 08.54.310(b)(2) provides that the CSB may "establish, in consultation with the Department of Fish and Game or the Department of Natural Resources, a resource-based management system for allocating access to big game hunting opportunities among guide-outfitters licensed under this chapter" (emphasis added). The inclusion of the Department of Natural Resources makes clear that a land-based, as well as resource-based system is contemplated. We are concerned over the constitutionality of this section.

Article VIII, section 3 of the Alaska Constitution provides: "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." In Owsichuk, the Court held that the statutes authorizing the establishment of restricted guide areas were unconstitutional under this common use provision.

The court also noted that the common use provision precluded restricted guide areas even if they could be justified as a wildlife management tool. In the court's view, traditional management tools -- "[l]icensing requirements, bag limits, and seasonal restrictions" -- are apparently

sufficient to protect game resources without conflicting with common use guarantees.

A majority of the Task Force, however, believes that some system of limitation may be available through the granting of leases and concessions on state lands. Inclusion of the commissioner of natural resources (or designee) on the proposed board and the grant of authority to "establish" an allocation system "in consultation" with the Department of Natural Resources signals, we believe, an intent to employ the state's land management authority to recreate, to the extent possible, the type of area system found unconstitutional in Owsichek.

As contemplated by the Task Force, commercial guide-outfitting concessions on state lands would involve fairly large tracts of land for substantial periods of time and would, again to the extent feasible, legally preclude anyone other than the designated concessionaire(s) from leading guided or outfitted hunts in the areas for which the concessions are granted. (Some members of the Task Force also expressed strong support for some form of preference rights under which individuals currently holding restricted guide areas would be given priority in obtaining such concessions.)

Other points must also be considered. First, the scheme presently contemplated by the Task Force would apply only to state land. It could not be applied to federal land or privately owned land (including land owned by Native corporations). It thus would not provide the statewide economic relief the guide-outfitters are seeking, nor would it provide Alaskans with what we most want: a game management system that will extend across all lands and be agreeable to all land owners. If we do not cooperatively develop a game management system acceptable to all land owners, the resulting loss of control over our statewide game resources will defeat any comprehensive attempt to manage our big game resources by the required sustained yield concepts. Finally, even with such a program, the limited duration of the exclusive concessions which could be granted probably would not provide the kind of long-term economic security and certainty the guide-outfitters desire.

In brief, it seems to us that the court has signalled in Owsichek that the common use clause requires that there be equal opportunity of access to the resource for all qualified guide-outfitters, and that traditional fish and game management tools -- e.g., licensing requirements, bag limits, and seasonal restrictions (we also believe these also include random permit drawings for both sport and commercial hunts) -- be used to protect the resource, at least unless and until the Alaska Constitution is amended to authorize exclusive guide areas.

Our proposed amendment removes the language providing the CSB with the authority to "establish" any kind of game management system. We believe that that must be done by the appropriate resource agencies. Instead, we suggest the board be given authority to "consult" with the Departments of Fish and Game and Natural Resources with respect to the creation of a resource-based management system that makes provision for commercial hunting opportunities for guide-outfitters.

We believe any language placing the CSB at the center of the creation of a system to allocate big game hunting opportunities among licensed guide-outfitters will give us the same complex problems that have dogged the Guide Board for so many years.

Amendment No. 4: Board Assistance

Justification for this amendment was previously discussed under Amendment No. 1 above. This new section would require specific state agencies to provide information and technical assistance to the CSB in lieu of those agencies holding seats on the Commercial Services Board itself.

Amendment No. 5: Commercial Use Permit Holders

This amendment clarifies that the class of commercial use permit holders does not include businesses providing accommodations (hotels, motels) within cities, towns and villages. Only lodges and the like situated in the "field" are required to get a commercial use permit if they provide accommodations (or other big game commercial services) to hunters.

Amendment No. 6: Discipline of Guide-Outfitters

This amendment expands the list of persons who may file a complaint against a guide-outfitter. The present language limits complaints to those filed with the board "by a client of the licensee." By deleting that restriction, other persons may file complaints, including land owners, fish and wildlife protection officers, and any others aware of potential violations.

Amendment No. 7: Discipline of Guide-Outfitters

This amendment would add, as a ground for discipline, the unauthorized use of state, federal, or private land by a licensed guide-outfitter.

Amendment No. 8: Discipline of Guide-Outfitters

This amendment clarifies that hunting in closed areas, whether closed by state or federal regulation, is grounds for the summary suspension of a guide-outfitter license.

Amendment No. 9: Discipline of Transporters/Commercial Use Permittees

This amendment clarifies that hunting in closed areas, whether closed by state or federal regulation, is grounds for the summary suspension of a transporter license or a commercial use permit.

Amendment No. 10: Unlawful Acts

This amendment would make it unlawful for big game commercial service providers to use state, federal, or private land without authorization.

Amendment No. 11: Unlawful Acts

This amendment clarifies which of the listed offenses is solely subject to misdemeanor penalties and deletes any specific reference to a required jail term.

This amendment, and the following two (numbers 12 and 13), follow suggestions provided to the Task Force by the Department of Law's Criminal Division, which deals regularly with these provisions in handling unlawful guiding activities.

Amendment No. 12: Unlawful Acts

This amendment clarifies which of the listed offenses is subject, on first offense, to misdemeanor penalties, and which, on a second or subsequent offense, is deemed serious enough to warrant escalation to felony penalties. The amendment also deletes the words "two months" in favor of "sixty consecutive days," which more tightly defines the sentencing conditions.

Amendment No. 13: Unlawful Acts

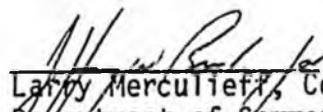
This amendment does not change the intent of this section in the bill, but adds language which specifically references the statutes which apply to the suspension or reduction of penalties during sentencing; the bill intends to limit the court's sentencing discretion in cases involving unlawful acts by big game commercial services providers.

Amendment No. 14: Definitions of "Guide-Outfit"

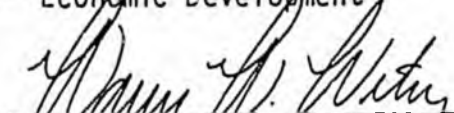
This amendment substantially rewrites the definition of "guide outfit" in the bill. The changes add language that exists in the definition of "guide" or "guiding" in the present statutes. We believe much important language was unintentionally left out during the drafting of the definition for guide-outfitting and, primarily for enforcement purposes, we are recommending that this definition be expanded to include portions of the language that presently exists in statute.

\* \* \*

In the final analysis, the Administration is very supportive of HB 112 and urges its passage. We would appreciate consideration of our proposed amendments as well.

  
Larry Mercuri, Commissioner  
Department of Commerce &  
Economic Development

2/15/89  
Date

  
Don W. Collinsworth, Commissioner  
Department of Fish and Game

2/15/89  
Date



Lennie Boston-Gorsuch, Commissioner  
Department of Natural Resources

2/14/89

Date



Arthur English, Commissioner  
Department of Public Safety

2-14-89

Date

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PROPOSED AMENDMENTS TO HB 112

Page/Lines

Amendments

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Page 1, Lines 26  
through 29; Page 2,  
Lines 1 through 10

1. Repeal and reenact AS 08.54.300(b) to read:

(b) The board consists of nine members:

(1) two members who are either a licensed guide-outfitter or class-A guide-outfitter;

(2) one member who is a licensed transporter;

(3) one member who is a commercial use permit holder, as defined in AS 08.54.460;

(4) one member of the Board of Game who is chosen by the Board of Game, but who cannot hold a commercial use permit while serving on the board;

(5) one member who represents Native land holders; and

(6) three public members.

Page 3, Lines 4  
through 10

2. Amend AS 08.54.310(a)(4) to read:

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

Page 3, Lines 26  
through 29

3. Amend AS 08.54.310(b)(2) to read:

(2) consult [ESTABLISH, IN CONSULTATION] with the Departments of Fish and Game and [OR DEPARTMENT OF] Natural Resources [,] with respect to a resource-based management system for allocating access to big game hunting opportunities among guide-outfitters licensed under this chapter;

Page 4, Line 7

4. Amend Article 4 ("Big Game Commercial Services Board") by adding a new section to read:

AS 08.54.330. BOARD ASSISTANCE. The departments of fish and game, natural resources, and public safety shall provide the board with any information, data, or technical assistance requested by the board for the pur-

poses of licensing and regulating the activities of the providers of commercial services subject to this chapter.

Page 12, Lines 1  
through 10

5. Amend AS 08.54.460 to read:

Sec. 08.54.460. COMMERCIAL USE PERMIT HOLDER. A person, other than a guide-outfitter, marine mammal guide-outfitter, or a transporter, who provides other big game commercial services for compensation shall register with the board on a form provided by the board and shall obtain a commercial use permit and pay the annual commercial use permit fee set under AS 08.54.470. In this section "other big game commercial services" includes provision of accommodations in the field, hunt broker services, gear rental services, photographic or videographic services, expediter services, and services as defined by the board by regulation.

Page 12, Line 29;  
Page 13, Lines  
1 through 6

6. Amend AS 08.54.500(a) to read:

Sec. 08.54.500. DISCIPLINE OF GUIDE-OUTFITTERS.  
(a) The board may hold a hearing to determine whether disciplinary action is necessary if a complaint concerning the guide-outfitting activities of a licensee who holds any class of guide-outfitter license is filed with the board [BY A CLIENT OF THE LICENSEE]. The board shall hold a hearing to determine whether a licensee should be disciplined within a reasonable time after . . .

Page 13, Lines  
15 through 24

7. Amend AS 08.54.500(b) to read:

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

(1) engaged in unethical activity, unsafe activity, or activity that adversely affects the natural resources of the state when the activity is related to the purposes of providing guide-outfitting services; [OR]

(2) violated a provision of a federal or state statute or regulation relating to hunting or provision of big game commercial services; or

(3) used state, federal, or private land without authorization, when such authorization is required by state or federal law, regulation, or other authority.

Page 14, Lines 3  
through 9

8. Amend AS 08.54.500(c)(3) to read:

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

- (A) waste of a wild food animal;
- (B) hunting on the same day airborne;
- (C) hunting during a closed hunting season; or
- (D) hunting in an area closed by state or federal regulation.

Page 15, Lines 18 through 24

9. Amend AS 08.54.505(c)(2) to read:

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

- (A) waste of a wild food animal;
- (B) hunting on the same day airborne;
- (C) hunting during a closed hunting season; or
- (D) hunting in an area closed by state or federal regulation.

Page 18, Lines 13 through 15

10. Amend AS 08.54.520(a) to add a new subparagraph to read:

(11) [A] person to engage in a big game commercial services activity during the period for which the person's license to conduct that activity is suspended or revoked;

(12) person who is licensed or holds a commercial use permit under this chapter to use state, federal, or private land without authorization, when such authorization is required by federal or state law, regulation, or other authority.

Page 18, Lines 16 through 19

11. Amend AS 08.54.520(b) to read:

(b) A person who commits an offense set out in (a)(1), (4) and (5) [(a)(1) - (6)] of this section is guilty of a misdemeanor and is punishable by a fine of not more than \$30,000 or by imprisonment for not [LESS THAN TWO MONTHS OR] more than one year, or both.

Page 18, Lines 20 through 27

12. Amend AS 08.54.520(c) to read:

(c) A person who commits an offense set out in (a)(2) and (3) and (6) - (12) [(a)(7) - (10)] of this section is guilty,

(1) for a first offense, of a misdemeanor and is punishable by a fine of not more than \$30,000 or by imprisonment for not less than sixty consecutive days [TWO MONTHS] or more than one year, or both;

(2) for a second or subsequent offense, of a felony and is punishable by a fine of not more than \$50,000 or by imprisonment for not less than one year or more than three years, or both.

Page 19, Lines 12  
through 14

13. Amend AS 08.54.520(f) to read:

(f) Upon conviction of a person for committing an offense set out in (a) of this section, [THE COURT MAY NOT SUSPEND IMPOSITION OF SENTENCE] the imposition or execution of the minimum sentence prescribed in this section may not be suspended or reduced in accordance with AS 12.55.080 or 12 55.085.

Page 20, Lines 25  
through 27

14. Amend AS 08.54.590(4) to read:

(4) "guide-outfit" means to provide, for compensation, or with the intent or with an agreement to receive compensation, big game commercial hunting services in the field, [FOR COMPENSATION, IN THE FIELD BUT DOES NOT INCLUDE TRANSPORTATION SERVICES,] including accompanying or being present with a big game hunter in the field either personally or through an assistant; "guide-outfit" does not include providing transportation services to, from, or in the field if the persons providing transportation services and the persons being transported do not stalk, pursue, track, kill, or attempt to kill big game during the provision of those services;

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STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 15, 1989

SUBJECT: Sectional Summary of HB 112; An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters, creating the Big Game Commercial Services Board; and providing for an effective date.

TO: Representative Curt Menard  
Representative Cliff Davidson  
Co-Chairs, House Resources Committee

FROM: George Utermohle *GU*  
Legislative Counsel

The following is a sectional summary of HB 112 requested by Johanna Munson of your staff.

Please note that a summary of a bill should not be considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill repeals and reenacts AS 08.01.010(10) to provide that the Big Game Commercial Services Board is subject to and benefits from centralized licensing procedures under AS 08.01.

Section 2 of the bill repeals and reenacts AS 08.03.-010(c)(20) to provide that the Big Game Commercial Services Board terminates on June 30, 1993 under the "sunset" provisions of AS 08.03.

Section 3 of the bill adds new sections to AS 08.54.

ARTICLE 4. BIG GAME COMMERCIAL SERVICES BOARD.

Sec. 08.54.300 establishes the Big Game Commercial Services Board (Board) in the Department of Commerce and Economic Development. The Board consists of nine members. Three members of the Board are the commissioners (or their designee) of fish and game, natural resources, and public safety.

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Two members of the board are either guide-outfitters or class-A guide-outfitters. One member of the Board is a transporter. One member of the Board is a member of the Board of Game who is chosen by the Board of Game. One member is a person who represents Native landholders. And one member of the Board is a public member. The guide-outfitter, transporter, and public members of the Board, as well as the representative of Native landholders, are appointed by the governor.

Sec. 08.54.310 sets out the duties and powers of the Board. The Board shall prepare, grade, and administer examinations for guide-outfitters licenses and for game management unit certifications; determine qualifications for class-A guide-outfitter, marine mammal guide-outfitter, and assistant guide-outfitter licenses; establish performance standards for providers of big game commercial services and regulate the activities of these providers; publish an annual list of big game commercial services providers; prohibit big game commercial services that are unsportsmanlike, unethical, unsafe, etc; revoke, suspend, or deny renewal of licenses and permits; authorize issuance of transporter licenses and commercial use permits; and meet at least twice each year.

The Board may provide for registration of hunting camps and facilities; establish a management system for guide-outfitters; and establish standards of supervision that a guide-outfitter must exercise over class-A guide-outfitters and assistant guide-outfitters.

Sec. 08.54.320 provides that the Board shall adopt regulations as required by this chapter and as necessary for administration of this chapter.

#### ARTICLE 5. LICENSING.

Sec. 08.54.350 sets out the minimum qualifications necessary for a guide-outfitter license. A guide-outfitter may contract to guide-outfit hunts for big game.

Sec. 08.54.360 sets out the minimum qualifications necessary for a marine mammal guide-outfitter license. A marine mammal guide-outfitter may contract to guide-outfit hunts for marine mammals.

Sec. 08.54.370 sets out the requirements for renewal of guide-outfitter and marine mammal guide-outfitter licenses.

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The department may not renew a license unless these requirements are satisfied.

Sec. 08.54.380 sets out the minimum qualifications necessary for a class-A guide-outfitter license. A class-A guide-outfitter may not contract to guide-outfit hunts. A class-A guide-outfitter must be under the supervision of a guide-outfitter but may take charge of a camp in the absence of a guide-outfitter.

Sec. 08.54.390 sets out the minimum qualifications necessary for an assistant guide-outfitter license. An assistant guide-outfitter may not contract to guide-outfit hunts and must be employed by a guide-outfitter and supervised by a guide-outfitter or class-A guide-outfitter while in the field on a hunt.

Sec. 08.54.400 sets out the requirements for obtaining and renewing a transporter license.

A transporter may provide transportation services to big game hunters. A transporter may also provide accommodations to big game hunters in the field in certain situations. A transporter must place a decal provided by the department on each piece of transportation equipment that the transporter uses in providing transportation services to big game hunters.

Sec. 08.54.410 provides for an appeal to the commissioner of commerce and economic development if an applicant for any class of guide-outfitter license or transporter license is denied a license by the Board. Specific criteria that an appellant must satisfy in order to file an appeal under this section are set out.

Sec. 08.54.420 provides that guide-outfitter, marine mammal guide-outfitter, and transporter licenses are renewed annually.

Sec. 08.54.430 provides for examinations for any class of guide-outfitter license that may be required under this chapter. The Board shall administer qualification examinations at least twice a year and at least once each two years shall administer the examinations at a location outside of Anchorage. The examinations must be administered at least 90 days apart.

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The Board shall regularly provide information on examinations and qualifications for all classes of guide-outfitter licenses to residents of rural areas.

Sec. 08.54.440 provides for renewal of all classes of guide-outfitter licenses after the license has lapsed. If any class of guide-outfitter license has lapsed for two consecutive years, the applicant must satisfy the requirements for initial issuance of the license.

A guide-outfitter does not have to repeat the three year apprenticeship as a class-A guide-outfitter or an assistance guide-outfitter unless the guide-outfitter license has been lapsed for three years or more.

Sec. 08.54.450 provides that the department shall set fees for examinations and licenses required under this chapter. A license fee for any class of guide-outfitter license is in addition to the fee paid for a hunting license.

Sec. 08.54.460 requires that a person, other than a licensed guide-outfitter, marine mammal guide-outfitter, or transporter, who provides other big game commercial services for compensation register with the Board, obtain a commercial use permit, and pay the commercial use permit fee. Examples of "other big game commercial services" are listed.

Sec. 08.54.470 requires guide-outfitters, marine mammal guide-outfitters, and transporters to obtain an annual commercial use permit and pay the commercial use permit fee.

The department, in consultation with the Board, shall set the amount of the commercial use permit fee.

A guide-outfitter, marine mammal guide-outfitter, or transporter shall pay the commercial use permit fee with the application for issuance or renewal of their license.

The commissioner of administration shall separately account for the fees received for commercial use permits. The legislature may use the money received for commercial use permits to make appropriations to the Department of Fish and Game and the Department of Public Safety for game management and enforcement of game laws.

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#### ARTICLE 6. PENALTIES.

Sec. 08.54.500 sets out the procedures for discipline of a person who holds any class of guide-outfitter license.

The Board may hold a disciplinary hearing upon receiving a complaint about the guide-outfitter licensee. The Board shall hold a disciplinary hearing upon receiving three complaints from members of three separate hunting parties about a licensee's activities or a complaint about a licensee's conduct in a life-threatening situation or if the licensee is convicted or certain state or federal laws.

The Board may revoke, suspend, or deny renewal of any class of guide-outfitter license after a hearing if the Board finds that the licensee engaged in certain proscribed activities or violated certain state or federal laws.

The Board shall revoke any class of guide-outfitter license after a hearing if the Board finds that the licensee is not qualified for the license held, is incompetent, or has been convicted of certain state or federal laws during the preceding five years.

The Board shall immediately suspend any class of guide-outfitter license if a certified copy of a judgment of conviction of a licensee for certain state or federal crimes is filed with the Board.

Sec. 08.54.505 provides for the discipline of transporters and commercial use permittees.

The Board may hold a disciplinary hearing regarding the activities of a transporter or commercial use permittee upon receiving a complaint about the transporter or commercial use permittee. The Board shall hold a disciplinary hearing upon receiving three complaints from members of three separate hunting parties about the transporter's or permittee's activities or if the transporter or permittee is convicted of certain state or federal laws.

The Board may revoke, suspend, or deny renewal of transporter license or commercial use permit after a hearing if the Board finds that the licensee or permittee engaged in certain proscribed activities or violated certain state or federal laws.

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The board shall revoke a transporter license or commercial use permit after a hearing if the Board finds that the licensee or permittee is not qualified for the license or permit or has been convicted of certain state or federal laws during the preceding five years.

The Board shall immediately suspend a transporter license or commercial use permit, if a certified copy of a judgment of conviction of licensee or permittee for certain state or federal crimes is filed with the Board.

Sec. 08.54.510 sets out general provisions applicable to disciplinary proceedings.

A person who is disciplined under AS 08.54.500 or 08.54.505 may not engage or be employed in the business of providing big game commercial services during a period of license or permit revocation or other disciplinary action. A person who is licensed under this chapter or who holds a commercial use permit may not employ a person whose license or permit under this chapter has been suspended or revoked.

A license or permit that has been revoked must be surrendered immediately to the department.

A certified copy of a judgement of conviction is conclusive evidence of the commission of the offense in a disciplinary proceeding of the Board, regardless of whether the conviction resulted from a plea of nolo contendere or the conviction is under appeal, unless the conviction is overturned on appeal.

The Board shall notify a complainant of the result of the Board's hearing within 30 days after the hearing. The Board must also notify a complainant of its reasons for not taking disciplinary action.

Sec. 08.54.520 sets out unlawful acts involving the provision of big game commercial services and establishes the penalties for those acts.

A person may be punished by a fine of not more than \$30,000 or imprisonment for not less than two months or more than one year or both for

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- (1) failing to report violations of certain laws by a client or employee if the person holds a license or permit issued under this chapter;
- (2) committing, aiding in the commission of, or allowing a violation of certain fish and game laws if the person holds a license or permit issued under this chapter;
- (3) providing commercial big game services without holding a commercial use permit;
- (4) obstructing the lawful hunting activities of hunter who is not a client of the person, if the person holds a license or permit under this chapter;
- (5) failing to transmit big game conservation fees to the department;
- (6) providing guide-outfitting services except while employed and supervised by a guide-outfitter, if the person is a class-A guide-outfitter or assistant guide-outfitter.

A person may be punished by a fine of not more than \$30,000, or imprisonment for not less than two months or more than one year, or both for a first offense or by a fine of not more than \$50,000 or imprisonment for not more than three years for a second or subsequent offense ' r

- (1) providing guide-outfitter services without having an appropriate class of guide-outfitter license and hunting license in actual possession;
- (2) advertising or to representing to be a guide-outfitter without holding a guide-outfitter or marine mammal guide-outfitter license;
- (3) providing transportation services to a big game hunter without holding a transporter license;
- (4) contracting to lead a hunt, if the person is a class-A guide-outfitter or assistant guide-outfitter.

A person who provides big game commercial services while the person's license to provide those services is suspended or

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revoked is punishable by a fine of not more than \$50,000 or by imprisonment for not more than three years.

A person who is convicted of an act set out in this section may also be subject to revocation of the person's license to provide guide-outfitter and transportation services for not more than five years and forfeiture of guns, boats, aircraft, and other equipment used in committing the act.

A court may not suspend imposition of sentence, if a person is convicted of an act set out in this section.

Sec. 08.54.530 provides that the Board may obtain an injunction to stop a person from violating certain provisions of this chapter.

Sec. 08.54.540 provides that a guide-outfitter is subject to discipline by the Board under AS 08.54.500 for violations of certain state and federal laws committed during the course of employment by a class-A guide-outfitter or assistant guide who is employed by the guide-outfitter.

#### ARTICLE 7. GENERAL PROVISIONS.

Sec. 08.54.550 provides for the collection of certain information and reports from guide-outfitters, marine mammal guides, and transporters by the department. This information is confidential except that aggregated information may be released in reports by the department.

Sec. 08.54.590 established definitions for "big game", "board", "department", "guide-outfit", "field", "transportation services", and "unethical activity".

Section 4 of the bill amends AS 16.05. by adding a new section.

Sec. 16.05.344 establishes a big game conservation fee to be paid by guide-outfitters, marine mammal guide-outfitters, and transporters for certain big game animals taken by their clients. The amount of the fee is equal to 25 percent of the big game tag paid by the client under AS 16.05.340. The fee shall be paid to the Department of Commerce and Economic Development at the time that the guide-outfitter, marine mammal guide-outfitter, or transporter apply for renewal of their licenses. If the person who owes the fee to the department does not review the person's license, then the

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fee must be paid by the end of the calendar year in which the animal was taken.

The commissioner of administration shall separately account for big game conservation fees deposited in the general fund. The funds in the account may be appropriated by the legislature to fund the game management activities of the Department of Fish and Game and the game law enforcement activities of the Department of Public Safety.

Section 5 of the bill amends AS 16.05.407(a) by adding mountain goat to the list of species for which a nonresident hunter is required to utilize the services of a guide-outfitter and by making certain technical changes that are necessary to conform with the remainder of the bill.

Section 6 of the bill amends AS 16.05.407(d) by making a technical change that is necessary to conform to the repeal of AS 16.05.407(e).

Section 7 of the bill amends AS 16.05.408(a) by making a technical change that is necessary to conform with Section 3 of the bill.

Section 8 of the bill amends AS 16.05 by adding a new section.

Sec. 16.05.783 prohibits hunting clubs from supporting big game hunting activities or providing facilities or services for big game hunting.

"Hunting club" is defined.

Section 9 of the bill amends AS 39.50.200(b)(48) in order that the members of the Big Game Commercial Services Board are subject to the conflict of interest law.

Section 10 of the bill amends AS 41.23.420(d) by making a technical change that is necessary to conform to section 3 of the bill.

Section 11 of the bill amends AS 44.62.330(a)(35) to provide that the Big Game Commercial Services Board is subject to certain provisions of the Administrative Procedure Act.

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Section 12 of the bill provides for the transition from the existing classes of guide licenses to the new classes of guide-outfitter licenses.

All classes of guide licenses that are in effect on the effective date of this bill continue to be valid for the period for which the licenses were originally issued.

Persons who currently hold master guide or registered guide licenses shall be issued guide-outfitter licenses. Persons who currently hold class-A assistant guide licenses shall be issued class-A guide-outfitter licenses. Persons who currently hold assistant guide licenses shall receive an assistant guide-outfitter license. The new licenses shall be issued to the current licensee at the time of the next license renewal following the effective date of this bill, if the person is in good standing at the time of issuance and pays the appropriate fees.

If the Department of Commerce and Economic Development can issue new licenses sooner than is required by this section, the department may do so without charge to the licensee.

Section 13 of this bill provides that natural persons who have provided big game outfitting services in the past may qualify for a guide-outfitter license.

In order to qualify for a guide-outfitter license under this section, the person must have registered a camp, cabin, or lodge under AS 16.05.787 during 1988, engaged in the business of big game outfitting in 1986, 1987, and 1988, passed the guide-outfitter examination, and satisfied other requirements.

A person who provides sufficient proof of past history as a big game outfitter may receive an interim outfitter license that is valid for a period not to exceed a year from the effective date of this bill.

A person who holds an interim outfitter license may provide transportation and other big game commercial services to hunters in the field, except that the person may not provide big game guiding services.

A person who holds an interim outfitter license must promptly report violations of certain laws committed by a client or employee of the person.

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A person who holds an interim outfitter license must register base camps, cabins, and lodges that the person uses in providing big game outfitting services. The person must report the amount and kinds of big game taken by each hunter who uses the registered camp, cabin, or lodge.

A person who holds an interim outfitter license and who fails to report violations of certain laws by clients and employees is punishable by a fine of not more than \$2,000 or imprisonment for up to one year or both. Falsification of an affidavit of registration for a base camp, cabin, or lodge constitutes perjury.

The terms "base camp", "big game", "field", "guiding", and "outfitting" are defined.

Section 14 of the bill allows certain extraordinary appointments to fill the initial vacancies on the Big Game Commercial Services Board.

The guide-outfitter and class-A guide-outfitter seats on the board may initially be filled by persons who are either a master guide, registered guide, or a class-A assistant guide under current law or who registered a camp, cabin, or lodge under AS 16.05.787 during 1988 and engaged in the business of big game outfitting in 1986, 1987, and 1988.

The transporter seat on the board may initially be filled by persons who engaged in the business of providing transportation to big game hunters in 1986, 1987, and 1988.

Section 15 of the bill provides for the continuance of legal proceedings, hearings, investigations, and regulations during the transition from the current guide statutes (AS 08.54.010 - 08.54.240) to the guide-outfitter statutes contained in this bill.

Section 16 of the bill provides for the repeal of the current guide statutes (AS 08.54.010 - 08.54.240); the requirement for big game tag harvest reports and big game transporter reports (AS 16.05.370(b) and (c)); the requirement that nonresident hunters provide information on big game hunting services used in taking moose and caribou (AS 16.05.407(e)); provisions relating to the duty of big game transporters to report violations of certain state law (AS 16.05.786); and the requirement for registration of big game hunting base camps, cabins, and lodges (AS 16.05.787).

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Section 17 of the bill provides for the repeal of certain amendments to AS 08.54 and AS 16.05 that are scheduled to take effect on July 1, 1989.

Section 18 of the bill provides that the bill takes effect immediately.

GU:kb  
wkk2/008

① For Samantha Castle

Chairperson: Bettye Fahrenkamp -  
- Chairperson - members of the Legislature -

I would like to compliment you and thank each of you for your sincere efforts to protect and provide for our usage of our unique and valuable big game resources.

I wish to specifically compliment Henry Springer and his Task Force for the excellent job they have done. In the beginning I didn't think it was possible to come up with as many sound and workable solutions as this Task Force has. They have literally worked through every facet and turned our piles, as Mr. Springer so well put it, of that "smelled bad and needed aired!"

③

my livelihood and providing for my family

The Alaskan Registered and Master Guides are a unique group of people, in the main dedicated people. Dedicated to the wildlife resource for it is simple, they are completely dependent upon these resources.

I recall men like Hal Waugh, Charlie Madsen, Chuck Keim and Mark Jensen - the list goes on - each a great man, each completely dedicated to the big game. At a meeting a good many years ago in Fairbanks when a move to put all bears on the predator list with a bounty was proposed, Hal Waugh spoke up to say bears were a unique and

(5)

written record of every animal and person I have guided: Guides are our first line of defense and of sound usage of our wilderness - people resource.

The air-Taxi has little direct interest in wildlife aside as it coincides with travel and we must not confuse the transportation business with the protection of our wildlife resource. They are handy but not dependent and the future of the air-Taxi business is not fully dependent upon the future of our wildlife resource.

The Task Force reports really address all quite well but "nit-picking" can tear almost anything apart. After saying this I have a

⑦

also in good faith.

I'm honored to have been able to  
submit my ideas and I wish to  
thank you all.

Harmon R. (Bud) Helmerichs



February 9, 1989

TO: SENATOR FAHRENKAMP, AND ALL SENATE RESOURCE COMMITTEE MEMBERS  
REPRESENTATIVE MENARD, AND ALL HOUSE RESOURCE COMMITTEE MEMBERS

The Alaska Outfitters Association, Inc. (AOA) supports SB 140 and HB 112 at this time. The AOA does have some comments on the bill and some areas of concern. The AOA is not offering any amendments at this time, however should the bill receive what the AOA considers to be negative editing the AOA will become more involved.

AS 08.54.300. CREATION AND MEMBERSHIP OF BOARD

The new board could have a better balance of commercial use members. The different activities represented by the board should not be lumped together. Each activity has its own specific considerations that can only be understood by representation on the board. Please consider that the broad scope of the Task Force duties was not understood by many who are affected by the results, such as wilderness lodge operators, marine charter boat operators and transporters other than air taxis, consequently these other commercial users did not say much at the Task Force hearings.

Sec. 08. 54.310. DUTIES AND POWERS

On page 3 lines 26 through 29, the concern is that this may be setting the foundation for another restricted guide area concept, contrary to the Owsichuk decision.

Sec. 08.54.470. COMMERCIAL USE PERMIT HOLDER

The definition of other big game commercial services is too vague and has no definitions. Possibly lines 6 through 10 on page 12 would read better in this manner; In this section "other big game commercial services" includes provision of accommodations and services as defined by the board by regulation.

Sec. 13 TRANSITION: OUTFITTERS

Page 26, line 12; A few outfitters with camps registered on federal lands were instructed by representatives of the Department of Public Safety not to register their camps with the state. These few outfitters should be allowed to participate. This may be achieved by a judgement call by Occupational Licensing.

(2)



Page 26, line 17; The AOA would like to see the oral portion of the guide-outfitter exam waived for transitional outfitters or given by someone other than a registered guide. The guide-outfitter exam should be offered as many times as possible during the outfitter transitional period, with the first exam before the 1989 fall hunting season and with ample time after the effective date for study.

Page 26, line 28; There is no business license classified "big game outfitter", with evidence in accordance with number (3) of this section, on this page, any business license for recreational services should be appropriate.

Page 28, line 4; The outfitter affidavit should be considered as confidential information, not information available to the general public.

The AOA wanted a longer transitional period with a different structure but we will accept this, however we ask that you keep in mind the topics mentioned.

Thank you for taking the time to read this list of AOA concerns. We appreciate the interest that our senators and representatives have shown the AOA and look forward to a good working relationship with you in the future.

In closing, please do all you can to pass this legislation in the best possible form and as quickly as possible.

Respectfully,  
*Paul Ellis*  
Paul Ellis  
Vice-president

3



# Alaska State Legislature

Please enter into the record my testimony to the Senate Resources  
committee name  
committee on SB 140, dated \_\_\_\_\_  
bill/subject

senator Fahrenkamp:

I very much appreciate being able to present this testimony to the Committee regarding SB 140 and the bill extending the Task Force Study period.

It is very important that action be taken on both these bills. There is a very pertinent consideration that SB 140 does not address - that of determining the legal way to allot commercial use of areas. However, SB 140 should move ahead regardless.

I have several concerns with the bill. First, the composition of the Commercial Services Board - I feel more guides should be on that board. Another point is conservation fees. I believe that the "25% of tag" fee should be added to the tag fee up front. Collecting from the commercial user is going to be extremely cumbersome.

I also would like to see the Master Guide rating retained with perhaps some upgrading of the requirements.

Thank you for considering these points.

Signed: \_\_\_\_\_

Testifier

*Ray McNutt*  
Ray McNutt, Chairman

Alaska Guide Board

Representing (Optional)

Box 469, Sterling, Ak 99672

Address

262-4678

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Senate Resources  
 committee name  
 SB 140 Guide  
 committee on SB 139 Outfitters, dated 2/13/89  
 bill/subject

I am a Registered guide in Kodiak. I have been guiding 9 yrs. I did not have my own area. I would like to make the following remarks on the new G/O bill. 1. I strongly oppose the reduction in penalties from a felony to a misdemeanor. This is only going to encourage people to try to get away with more things than they already do. 2. I don't like the idea of someone who has not put the time in, in the field like I did to get my license to be able to get a registered license just because they outlitted for a couple of years. 3. I think on the makeup of the board that 1 member should be a guide from the time when exclusive areas were ~~legal~~ legal so that 2 "Outfitters" don't get on. That would be unfair for the guides we have been the only ones who have been compromised + been

Signed: William A Newcomer

Testifier  
myself

Representing (Optional)  
Box 2204 Kodiak AK 99615

Address  
907 - 486 - 6096

Phone No.

Thank you.

1  
1 PAGE  
1 AC

Testimony on SB 139 & 140, HB 112 & 113  
Wed 5-8-89 1:30 PM Teleconference

Madam Chairman and members of the Committee  
I am Byron Haley of 1002 Pioneer Rd, Fairbanks  
Alaska 99701. Retired and a 40 year resident  
of Fairbanks. I am President of Chitina Dipnetter's  
Assoc., secretary of the Fairbanks Advisory Committee  
to the Boards of Fish and Game, a Life member  
of the Tanana Valley Sportmen Assoc. and a  
Trustee of the Alaska Outdoor Council.

I am not representing any of these organizations  
at this teleconference and this testimony is my  
own personal views.

I would like to thank the task  
force for their work on this very complex  
issue by bringing forth a bill that a majority  
of the users groups can support, but as  
was brought out at Monday teleconference  
the job is only half done now comes the  
job of making up a management plan for  
the whole state which all user groups  
can support which is going to take a lot of  
work by everyone that is involved and I  
would like the Legislature to pass SB 139 +  
HB 113 for a start.

On SB 140 + HB 112

The Big Game Commercial Services Board  
home office should be in Anchorage

1

2

so it would be more assailable to the public, guide-outfitters and transporters.

There are some change I think need to be made.

On page 4 lines 12 and 21 after the word hunting the word Fishing should be added. I think it is very important to include the words Fishing, Fishermen or Fish in the bill where ever it is needed. A lot of fishing takes place along with guide-outfitters hunt and would be used very much by a Transporter. Other areas in the bill where the word fishing should be added after the word hunting are as follows

Page 14 lines 8 and 9

Page 15 lines 2, 12, 23 and 24

Page 17 line 22

Page 18 line 10 use the word Fishermen

Page 21 line 7 add Fishermen and line 17 add Fishing.

On page 4 lines 22+23, Page 6 lines 13+14 Delete the words "For which the person was fined more than \$500 or imprisoned for more than five days" Any violation of Fish and Game laws should be used in

issuing or revoking a license. A dollar valuation or imprisonment should not be used in judging any violation of Fish and Game regulation and should be brought before the Big Game Commercial Service Board. a violation is a ~~real~~ violation and should be treated as such.

Under Transporter License Sec. 08.54.700 Pages ~~8~~<sup>8</sup>, ~~9~~<sup>9</sup> and ~~10~~<sup>10</sup>. There should be some wording to the effect that if a transporter is illegally transporting Fish and Game his Transporter license will be revoked and a renewal denied.

Above all the resource has to be protected at all cost.

This concludes my testimony and I would like to thank the committee for this opportunity to testify.

Byron W. Halcy

TESTIMONY OF THE ALASKA AIR CARRIERS ASSOCIATION  
REGARDING SENATE BILL 140/HOUSE BILL 112  
BEFORE THE JOINT HOUSE/SENATE  
RESOURCE COMMITTEE  
February 8, 1989  
Juneau, Alaska

Senator Fahrenkamp, Representatives Menard and Jacko, and members of the House and Senate Resource Committees, my name is John Hajdukavich and I am here today on behalf of the Alaska Air Carriers Association.

The bill before you today deals mainly with the regulation of guides and outfitters. It is a carry-over of the debate last year which centered on regulating the outfitters, who were previously unregulated and growing rapidly. We think that the Legislature acted appropriately last year by passing SB 191. Since then, the Supreme Court decided that the existing system of exclusive guide areas was unconstitutional, and the Guide/Outfitters Task Force prepared recommendations which would create a new system of commercial users of big game. Many of the Task Force recommendations are included in SB 140.

The Alaska Air Carriers Association, which currently represents sixty-six carriers, believes that most of the bill seems reasonable, except for two sections. The first is Section 08.54.400, on page 8, which creates a new system of licensed "transporters." We believe this section should be deleted for the following reasons:

1. Air carriers are engaged in the transportation of persons from point to point, regardless of the purpose of one's trip. Almost all carriers charge point to point fares, not fares

which differ for hunters or other air travelers. ;Most carriers derive a small portion of their revenue from the transportation of hunters. It makes no sense to require carriers to obtain another license specifically for the purpose of transporting hunters to the field. We already have federal 135 certificates and must register all of our aircraft with the Department of Commerce (\$50/aircraft fee) after proof that we have adequate liability insurance (\$150,000/seat).

2. This section also requires transporters to pay a commercial use permit fee. Apparently the theory behind this requirement is that because we derive commercial benefit from game, which is a common property resource, we should pay a fee. We strongly disagree with that theory for the same reason cited above - we simply transport people from point A to point B for the same charter fee, regardless of the intended activity of that person.

If the State wants to tax businesses which benefit from our game resources, then to be fair, the State would have to tax a hunter's trip to Alaska (for non-residents), the sporting goods stores, the grocery stores, the hotels, and any other services that the hunter uses while in Alaska. Arbitrarily singling out the last leg of the trip - the charter to the remote lake or air strip where the hunting takes place - is not reasonable.

The logical extension of this theory, if enacted into statute here for hunting, is to begin charging a transportation tax on any use of state land for any purpose - fishing, hiking,

photography, rafting, etc., as each represent uses of a common property resource. We simply disagree.

3. Another reason cited for these requirements is to "protect the resource." The proposed requirements are a very inefficient means to this end. The best way to "protect the resource" is more effective and frequent field presence of wildlife protection officers. The simplest way to raise money for this purpose is to increase the big game tag fees - because it is the hunters themselves who derive the greatest benefit from the harvest of game - and because it does not require additional administrative costs to collect the increased fees. If air carriers pay the fee for each hunter which harvests game, we will be forced to pass on that fee to the hunter anyway.

4. Existing law already requires air carriers to report activities relating to the transportation of hunters and the harvest of game, and there are stiff fines associated with violation. If there is a problem with compliance of the existing law, it would make more sense to simply increase the fine and do a better job of monitoring the reports, and the same result will be achieved.

AACA's second concern with SB 140 is the proposed repeal of the existing requirement that guides and outfitters obtain Part 135 certificates, just like all other air carriers. The legislature acted responsibly by requiring professional and equal standards for anyone transporting passengers for hire. Guide and outfitters argue that they should not be subject to same require-

ments because their flying is "incidental" to their business. Whether the flying is incidental or not is irrelevant. To protect public safety, anyone who receives compensation is whole or in part for flying people should be subject to the same basic standards of quality and professionalism. Under SB 140, guide/outfitters may fly hunters to the field with only a private pilots' license and an annual plane inspection. There is no requirement for a commercial pilot's license for liability insurance, or other standards required for all other carriers.

We intend to meet with representatives of the guide/outfitters and the Task Force to discuss our continued concerns with SB 140 and to see if there are mutually acceptable solutions which will resolve them.

We thank you for the opportunity to testify on this legislation.

028



# Alaska State Legislature

Please enter into the record my testimony to the Resource  
 committee name  
 committee on Guide outfitting dated 2/18/89  
 bill/subject

*In regards to the user fees new & existing that will follow this legislation. These fees except for a minor percentage 10-15% for administration should be delegated to the management of the resources from which they were derived.*

Signed: William P. Schenk (SCHENK)  
 Testifier

Representing (Optional)  
Box 1541-2  
 Address  
Kenai, AK 99541  
 Phone No.  
476-5642



# Alaska State Legislature

Please enter into the record my testimony to the Resource Committee  
committee name

committee on SB. 140, dated Feb 8, 1989  
bill/subject

My husband, Dick has been in Alaska 20 years. He began as a packer 19 yrs ago - he worked his way through the system, becoming a registered guide, then a master guide. His major concern is the transition from outfitter to guide. It would be nice to have more stringent qualifications for outfitters to do, in the year what it took Dick 19 yrs. to do. If the transition passes, then what about looking into a rating system such as in place already for the guides, that is, assistant guide, registered guide, then master guide. Then clients would know who they are hiring & what their knowledge & experience is.

One 2nd concern is the emporium of the new trail. We would like to see a person in there who actually represents the guide profession - with the 2 positions for the guide - outfitter available →

Signed: Sue Parker  
Testifier

Peders' Bear Camp  
Representing (Optional)

Box 7219 Kodiak Ak 99615  
Address

486. 5835  
Phone No.

it would be possible that those 2 positions  
could be filled by those who were rejected,  
thus still representing the same group.

We would recommend retaining the  
Master Guide (Rejected) classification.


We urge the extension of the Tax Free.  
We commend them on all the work they  
have done.

Thank you.

# — Alaska Adventures Unlimited

February 8, 1989

Alaska State Legislature  
Sixteenth Legislature  
Senate Resources and House Resources Committee Members



Thomas J. Kirtzin  
Registered Guide  
P.O. Box 84808  
Fairbanks, Alaska 99708  
Telephone (907) 455-0117

Dear Members,

*Dear Chase*

I'm here today to testify about my current situation as a Licensed Alaskan Registered Guide and how this Guide Task Force Bill (SB-140) relates to me and my future livelihood.

I started my guiding career 16 years ago as an assistant guide and after gaining the years of experience needed to be able to qualify for the registered guide examination and meeting those qualifications, I successfully passed the exam. That was eleven years ago and I'm still very proud to be an Alaskan Registered Guide today!

Over the years I have seen a lot of changes that have to deal with the guiding industry. The current Guide Board that was established in the early 1970's and shortly thereafter the guide area system which was copied from the British Columbia guiding industry and adapted to Alaska's needs. I remember well the difficulty that was undertaken for all guides to adapt and give into this system of restricted guiding areas and the new regulations for guiding and its activities.

The Guide's Board task to impliment this system was monumental during its first conceptions. As time went on and guides began to settle into the area concepts and guide laws, I recall the atmosphere of guiding to become somewhat more personal with real concerns as to ones future in this guiding industry. The years of D-2 and the land grabs sure hurt Alaskan Residents, and the effect was devistating to hundreds of guides who operated their businesses in these areas. As we now begin to look back on that time period not so long ago I wonder if most Alaskan's are not just begining to realize what was lost in the late 70"s.

The past several years as I have become more involved with a concern for the future and making a living in this guiding business. I have invested like many other guides have, a considerable amount of monies into my business based on the system which has been in place now for 15 years. I have a camp located on the Alaska Peninsual and on Kodiak Island where I conduct my guiding services for my clients. The recent supreme court decision has effected my livilihood considerable, and what a surprise to me to now have everything I've worked for tossed out and the lawful rug pulled out from under my feet. The supreme courts decision was obviously based on a very narrow view point towards one persons individual rights, and to say it wasn't a game management tool is beyond that judge's comprehension I feel!

Needless to say the supreme court must of realized their fruitful error with this decision because of its effect on a whole industry and hundreds of people's livelihoods, thus granting in early December the courts Stay until June 1, My guess would be that thinking some changes would be made to correct the problems discribed in the courts decision of October 21, 1988.

Through many efforts of individuals concerned with their future livelihoods a panal meeting took place in early December which involved all State, Federal land, and Fish & Game agencies. This was the first ever such a gathering of different and varied agencies to deal with one main concern, the policies for guides in the coming future and those actions. To me this meeting had a very important outcome, the Interior Fish & wildlife Dept. came forth with their interium plans for all Federal Refuge Lands, thus putting a limit on the number of commercial users to the level of 1988 which deal with services for Big Game Hunting. Because i guide on Kodiak Island Wildlife Refuge this interium decision was very important due to the fact a emergency Board of Game meeting scheduled for mid-January was cancelled which had plans to deal with a crisis situation that had came up because of the supreme courts decision. Its been very obvious that the Federal agencies and our State Fish and Game Dept. recognized the importantct of guide areas as an important management tool for the game resources.

During Governor Sheffield's administration approximately 5 years ago when the guide board was under the sunset review process there was an amendment to delete the portion that addressed transporters, because of a conflict with federal FAA laws. During this same time period Alaska started a large scale advertising plan to build the tourism industry in Alaska. From that time of revamping the guide laws and all the advertising to have more people interested in coming to Alaska, the door was opened to a group of unregulated commercial users for which Senate Bill 191 would finally recognize for what they are worth. I think Senator Cognill's plan for a task force to deal with this issue was in fact a good one. The undertaking of that job by the Task Force has given proof that the wildlife resources in Alaska are important, and that a part of the commercial tourism industry using those resources is very viable to Alaska's future. The recommendations that the Task Force have come forth with, I feel are in the best interest of Alaska's Wildlife Resources. You would think from the previous years of many numerous teleconferences and now with the undertaking by your own Task Force and with all its public input these past months that the issues have been covered and the problems, with solutions recognized.

This coming March Board of Game hearings in Anchorage will determine my future in the guiding profession for those

seasons greatly affecting me will be determined at that time. I will be faced with the possibilities on the Alaska Peninsula of having my Moose season completely closed and the Brown Bear seasons changed or shortened because of the over reaction by the Dept. of Fish and Game. There are nearly two hundred guides whom are licensed for this region called unit 9, but with only about one-third of these being active in previous years. It doesn't take a master mind to see that the resource could easily suffer if all these commercial users hit this region because of this court decision opening up this State to over harvest. This was the problem in the 60's and is exactly what brought about the Guide Board and the Area Concept in the first place. I don't want to tell my clients they can't plan their hunting trips for this spring or for next fall. I don't like being in the situation of knowing that in thirty days from now I may be put out of business because of new regulations governing the Big Game Seasons in my region, that is not very comforting believe me! How would you like to explain this to your clients and return their deposit for services you have promised but no longer can produce. I don't like to think that the State of Alaska lead me down the path all these years holding a carrot out in front, I by my own choosing got into this guiding profession and I am damn proud for doing so, because I believe in our Alaska Renewable Resources and this profession is very unique for North America and to Alaska, its one of a kind!

Senate and House Resources Members page 6

I do honestly feel the State in good faith has given me the methods, means, and the rights to conduct my guiding business under the current system which has been in place for some 15 years. Now to only find out that the system has failed the test is really disheartening. I don't for one minute think the State of Alaska in good faith under the direction of the Guide Board set up the guiding industry to its current level and the guiding area system to have it all through out the window! I do feel the State of Alaska has responsibilities to the people in the guiding industry and all Alaskans to address these problems in a fast timely manner. I would like to ask that this 16th legislature take to heart this plea of testimony to deal with these issues quickly in order to get laws and direction in place to protect the Wildlife Resources of Alaska and get some stability back into the guiding industry.

Thank you all for taking the time to listen and for the efforts of the Guide Task Force.

Sincerely,

A handwritten signature in cursive script that reads "Thomas J. Kirstein". The signature is written in dark ink and is positioned above the printed name.

Thomas J. Kirstein

# *Iniakuk Lake Lodge*

*Finest Lodge in the Brooks Range*

BERND GAEDEKE  
Master Guide

Telephone: (907) 479-6354

P. O. Box 80424  
Fairbanks, Alaska 99708

7 February, 1989

Ms. Bettye Fahrenkamp  
Chairman  
Senate Resource Committee  
P.O.Box: V  
Juneau, AK 99811

ref: SB 139  
SB 140

Dear Ms. Fahrenkamp:

I am Bernd Gaedeke, master guide #43, a 28 year resident of Alaska and a full-time guide/outfitter since 1967.

When I first obtained my registered guide license in 1967 I felt extremely proud to become a member of a fairly exclusive group of dedicated and respected professionals. In those days it was still easy to find an area that was not already claimed by another guide. Although there was no exclusive guide area concept at that time, there was a gentlemen's agreement among the guides as to who operated where and any conflicts that arose were usually settled in a gentlemanly fashion. Hunting seasons were much longer and harvest quotas were more generous. I remember when the sheep hunts in the Brooks Range opened on July 15 and the limit was two sheep per hunter.

But within just a few years the number of guides increased rapidly as did the number of hunters. The seasons and bag limits were reduced in order to protect our game resources. Unfortunately there was also an increasing number of guides who were more interested in making big money than in protecting our game populations. These were the so-called vacuum cleaner guides, most of whom are fortunately no longer with us.

Suddenly the guiding industry was out of control and measures had to be taken to not only protect our resource, but to protect a profession that contributes millions of dollars to our economy. The exclusive guide area concept was conceived with the overwhelming support of the guides. The assignment of exclusive guide areas certainly had its flaws, but it was a valuable resource management tool for the Dep't. of Fish & Game as well as for Fish & Wildlife protection. It also gave the guides parameters within which they could operate and plan from year to year how many hunters could be booked in their exclusive areas on a sustained yield basis.

# *Iniakuk Lake Lodge*

*Finest Lodge in the Brooks Range*

BERND GAEDEKE  
Master Guide

Telephone: (907) 479-6354

P. O. Box 80424  
Fairbanks, Alaska 99708

Many guides suffered a severe, if not lethal blow when the many new national parks were established under ANILCA in '79. I, for one, lost 50% of my exclusive area to the Gates of the Arctic N.P. I lost my entire sheep hunting area as well as prime bear, moose and caribou habitat. Other guides lost everything and simply gave up.

But despite the numerous set-backs a good number of guides have prevailed and continue to offer some of the best professional services in the world. Guides have always been individuals who could stand on their own two feet and have never depended on the government to bail them out when the chips were falling.

The events that have transpired in recent years have made it evident to all of us and hopefully to all of you that legislation must be enacted in this session if we are to survive as a viable industry. An ever growing number of irresponsible and unethical so-called Outfitters have made a mockery of the guiding industry by being able to pretty much do as they damned well please. I believe that the Legislature should have acted several years ago instead of dragging their feet from one session to the next. We're all getting tired of testifying year after year on the same issues. I personally would like to get on with my life instead of living in limbo from one season to the next, never knowing what tomorrow will bring. I have invested hundreds of thousands of dollars in lodges, camps, inholdings, aircraft and equipment.

I feel it is our state's responsibility to protect our interests as well as those rights granted to us some 15 years ago. We are licensed professionals who have in good faith entered a contractual agreement with our government. We are managing a renewable resource in a responsible manner. Our fees and dues and insurance premiums ( as required on all federally managed lands) are climbing at a staggering rate. I often ask myself lately why I'm still in this business, but having invested the best 23 years of my life in an honorable profession, enjoying the outdoors and the many good clients who keep coming back year after year, and especially being totally self-reliant make it all pretty hard to just give up and walk away from. Our backs are to the wall and we're not going to retreat any farther.

# *Iniakuk Lake Lodge*

*Finest Lodge in the Brooks Range*

---

BERND GAEDEKE  
Master Guide

Telephone: (907) 479-6354

P. O. Box 80424  
Fairbanks, Alaska 99708

I know that chairman Springer and his task force have worked very hard at trying to address all the problems that face us. There are some items which I don't fully support, but since time is of the utmost importance in resolving this conflict, I urge you to do so expeditiously.

The bottom line is our resource which must be protected from exploitation. The game board is scheduled to deliberate from March 6 through the 22nd. It is essential that they know laws will be passed during this legislative session which will prevent a total collapse of the present guiding system. Without such assurances they will be forced to place restrictions on the taking of game in numerous critical areas of the state. And this, in turn, will jeopardize the contractual agreements we have signed with our clients.

As a final comment I'd like to recommend that the task force's proposal to re-name the presently licensed master guides and registered guides as Guide/Outfitters, be altered to continue issuance of a Master Guide/Outfitter license to those who are currently licensed as master guides and to allow others the opportunity to achieve the master status under present guidelines. After all, there are master and bachelor degrees issued at our universities and numerous other professions have masters as well as journeymen. I see no valid reason why I should be given a demotion that I did not deserve.

Thank you for your time and PLEASE, resolve this critical issue for once and for all.



# Alaska State Legislature

Please enter into the record my testimony to the TASK FORCE ON GUIDING & OUTFITTING  
committee name

committee on H.B. #13940, dated 2/8/89  
bill/subject

I SUPPORT THE PASSING OF THOSE BILLS  
EXCEPT FOR SEC 13. I AM AN  
ASSISTANT GUIDE. FOR ME TO QUALIFY  
TO TAKE THE REG. GUIDE EXAM I  
MUST HAVE 3 YRS FIELD EXPERIENCE  
AND SIX LETTERS FROM HUNTERS RECOMMENDING  
ME. THIS IS NOT FAIR ALLOWING  
OUTFITTERS TO WALK IN AND TAKE THE TEST  
I ALSO DISAGREE WITH A COMMERCIAL USE FEE.  
WE NEED AN EXCLUSIVE GUIDE AREA  
SYSTEM I WOULD SUPPORT AN AMENDMENT TO  
THE CONSTITUTION.

Signed: M. P. Roswell  
Testifier

Representing (Optional)  
BOY 3687 KODIAK AK 99615  
Address  
487-2541  
Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Joe Hinton  
committee name

committee on SB 140, dated 2-8-89  
bill/subject

I am an assistant guide on Kodiak and have worked for 3 years as one. Now with SB140 it lets any outfitter with no field experience take a test & become a registered guide which will flood an already overpopulated area, who will be competing with the guides who originally guided in a specific area for gone & affecting the livelihood of many people who rely only on guiding as their livelihood.

Signed: Joe Hinton  
Testifier

Representing (Optional)

Box 493 Kodiak, AK 99615  
Address

Phone No.

(2)  
(1)

455-6151

Mary Bishop  
1555 Cass Circle  
Fbx 99709

My name is Mary Bishop. I represent myself only, although I am especially influenced by my activities as a board member of Alaska Fish & Wildlife Safeguard — which you may recognize as the State's "crimestopper" program for fish & game violations.

I strongly support legislation like SB 140. I believe it's necessary to regulate all businesses that provide services to big game hunters.

I recently read that the illegal taking of wildlife resources is the 2<sup>nd</sup> largest illegal dollar grossing activity — 2<sup>nd</sup> only to drugs. It's an international industry 2<sup>nd</sup> only to drugs. I don't see Alaskans realize what a potential — or real — problem we have. ~~on a scale~~

I strongly support our privilege to hunt — but every illegal or unethical activity related to hunting endangers that privilege. I believe legislation like this will aid our state's enforcement agency in its effort to keep tabs on what's going on out in-the-field & I think that is essential.



# Alaska State Legislature

Please enter into the record my testimony to the JT. Resource  
 committee on SB139+140 Big Game committee name  
Guide dated 2/6/89  
 bill/subject

Bill 140:

- ① When will INTERIM - OUTFITTERS LICENSES BE AVAILABLE?
- ② When will license fees be set for Guide - Outfitter Income + Commercial use operator?
- ③ What Business License Number (SIC) will apply to Guide - Outfitter - Transporter - Commercial Use permits?
- ④ Sec 13.3 - What is "Satisfactory Evidence," to Board of Big Game Commercial Services, that I have ~~engaged~~ engaged in the business of Big Game outfitting in 1986, 87, +88?

Signed: Bill Gavin

Testifier  
GAVIN'S KENAI RIVER CHARTERS

Representing (Optional)  
PO BOX 3628 SOLDOTNA AK 99669

Address  
262-7746

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the House & Senate Resource  
committee name  
committee on House Bill 112 & Senate Bill 139, dated Feb. 8, 1989  
bill/subject

I have the following comments on this proposed legislation:

1. The Big Game Commercial Services board should include representation from Private, Non-native landowners as well as consumer groups.
2. The Big Game Conservation Fee will be passed on to the hunter and will result in increased expense to the hunter. With the increase in license & tag fees also being proposed will make too much of an increase in one year. This fee is due only if an animal is killed, however the increase fees will probably be charged to the hunter if he kills an animal or not.
3. Adding Mountain Goat to the list of species which a nonresident needs a guide is an obvious attempt to increase income to guides in those areas which have goats. Would an outfitted hunt provided by a licensed guide-outfitter but with out a guide being with you when you killed the animal qualify under this provision?
4. This bill adds additional regulation to the providers of these services. This will increase cost to the hunter and will result in fewer hunters in the state. Then the guides will want a non-resident quota for tags to insure ~~profitability~~ profitability for their business.
5. The Big Game Commercial Services Board should only be concerned with the licensing and regulating of providers of services to Big Game hunters. Let the Fish and Game regulate the wildlife ~~resource~~ resource. This would be to do away with restricted areas for guides. Fish and Game should regulate the number of animals taken in each game management unit.

Signed: Harry M. Champlin  
Testifier

Representing (Optional)  
Box 428 Delta Jct. AK 99737  
Address  
895-4241 Day 895-5004 Home  
Phone No.

Senator Bettye Fahrenkamp  
P.O. Box V  
Seward, AK 99811

Guy Turner  
P.O. Box 92710  
Fairbanks, AK 99509  
2/9/89

Dear Senator Bettye Fahrenkamp,

I wrote you and the rest of the task force concerning the pending changes to better regulate the big game industry in Alaska in December of 1988.

Since you are chairman, and I haven't heard from you. I'm once again writing.

The task force since my first letter has now another set of recommendations in Senate Bill 140, that Jain Fuiks was so kind to send me a copy of. After reviewing I find that an outfitter such as myself who has invested five years of hard work, time, and money, and very conservative game management practices, but did not file with the State in 1988 stating where my cabins or camps are ect., will be black balled. I had no knowledge that this was even a requirement, and after talking with Fish + Game right after my last letter. They informed me that only a very small number of outfitters were aware of the new ruling to Register. All my cabins are

on land owned by me, + I only had one tent Camp last year. I live year round at my lodge and never recieved anything letting me know of this Requirement.

I do not believe that I am being treated fairly if 5B140 goes through as written. just because of a camp registration rule I knew nothing about for 1988.

I have lived in Alaska for 24 years. I've been a licensed assistant guide for 10 year. I've had a state buisness license for 5 years stating my buisness as Guiding and Outfitting

What am I to do about this years booking of clients? Can I, or can I not book clients?

I do have a family to feed, and I am in favor of proper management of our wildlife.

Please don't take away the lively hood I've spent all this time building.

I would appreciate you presenting my facts to the task force, and some proper representation.

If I can help please write or call 907-257-5770 or 257-5960

Certified Return Receipt

Thank You,  
Mary Turner  
Gay Turner

REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

MEMORANDUM

TO: Cliff Davidson, Co-Chair  
Curt Menard, Co-Chair  
House Resources Committee

FROM: Rep. C.E. Swackhammer *Swack*

DATE: February 28, 1989

RE: Guide/Outfitters Legislation

RECEIVED MAR - 3 1988

Attached is a letter from the South Peninsula Sportsmens Association in Homer which outlines their objections to the Guide/Outfitters legislation.

I respectfully request your committee consider their objections during your committee's deliberations on House Bill 112.

Thank you for your attention to this matter.

CES/tw

Attachment

SOLDOTNA

312 TYEE STREET  
SOLDOTNA, ALASKA 99699  
(907) 262-7841

JUNEAU

BOX V  
JUNEAU, ALASKA 99811  
(907) 465-2689



## SOUTH PENINSULA SPORTSMENS ASSOC.

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P.O. BOX 1999 HOMER, ALASKA 99603

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February 24, 1989

Representative C.E. Swackhammer  
Box V  
Juneau, Alaska 99811

Dear Mr. Swackhammer,

The South Peninsula Sportsman's Association would like to go on record as opposing part of the pending legislation on the guide outfitting bill in the section regarding transporters license. Specifically, we oppose the part about limiting live-aboard boats to hunts for elk, deer and marine mammals only.

We feel this would restrict resident hunters from taking charters for other species. Any person should be able to charter a boat for all species not requiring a guide.

Under the section referring to marine mammal guide outfitters, there is no requirement for a Coast Guard license. Federal law requires anyone taking people for hire to have this licence if using a power driven vessel to have this license.

If this bill becomes law as it is written, it will create a new commercial user group and eliminate an existing user group that is fully licensed and insured. This hardly seems to be appropriate.

Thank you for your attention.

Sincerely,

*Jody A. Fica*

Jody A. Fica, Secretary  
South Peninsula Sportsman's Association

CONSTITUENT TELEPHONE CONTACT FORM

NAME Dick Rohrer

ADDRESS \_\_\_\_\_

CITY ADO TELEPHONE 1500 Guides

35 affected

INQUIRY: Dick & Jack Lechner have serious concerns about Section 13 of the outfitters bill. They feel we are rewarding a group who, prior to last year, we in the field w/out a license. Now, they can take the test without the 3 years under another guide.?? Now that the guide areas are thrown out, they have access that they didn't have before, shouldn't they have to do what the other guides did? ~~Or~~ "Please don't allow them to bypass this step"

DATE CALL RECEIVED 3/3/89 STAFF INITIALS SL